

**ASSEMBLY BILL**

**No. 1847**

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**Introduced by Assembly Member Furutani**

February 12, 2010

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An act to amend Section 1214 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 1847, as introduced, Furutani. Restitution orders.

Under existing law, a victim restitution order or restitution fine is enforceable as a civil judgment, and continues to be collectible after probation and parole have terminated. Existing law requires a defendant to prepare a disclosure of assets, income, and liabilities as of the date of arrest for the crime for which restitution may be ordered, and requires the disclosure be made available to the victim, as specified.

This bill would in addition provide that with respect to cases charging specified offenses relating to driving under the influence of any alcoholic beverage or drug or both, the court in its order to pay restitution may, upon a request of the prosecuting attorney or pursuant to its own authority, order that the prosecuting agency be given access to information regarding the defendant's assets and financial records, and to wage garnishment or lien procedures applicable to the defendant, including, but not limited to, a writ of attachment of property.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1214 of the Penal Code is amended to  
2 read:

3 1214. (a) If the judgment is for a fine, including a restitution  
4 fine ordered pursuant to Section 1202.4, 1202.44, or 1202.45, or  
5 Section 1203.04 as operative on or before August 2, 1995, or  
6 Section 13967 of the Government Code, as operative on or before  
7 September 28, 1994, with or without imprisonment, or a diversion  
8 restitution fee ordered pursuant to Section 1001.90, the judgment  
9 may be enforced in the manner provided for the enforcement of  
10 money judgments generally. Any portion of a restitution fine or  
11 restitution fee that remains unsatisfied after a defendant is no longer  
12 on probation or parole or has completed diversion is enforceable  
13 by the California Victim Compensation and Government Claims  
14 Board pursuant to this section. Notwithstanding any other provision  
15 of law prohibiting disclosure, the state, as defined in Section 900.6  
16 of the Government Code, a local public entity, as defined in Section  
17 900.4 of the Government Code, or any other entity, may provide  
18 the California Victim Compensation and Government Claims  
19 Board any and all information to assist in the collection of unpaid  
20 portions of a restitution fine for terminated probation or parole  
21 cases, or of a restitution fee for completed diversion cases. For  
22 purposes of the preceding sentence, “state, as defined in Section  
23 900.6 of the Government Code,” and “any other entity” shall not  
24 include the Franchise Tax Board.

25 (b) In any case in which a defendant is ordered to pay restitution,  
26 the order to pay restitution (1) is deemed a money judgment if the  
27 defendant was informed of his or her right to have a judicial  
28 determination of the amount and was provided with a hearing,  
29 waived a hearing, or stipulated to the amount of the restitution  
30 ordered, and (2) shall be fully enforceable by a victim as if the  
31 restitution order were a civil judgment, and enforceable in the same  
32 manner as is provided for the enforcement of any other money  
33 judgment. Upon the victim’s request, the court shall provide the  
34 victim in whose favor the order of restitution is entered with a  
35 certified copy of that order and a copy of the defendant’s disclosure  
36 pursuant to paragraph (4) of subdivision (f) of Section 1202.4,  
37 affidavit or information pursuant to paragraph (5) of subdivision  
38 (f) of Section 1202.4, or report pursuant to paragraph (7) of

1 subdivision (f) of Section 1202.4. The court also shall provide this  
2 information to the district attorney upon request in connection with  
3 an investigation or prosecution involving perjury or the veracity  
4 of the information contained within the defendant's financial  
5 disclosure. In addition, upon request, the court shall provide the  
6 California Victim Compensation and Government Claims Board  
7 with a certified copy of any order imposing a restitution fine or  
8 order and a copy of the defendant's disclosure pursuant to  
9 paragraph (4) of subdivision (f) of Section 1202.4, affidavit or  
10 information pursuant to paragraph (5) of subdivision (f) of Section  
11 1202.4, or report pursuant to paragraph (7) of subdivision (f) of  
12 Section 1202.4. A victim shall have access to all resources available  
13 under the law to enforce the restitution order, including, but not  
14 limited to, access to the defendant's financial records, use of wage  
15 garnishment and lien procedures, information regarding the  
16 defendant's assets, and the ability to apply for restitution from any  
17 fund established for the purpose of compensating victims in civil  
18 cases. Any portion of a restitution order that remains unsatisfied  
19 after a defendant is no longer on probation or parole is enforceable  
20 by the victim pursuant to this section. Victims and the California  
21 Victim Compensation and Government Claims Board shall inform  
22 the court whenever an order to pay restitution is satisfied.

23 *(c) Notwithstanding subdivision (b) or any other provision, with*  
24 *respect to cases charged under Section 191.5, subdivision (a) or*  
25 *(b) of Section 23152 of the Vehicle Code, or subdivision (a) or (b)*  
26 *of Section 23153 of the Vehicle Code, the court in its order to pay*  
27 *restitution may, upon a request of the prosecuting attorney or*  
28 *pursuant to its own authority, order that the prosecuting agency*  
29 *be given access to information regarding the defendant's assets*  
30 *and financial records, and authority to use wage garnishment or*  
31 *lien procedures applicable to the defendant, including, but not*  
32 *limited to, a writ of attachment of property.*

33 ~~(e)~~

34 (d) Except as provided in subdivision ~~(d)~~ (e), and  
35 notwithstanding the amount in controversy limitation of Section  
36 85 of the Code of Civil Procedure, a restitution order or restitution  
37 fine that was imposed pursuant to Section 1202.4 in any of the  
38 following cases may be enforced in the same manner as a money  
39 judgment in a limited civil case:

40 (1) In a misdemeanor case.

- 1 (2) In a case involving violation of a city or town ordinance.
- 2 (3) In a noncapital criminal case where the court has received
- 3 a plea of guilty or nolo contendere.
- 4 ~~(d)~~
- 5 (e) Chapter 3 (commencing with Section 683.010) of Division
- 6 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply
- 7 to a judgment for any fine or restitution ordered pursuant to Section
- 8 1202.4 or Section 1203.04 as operative on or before August 2,
- 9 1995, or Section 13967 of the Government Code, as operative on
- 10 or before September 28, 1994, or to a diversion restitution fee
- 11 ordered pursuant to Section 1001.90.