

Article 18.5 - Colorado Restitution in Criminal Actions
§ 16-18.5-105. Monitoring - Default - Penalties

The collections investigator shall be responsible for monitoring the payments of restitution by any defendant referred to the investigator pursuant to section 16-18.5-104. Based upon changes in the defendant's financial circumstances, the collections investigator may modify the payment schedule established pursuant to section (4). If a payment schedule has been made an order of the court pursuant to section 16-18.5-104 (4)(a)(II), prior to enforcing a new schedule, the collections investigator shall request and obtain a modification of the order.

In addition to any other costs that may accrue, for each payment of restitution that a defendant fails to make within seven days after the date that the payment is due pursuant to any payment schedule established pursuant to this article, the late penalty fee established in section 16-11-101.6 shall be assessed, and the associated provisions of section 16-11-101.6 may apply. The late fees shall be collected from the defendant after the defendant has satisfied all orders for restitution. All payments for late fees shall be credited to the judicial collection enhancement fund created in section 16-11-101.6 (2).

Whenever a defendant fails to make a payment of restitution within seven days after the date that the payment is due pursuant to a payment schedule established pursuant to this article, in addition to any other remedy, the collections investigator may:

Conduct an additional financial investigation of the defendant as described in section 16-18.5-104 (3);

Issue an attachment of earnings requiring that a certain portion of a defendant's earnings, not to exceed fifty percent, be withheld and applied to any unpaid restitution, if such an attachment does not adversely impact the defendant's ability to comply with other orders of the court. An attachment of earnings under this paragraph (b) may be modified to a lesser or greater amount based upon changes in a defendant's circumstances as long as the amount withheld does not exceed fifty percent and may be suspended or canceled at the court's discretion. An attachment of earnings issued pursuant to this paragraph (b) shall be enforceable in the same manner as a garnishment in a civil action. For purposes of this section, "earnings" shall have the same meaning as set forth for any type of garnishment in section 13-54.5-101, C.R.S., and shall include profits.

Request that the clerk of the court issue a writ of execution, writ of attachment, or other civil process to collect upon a judgment pursuant to article 52 of title 13, C.R.S.;

Request that the court issue a notice to show cause requiring the defendant to appear before the court and show cause why the required payment or payments were not made. Upon a finding of the defendant's failure to pay, unless the defendant establishes that he or she was unable to make the payments, the court may:

Revoke probation and impose any other sentence permitted by law;

Order that the defendant be confined to jail with a recommendation that the defendant participate in a work release program;

Extend the period of probation; or

Find the defendant in contempt of court and impose any authorized penalties for such action.

Employ any method available to collect state receivables, including the assignment of the defendant's accounts to a third party that has an agreement with the judicial department under this paragraph (e). (e) (I) Employ any method available to collect state receivables, including the assignment of the defendant's accounts to a third party that has an agreement with the judicial department under this paragraph (e).

The judicial department may enter into agreements with third parties for collection-related services. Any fees or costs of the third parties shall be added to the amount of restitution owed by the defendant, but such fees and costs shall not exceed twenty-five percent of the amount collected.