

Backgrounder Right to Restitution

Under the *Criminal Code*, a judge can currently order an offender to pay the costs of any easy-to-calculate financial losses up to the date of sentencing, but not for any future losses. A judge can order restitution for financial losses related to:

- Damaged or lost property due to the crime;
- Physical injury or psychological harm due to the crime;
- Physical injury due to the arrest or attempted arrest of the offender;
- Costs for temporary housing, food, childcare and transportation due to moving out of the offender's household (this only applies if a victim has moved because they had been physically harmed or threatened with physical harm due to the offence, arrest, or attempted arrest of the offender); and,
- Costs incurred by a victim of identity theft to re-establish their identity, and to correct their credit history and their credit rating.

The *Canadian Victims Bill of Rights* would create a right for a victim to have the court consider making a restitution order against the offender and, where that order is not paid, to have that order enforced as a civil debt. Legislative amendments to the *Criminal Code* would:

- Require the court to consider a restitution order for all offences for which there are easy-to-calculate financial losses, and allow victims to describe these losses at sentencing;
- Specify that an offender's ability to pay is not determinative in ordering restitution;
- Provide for a standard form to help victims claim their losses; and,
- Provide that information about proposals for payment schedules could also be included.

The enforcement of restitution would be facilitated through several program measures, such as the development of tools for victims to give them access to more information about restitution and making funding available to provinces and territories to improve the enforcement of restitution orders.