

Victim's Guide to Juvenile Restitution

What other Collections Options Exist?

Civil actions may help where restitution cannot. Restitution may not cover a victim's full economic loss. A civil lawsuit may provide additional compensation for the victim.

The civil justice system does not attempt to determine guilt or innocence. Rather, civil courts attempt to determine whether a person is liable for damages sustained by a victim.

The victim may seek a small claims or civil court action against the juvenile or their parents/guardians depending on the amount of restitution owed. The ability to proceed against the juvenile's parents is subject to the limitations in SDCL 25-5-15. That statute provides:

*Any person, firm, association, private or public corporation, including the State of South Dakota and its political subdivisions, suffering damages to real, personal, or mixed property, or personal injury, through any malicious and willful act of a minor child under the age of eighteen years while residing with the child's parents, has a cause of action against **and may recover from the parents of such child. In each case the amount of recovery against one or both of the parents is limited to actual damages of two***



thousand five hundred dollars and the taxable court costs, and does not apply to damages proximately caused through the operation of a motor vehicle by the minor child. If the issue is disputed, any determination that a parent is not responsible for the full amount of actual damages and costs authorized by this section shall be justified in a specific finding, in writing or on the record.

Civil and Small Claims actions are completely separate actions and do not affect the juvenile court case in any way. However, any amounts collected are credited against amounts the juvenile already owes on either the restitution order or a civil judgment.

Who Do I Contact for Help?

For additional information and assistance on materials covered in this brochure or if you have questions about restitution or your case in particular you may contact your local clerk of courts office; court services department or the state's attorney's office.



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The purpose of this brochure is to explain the court process related to juvenile restitution orders. It is provided as a resource for individuals owed restitution. This information is not to be confused with legal advice. If you feel you need assistance with this court process, you should consider consulting with an attorney.



What is Restitution?

Whenever someone suffers a loss through the wrongful conduct of a juvenile that person may be entitled to reimbursement for damages as part of a juvenile court case. This is referred to as restitution.

Why is Restitution Important?

Restitution may help a victim recover from a financial hardship as the result of wrongful conduct. Restitution is intended to hold an offender accountable and is an important part of the juvenile justice system.

How do I Seek Restitution?

Information about damages sustained should be provided to the state's attorney's office in the county where the juvenile's alleged wrongful conduct occurred.

How is Restitution Decided?

A judge may order restitution at a dispositional hearing for the juvenile. After reviewing information about damages to any victims the judge decides the amount of restitution the juvenile will be required to pay.

How is Restitution Paid?

When a judgment or order entered in a juvenile case requires a juvenile to make restitution to a victim those payments are collected by the Clerk of Court and forwarded to the victim.

When the juvenile makes a payment on the restitution, the clerk will receipt it and will indicate payment of the restitution amount. The clerk will then disburse the restitution directly to the victim. When the amount of restitution is paid in full, the clerk will record that the restitution has been paid.

How is Restitution Collected?

Restitution may be a condition of juvenile probation. The Court Services Officer is required to provide each known victim a copy of the restitution order.

If restitution is a condition of probation, payment will be monitored by the Court Services Officer assigned to that juvenile.

However, juvenile probation may expire before payment is made in full on any outstanding restitution order. **Under South Dakota law the court may not keep a juvenile on probation for the purpose of collecting restitution.**

If a juvenile is discharged from probation owing restitution, however, that amount is still owed to the victim until it is paid in full, amended by order of the court or the juvenile turns age 21.

Juvenile restitution does not extend past the age of 21 as the court loses its ability to enforce that order at that time.

What are the Challenges to Collecting Restitution?

Because a court cannot create money where there is none, collecting restitution can be difficult. Collection is typically more successful if the juvenile or their parents have a steady job, a bank account, and own a house or other valuable property.