

## **8.1.A.8 Restitution Hearings**

Date Signed: 5/18/17

**Distribution: Public**

**Replaces policy:** This memorandum supersedes the 4/2016 version.

**Affected Units:** SD Board of Pardons and Paroles

**Effective Date:** Upon Signature

Scheduled Revision Date: 5/2018

**Revision Number:** 7

**Office of Primary Responsibility:** South Dakota Board of Pardons and Paroles

### **Purpose:**

To provide standards and procedures for conducting due process hearings in the matter of setting or modifying restitution/financial obligation agreements.

### **Definitions:**

#### **SDCL 24-15-11**

Restrictions on parole--Implementation of child support and restitution plans--Acceptance by parolee. The board may place reasonable restrictions upon a parolee, which are designed to continue the parolee's rehabilitation. The board, upon granting parole, shall require the implementation of a restitution plan and payment of supervision fees, if reasonable possible. The prior obligations of child support and restitution payments take precedence over collection of supervision fees. All restrictions shall be in writing and the agreement shall be signed by the parolee.

#### **SDCL 24-15A-24**

Parolee restrictions--supervision fees--Restitution and child support payment plans. The board and the department may place reasonable restrictions upon a parolee which are designed to continue the parolee's rehabilitation, including limited areas of residence or community access, required participation in treatment, enhanced reporting requirements, and use of electronic monitoring or global positioning units. The board and the department shall require the implementation of a restitution plan and payment of supervision fees, if reasonable possible. The prior obligation of child support and restitution payments takes precedence over collection of supervision fees. All restrictions shall be in writing and shall be agreed to and signed by the parolee.

#### **SDCL 24-16-1 - Interstate Parole Supervision**

Chapter Applies to all South Dakota Inmates applying for and transferring supervision to another state.

Interstate Compact Rules:

Rule 4.108 - Collection of restitution and other cost:

- (a) A sending state is responsible for collecting all fines, family support, restitution, court costs, or other financial obligations imposed by the sending state on the offender.
- (b) Upon notice by the sending state that the offender is not complying with family support and restitution obligations, financial obligations as set forth in subsection (a), the receiving state shall notify the offender that the offender is in violation of the conditions of supervision and must comply. The receiving state shall inform the offender of the address to which payments are to be sent.

**SD Administrative Rule 17:61:01:10**

All persons under supervision of parole services, either paroled in state, released on suspended sentence, or accepted through the interstate compact, are responsible, if ordered by a court or paroling authority that has jurisdiction, for paying court costs, restitution, fines, fees, support obligations, and supervision fees and shall provide documentation of payment to the supervising agent.

**Parolee Appeal Process**

7.3. E.5 - Collection of Fees, Fines, Restitution, Operational Memorandum, outlines appeal process for parolees.

**Procedure:**

**Notice of Hearing**

- A. Parolees are required to follow the procedures as outlined under "Appeal Process Hearing" as described in Operational Memorandum - 7.3.E.5 - Collection of Fees, Fines, and Restitution.
- B. Once the Board office is notified in writing by a parolee, the staff will schedule a hearing. (Attachment #1)
- C. Notice of the hearing will be sent to the parolee with the time and place where the hearing will be held.
- D. If the parolee indicates in the written request that an attorney will represent them, then attorney will be notified.
- E. If there are known victims, they will be notified of the hearing.

**Hearing Procedures**

- A. Hearing will be reported or recorded.
- B. Hearing Script: (Attachment #2)
- C. Upon completion of hearing, Findings, Conclusions, and Board Order will be written and sent to the parolee. A copy will be sent to the parolee's counsel, and the legal file.

**Related Directives:**

SDCL Chapters 24-13, 24-15, 24-15A, 24-16 and 1-26  
Administrative Rules Chapters 17:60 and 17:61

**Revision Log:**

August 8, 2007 - New  
September 17, 2007 - No changes  
October 9, 2008 - No changes  
January 12, 2012 – Revised – Page one third paragraph. S added to: "The prior obligation of child support and restitution payments takes"  
January 10<sup>th</sup> 2013: No changes  
February 2015- No changes  
March: 2016: No changes  
May 2017: No changes

<i>Original document on file in the Parole Board office</i>	5/18/17
Mark Smith, Chair	Date