

AN ACT

ENTITLED, An Act to provide for court-ordered restitution at the time a defendant is sentenced to the state penitentiary.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 23A-28-3 be amended to read as follows:

23A-28-3. If the sentencing court orders the defendant to the county jail, suspended imposition of sentence, suspended sentence, or probation, the court may require as a condition that the defendant, in cooperation with the court services officer assigned to the defendant, promptly prepare a plan of restitution, including the name and address of each victim, a specific amount of restitution to each victim and a schedule of restitution payments. If the defendant is presently unable to make any restitution, but there is a reasonable possibility that the defendant may be able to do so at some time during the defendant's probation period, the plan of restitution shall also state the conditions under which or the event after which the defendant will make restitution. If the defendant believes that no person suffered pecuniary damages as a result of the defendant's criminal activities, the defendant shall so state. If the defendant contests the amount of restitution recommended by the court services officer, the defendant is entitled to a hearing at which the court shall determine the amount. If the sentencing court orders the defendant to the state penitentiary and does not suspend the sentence, the court shall set forth in the judgment the names and specific amount of restitution owed each victim. The Department of Corrections shall establish the collection schedule for court-ordered restitution while the defendant is in the penitentiary and on parole. The Board of Pardons and Paroles shall require, as a condition of parole, that the defendant pay restitution ordered by the court.

Section 2. That § 23A-28-5 be amended to read as follows:

23A-28-5. The court services officer when assisting the defendant in preparing the plan of restitution and the court before approving or modifying the plan of restitution shall consider the physical and mental health and condition of the defendant, the defendant's age, the defendant's

education, the defendant's employment circumstances, the defendant's potential for employment and vocational training, the defendant's family circumstances, the defendant's financial condition, the number of victims, the pecuniary damages of each victim, what plan of restitution will most effectively aid the rehabilitation of the defendant, and each victim, and such other factors as may be appropriate.

Section 3. That § 23A-28-6 be amended to read as follows:

23A-28-6. The court services officer shall provide each known victim a copy of the court's order approving or modifying the plan of restitution for any defendant not serving his sentence in the state penitentiary. The executive director of the board of pardons and paroles shall provide each known victim a copy of the schedule of restitution for each inmate placed on parole. If the victim is not satisfied with the approved or modified plan of restitution, the victim's exclusive remedy is a civil action against the defendant, which, if successful, may include attorney's fees.

An Act to provide for court-ordered restitution at the time a defendant is sentenced to the state penitentiary.

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I certify that the attached Act originated in the

SENATE as Bill No. 20

\_\_\_\_\_  
Secretary of the Senate

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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 20  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_ ,

19\_\_ at \_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 19\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 19\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State