

Hope After Harm

State scoring breakdown

The Center for American Progress and Common Justice developed the State Victim Compensation Statute Rubric as a common framework through which survivors, advocates, legislators, administrators, and the public can better understand gaps and opportunities for improvement in state victim compensation law. This document provides the complete breakdown of how South Dakota scored in the State Victim Compensation Statute Rubric. For each scoring criteria, the raw score and explanation is given based on existing statute and/or administrative code. States are evaluated based on 30 separate criteria that are grouped into four categories. The raw

score and the weighted score—calculated by applying the category multiplier, a number between 1 and 2 determined based on insights gathered from survivor focus groups—are presented at the top of each category. The rubric's categories and corresponding multipliers are, in order of appearance: awareness and accessibility (x1.25), adequate compensation (x1), eligibility barriers (x1.75), and experience with the process (x1.5). This rubric is intended to serve as a tool for those seeking to reform victim compensation statute in South Dakota and to ultimately ensure their victim compensation program better serves all survivors of violence.

South Dakota

Total score: 27.38/57.25

Awareness and accessibility

States are evaluated based on language accessibility, procedures for informing survivors of their right to apply for victim compensation, and time requirements for reporting harm or applying for compensation.

Weighted score: 5/7.5

Multiplier: 1.25

Raw score: 4/6

Category	Points Awarded For	Evaluation	Explanation
Inform victim requirement	It is important that state statute, at a bare minimum, requires responding law enforcement officers, medical providers, or the district or state attorneys general interacting with survivors of violence to proactively inform survivors of the availability of victim compensation. States receive the maximum of 1 point if, in statute pertaining to victim compensation or in the state's victims' bill of rights, there is an active requirement that the responsible law enforcement agency, medical provider, district attorney, or state's attorney must inform victims or survivors of the availability of victim compensation. States receive 0 points if there is no such active requirement to inform victims or survivors of the availability of victim compensation. In cases where state statute or the state's victims' bill of rights indicates that victims and survivors of victims have a right to be informed of victim compensation but fails to designate who is responsible for informing them about victim compensation, states receive 0 points.	1/1	S.D.C.L. § 23A-28B-12 states, "The department shall furnish law enforcement agencies with victims' compensation application forms. A law enforcement agency investigating a crime shall provide forms to any person who may be eligible to file a claim pursuant to this chapter." South Dakota therefore receives 1 point for this category.

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Category	Points Awarded For	Evaluation	Explanation
Language accessibility	It is important that survivors do not face unnecessary language barriers when applying for victim compensation, which may make applying for this financial relief inaccessible to them. States should make application materials available in a variety of languages that reflect the needs of their population. States receive the maximum of 1 point if application materials are available on the administering agency's official website in all languages that at least 5 percent of all households in the state speak at home. States receive 0 points if application materials are not available in at least one language spoken by more than 5 percent of the state's households.	1/1	According to the U.S. Census Bureau, English is the only language that 5 percent or more of households in South Dakota speak. South Dakota therefore receives 1 point for this category.
Time limits: Reporting harm to law enforcement	Immediately following their victimization, survivors may not know about compensation or may not have the emotional capacity to go through an arduous application process. States should eliminate time limits for reporting violence and/or applying for victim compensation, which can work against the interest of healing. States receive the maximum of 2 points if there is no statutorily defined limitation on when survivors can report their harm to proper authorities to still be eligible to receive a victim compensation award. States receive 1 point if, in statute, victims are required to have reported their victimization to the proper authorities within a specified timeframe to be eligible to receive a victim compensation award but the state will make an exception to this requirement under a "good cause" clause or similar exception. States receive 0 points if, in statute, victims are required to have reported their victimization to the proper authorities within a specified timeframe to be eligible to receive a victim compensation award and there is no statutorily defined waiver or exception to this rule. States that require victims to have reported their victimization to the proper authorities within a specified timeframe to be eligible to receive a victim compensation award but also codify specific exceptions – including but not limited to being a victim of sexual assault or human trafficking and being a minor (under the age of 18) at the time of victimization – receive an additional 0.5 points.	1/2	S. D. C. L. § 23A-28B-25 states that a compensation award will not be made unless "the personal injury or death was the result of a crime which had been reported to a law enforcement officer or agency within five days of its occurrence or, if the crime could not reasonably have been reported within that period, within five days of the date when a report could reasonably have been made." As South Dakota establishes a time limit for a victim to report their harm to law enforcement but explicitly provides that this requirement can be waived for good cause, South Dakota receives 1 point for this category.

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Category	Points Awarded For	Evaluation	Explanation
Time limits: Applying for victim compensation	Immediately following their victimization, survivors may not know about compensation or may not have the emotional capacity to go through an arduous application process. States should eliminate time limits for reporting violence and/or applying for victim compensation, which can work against the interest of healing. States receive the maximum of 2 points if, in statute, no limitation is placed on when victims can apply for compensation following their incident of harm to still be eligible to receive an award. States receive 1 point if, in statute, a limitation is placed on when victims can apply for compensation following their incident of harm to still be eligible to receive an award but will make exceptions to this requirement under a “good cause” clause or similar exception. States receive 0 points if, in statute, a limitation is placed on when victims can apply for compensation following their harm and still be eligible to receive an award, and there is no exception made to this rule. States that require victims to file an application for a victim compensation award within a specified timeframe from the time of their harm but also codify specific exceptions – including but not limited to being a victim of sexual assault or human trafficking and being a minor (under the age of 18) at the time of victimization – receive an additional 0.5 points.	1/2	S. D. C. L. § 23A-28B-25 states that a compensation award will not be made unless “an application for compensation is filed with the department within one year after the date of the personal injury or death, ... the department may waive the one-year application requirement for good cause shown.” As South Dakota establishes a time limit for a victim to file a claim for victim compensation but explicitly provides that this requirement can be waived for good cause, South Dakota receives 1 point for this category.

Adequate compensation

States are evaluated based on the explicit inclusion of expense categories survivors encounter over the course of their healing, as well as having adequate compensation caps to meet survivors' needs.

Weighted score: 8/14

Multiplier: 1

Raw score: 8/14

Category	Points Awarded For	Evaluation	Explanation
Eligible expenses	As almost all awards are given to survivors through reimbursement or payments to vendors, states should make explicitly clear through statute, regulation, and publicly available documents which expenses will and will not be covered and make a wide range of expenses eligible to give survivors flexibility in the support they receive.		
	States receive 1 point for each expense category explicitly included in either state statute or another publicly available resource, such as an online brochure produced by the state administering agency.		
	States receive 0 points for each expense category that is not explicitly included in either state statute or a publicly available resource.		
	Crime scene cleanup	1/1	"Expenses associated with cleaning up or repairing a homicide scene" are covered expenses under S.D. Admin. Rules § 67:55:04:14 .
	Replacement for property lost, damaged as a result of harm, or confiscated for the purpose of evidence collection	1/1	"The replacement cost of personal property used for evidentiary purposes" is covered as an eligible expense under S.D. Admin. Rules § 67:55:04:10 .
	Relocation expenses	0/1	Relocation expenses are not explicitly listed as a covered expense under S.D. Admin. Rules § 67:55:04 .
	Future economic support or loss of support for dependents	1/1	Loss of support is covered as an eligible expense under S.D. Admin. Rules § 67:55:04 .
	Security improvements	1/1	"Expenses for security devices" are covered as an eligible expense under S.D. Admin. Rules § 67:55:04:12 , capped at \$500.
	Travel	1/1	Certain transportation expenses are covered as an eligible expense under S.D. Admin. Rules § 67:55:04:05 .
	Bereavement leave	0/1	Bereavement leave is not explicitly listed as an eligible expense under S.D. Admin. Rules § 67:55:04 .

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Category	Points Awarded For	Evaluation	Explanation
	Nontraditional healing modalities	1/1	Chiropractic expenses are covered as an eligible expense under S.D. Admin. Rules § 67:55:04:15 .
	Replacement services/child care	1/1	Child care is covered as an eligible expense under S.D. Admin. Rules § 67:55:04:11 .
	Legal fees, including fees related to compensation process (applications, claims, appeals, etc.)	0/1	Legal fees are not explicitly listed as an eligible expense under S.D. Admin. Rules § 67:55:04 .
	Accessibility modifications	0/1	Accessibility modifications are not explicitly listed as an eligible expense under S.D. Admin. Rules § 67:55:04 .
Maximum allowable compensation	While not every incident of harm and its corresponding expenses will necessitate a maximum compensation award, the amount of victim compensation available to survivors is often not enough to meet their financial needs. States should ensure their compensation caps are aligned with the full extent of need. States receive the maximum of 2 points if the statutorily defined maximum compensation limit for all victims is equal to or above the estimated average cost of harm per victim of robbery in the state, after adjusting for cost of living. States receive 1 point if the maximum compensation limit is equal to or above the estimated average cost of harm per victim of robbery in the state, after adjusting for cost of living, but only under the condition that the victim has suffered a “permanent” or “catastrophic” injury. States receive 0 points if, under no condition, the statutorily defined maximum compensation limit, after adjusting for the cost of living, meets or exceeds the estimated average cost of harm per victim of robbery in the state.	0/2	S.D.C.L. § 23A-28B-21 states that the limit for a victim compensation award for all victims is \$15,000. Adjusted for the cost of living in South Dakota, this is equivalent to \$17,027.07. The estimated average cost of harm per victim of robbery, adjusted for the cost of living in South Dakota, is \$51,628.96. As the maximum compensation award is below this estimate, South Dakota receives 0 points for this category.
Maximum allowable compensation for funeral and burial expenses	Due to the costliness and gravity of laying a loved one to rest, the sub-cap for funeral and burial expenses is considered individually. States receive the maximum of 1 point if, after adjusting for the cost of living, the statutorily defined maximum compensation limit for expenses related to funeral or burial services meets or exceeds the estimated 2023 median cost of burial with a vault. States receive 0 points if the statutorily defined maximum compensation limit for expenses related to funeral or burial services is below the estimated 2023 median cost of burial with a vault, after adjusting for the cost of living.	1/1	S.D. Admin. Rules § 67:55:04:17 states that the expense cap for funeral and burial expenses is \$8,000. Adjusted for the cost of living in South Dakota, this is equivalent to \$9,081.11. The 2023 estimated cost of a funeral with a vault, adjusted for the cost of living in South Dakota, is \$8,805.10. South Dakota therefore receives 1 point for this category.

Eligibility barriers

States are evaluated based on the removal of harmful and restrictive policies, which reinforce existing inequities and penalize those at the margins.

Weighted score: 11.38/29.75

Multiplier: 1.75

Raw score: 6.5/17

Category	Points Awarded For	Evaluation	Explanation
Mandatory police reporting	Given that many survivors are uncomfortable dealing with law enforcement and the subjective, often biased nature of police reporting, states should not require survivors to report their victimization to law enforcement to be eligible to receive victim compensation and instead accept documentation from agencies not affiliated with the criminal legal system. States receive a maximum of 2 points if, in statute, victims are permitted to report their harm to entities not affiliated with the criminal legal system or a government agency – such as medical, mental health, or victim service providers – to demonstrate they have been a victim of violence. States receive 1 point if, in statute, victims are required to report their harm to law enforcement to demonstrate they have been a victim of violence but provide statutory exceptions due to good cause shown. States receive 0 points if, in statute, victims are required to report their harm to law enforcement and the state does not codify a good cause waiver to this requirement. States that require victims and survivors of victims to report their harm to police but also codify specific exceptions – including but not limited to being a victim of sexual assault or human trafficking and being a minor (under the age of 18) at the time of victimization – receive an additional 0.5 points.	0/2	S. D. C. L. § 23A-28B-25 states that a compensation award will not be made unless “the personal injury or death was the result of a crime which had been reported to a law enforcement officer or agency within five days of its occurrence.” While South Dakota stipulates that the time requirement to report may be waived for good cause, in no case does South Dakota waive the requirement to report to a law enforcement agency altogether. South Dakota therefore receives 0 points for this category.

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Category	Points Awarded For	Evaluation	Explanation
Police cooperation	Victim compensation application review processes are made less racially equitable by requiring and unnecessarily relying on the subjectivity of law enforcement's reports regarding victim cooperation. States should not assess victims' cooperativeness with law enforcement when making determinations on victim compensation claims. States receive a maximum of 2 points if, in statute, they do not make victim compensation eligibility contingent on the victim and/or applicant proving they have cooperated with law enforcement investigating their harm. States receive 1 point if, in statute, they make eligibility contingent on the victim and/or applicant proving that they have cooperated with law enforcement, but they also codify "good cause" or "reasonableness" exceptions to waive this requirement. States receive 0 points if, in statute, claimants are required to demonstrate that they have cooperated with law enforcement to be eligible to receive an award and do not include a "good cause" exception. States that do require cooperation with law enforcement to be eligible, but also codify any specific exceptions, including but not limited to, being a victim of sexual assault or human trafficking and being a minor (under the age of 18) at the time of victimization, receive an additional 0.5 points.	0/2	S. D. C. L. § 23A-28B-25(2)(c) states that a compensation award will not be made if the victim "fails or refuses to cooperate fully with any appropriate law enforcement officer or agency or with the department in the administration of this chapter." Because South Dakota requires victims to cooperate with law enforcement and does not waive this requirement under any circumstances, South Dakota receives 0 points for this category.
Contributory conduct: Reduction or denial for victim	Contributory conduct policies deny or reduce the amount of victim compensation someone can receive based on the victim's alleged role in their own harm. These policies perpetuate the false narrative that victims and survivors must be "innocent" or "perfect" to receive support and should be eliminated. States should remove this subjectively determined barrier to access. States receive the maximum of 2 points if, in statute, the state does not include provisions to deny or reduce victim compensation due to the victim's alleged conduct in the event leading up to their harm. States receive 0.5 points if, in statute, the state includes a provision to deny or reduce a victim compensation award based on the victim's alleged conduct but waives this consideration under specified mitigating circumstances, including but not limited to being a victim of sexual assault or human trafficking and being a minor (under the age of 18) at the time of victimization. State receives 0 points for this category if, in statute, the state includes a provision to deny or reduce a victim compensation award based on the victim's alleged conduct and does not codify any waivers under specified mitigating circumstances.	0.5/2	S. D. C. L. § 23A-28B-25(2)(a) states that a compensation award will not be made if the victim "engaged in conduct which substantially contributed to the infliction of the victim's injury or death or engaged in conduct which the victim should reasonably have foreseen could lead to the injury or death." S. D. C. L. § 23A-28B-25(2)(a) further stipulates that this consideration does not apply to victims of human trafficking or a sexual offense. Because South Dakota considers contributory conduct in the reduction or denial of a victim compensation award but not for specific victim circumstances, South Dakota receives 0.5 points for this category.

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Category	Points Awarded For	Evaluation	Explanation
Contributory conduct: Reduction or denial for survivors of victim	When a loved one is lost to violence, survivors of the victim must do the difficult work of putting them to rest and rebuilding their lives after loss. They should not be punished based on a subjective determination that the victim's actions contributed to their death. State receives the maximum of 1 point if, in statute, in cases of applications made by survivors of victims, the conduct of the victim is not considered. Points are awarded if this is the case for any type of compensation. For example, a state may choose not to consider contributory conduct in cases where survivors of victims apply for burial or counseling expenses. States that do not include provisions to deny or reduce victim compensation based on contributory conduct also receive 1 point for this category. States receive 0 points if, in statute, no exceptions are made for survivors of victims when considering contributory conduct of the victim.	0/1	S. D. C. L. § 23A-28B-25(2) does not specify any exceptions from the contributory conduct clause for survivors of victims. South Dakota therefore receives 0 points for this category.
Contributory conduct: Consideration of gang affiliation	The practice of labeling a person as being affiliated with a gang or having participated in gang-related activities is fraught with misinformation and racial profiling. Perceived gang affiliation should not be used to withhold critical support from a victim of violence. States receive the maximum of 1 point if, in statute, gang affiliation or association is not mentioned as a factor for consideration in the approval, denial, or reduction of victim compensation. States that do not include provisions to deny or reduce victim compensation based on contributory conduct also receive 1 point for this category. States receive 0 points for this category if, in statute or regulations, a victim or claimant's association or affiliation with a gang can be considered in the approval, denial, or reduction of their victim compensation award.	1/1	As there is no specific mention of gang affiliation or association in S. D. C. L. § 23A-28B-25(2) to be considered as contributory conduct, South Dakota receives 1 point for this category.
Contributory conduct: Consideration of illicit drug or alcohol involvement or use	States receive 1 point if, in statute or regulations, involvement with or use of illicit drugs is not mentioned as a potential factor in the approval, denial, or reduction of victim compensation. States which do not include provisions to deny or reduce victim compensation based on contributory conduct also receive 1 point for this category. States receive 0 points for this category if, in statute or regulations, a victim or claimant's involvement with or use of illicit drugs can be considered in the approval, denial, or reduction of their victim compensation award.	1/1	As no specific mention of drug/alcohol use is included in S. D. C. L. § 23A-28B-25(2) to be considered as contributory conduct, South Dakota receives 1 point for this category.

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Category	Points Awarded For	Evaluation	Explanation
Conviction status or history	Having a conviction history does not prevent someone from becoming a victim of violence, nor does it make someone less deserving of support. Conviction histories should not be used to withhold critical support from a victim of violence. States receive the maximum 2 points if, in statute, there is either: 1) no explicit language that bars a victim or claimant from applying for or receiving a victim compensation award; or 2) an explicit inclusion that claimants cannot be denied compensation or have their compensation reduced based on the applicant's or victim's arrest or conviction history (pre- or post-victimization, probation or parole status, or due to outstanding fines and fees). States receive 0.5 points if, in statute, claimants can be denied compensation based on the victim's arrest or conviction history, but the state also codifies specific waivers to this rule under mitigating circumstances, including but not limited to being a victim of sexual assault or human trafficking and being a minor (under the age of 18) at the time of victimization. States receive 0 points if, in statute, a claimant can be denied compensation or have their compensation reduced based on the applicant's or victim's arrest or conviction history and the state does not codify exceptions to this rule.	2/2	As no specific exclusions for persons with arrest or conviction history exist in statute under S. D. C. L. § 23A-28B-25 , South Dakota receives 2 points for this category.
Incarceration status or history	Denying incarcerated people compensation further exacerbates cycles of trauma and disenfranchisement, which victim compensation programs are intended to interrupt. Incarcerated people should be permitted to apply for and receive victim compensation. State receives the maximum 2 points if, in statute, there is either: 1) no explicit language that a victim or claimant currently incarcerated is barred from applying for or receiving a victim compensation award; or 2) there is a specific inclusion that a claimant cannot be denied compensation based on their incarceration status or if the harm on which the claim is based occurred while the victim was incarcerated. States receive 0.5 points if, in statute, the state codifies specific waivers to this rule under mitigating circumstances, including but not limited to being a victim of sexual assault or human trafficking and being a minor (under the age of 18) at the time of victimization. States receive 0 points for this category if, in statute or regulations, a claimant can be denied or receive reduced victim compensation based on being incarcerated or if the harm on which the claim is based occurred while the victim was incarcerated.	2/2	As no specific exclusions for incarcerated persons exist in statute under S. D. C. L. § 23A-28B-25 , South Dakota receives 2 points for this category.

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Category	Points Awarded For	Evaluation	Explanation
Eligibility for survivors of victims: Relationship definition	Many victim compensation programs limit who can access financial relief based on their relationship to a victim or a survivor. It is important that victim compensation programs recognize the impact of violence on witnesses and loved ones and that the state broadly defines who is considered a victim's loved one. States receive the maximum 2 points if, in statute, applicants with a relationship to the victim beyond shared household, legal status, or by blood are eligible for victim compensation. States receive 1 point if, in statute, household members—regardless of blood or legal relationship—are eligible for victim compensation, but the state does not consider relationships beyond household members. States receive 0 points if, in statute, the state only considers relationships defined by blood or legal status.	0/2	S.D. Admin. Rules § 67:55:01:04 establishes who may apply for victim compensation and does not consider relationships beyond legal status or blood relation. South Dakota therefore receives 0 points for this category.
Eligibility for survivors of victims: Witnesses	Many victim compensation programs limit who can access financial relief based on their relationship to a victim or a survivor. It is important that victim compensation programs recognize the impact of violence on witnesses and loved ones and that the state broadly defines who is considered a victim's loved one. States receive the maximum 1 point if, in statute, the state stipulates that all witnesses to harm are eligible to receive victim compensation. States receive 0.5 points if, in statute, the state only makes those who were under the age of 18 when they witnessed harm eligible to receive victim compensation. States receive 0 points if, in statute, the state does not make witnesses to harm eligible to apply for victim compensation.	0/1	As there is no specific inclusion for persons who are witness to criminally injurious conduct in the definition of “victim” under S. D. C. L. § 23A-28B-1, South Dakota receives 0 points for this category.
Eligibility for survivors of victims: Willing or obligated to pay	It is important that victim compensation programs recognize and explicitly include individuals who step up in the immediate aftermath of violence to fill financial gaps for victims and survivors. States receive the maximum 1 point if, in statute, the state codifies that a person who willingly paid for or was obligated to pay for expenses related to a victim's harm is eligible for compensation. States receive 0 points if, in statute, the state does not codify that a person who willingly paid for or was obligated to pay for expenses related to a victim's harm is eligible for compensation.	0/1	S.D. Admin. Rules § 67:55:01:04 establishes who may apply for victim compensation and does not consider persons who willingly paid for or were obligated to pay for expenses related to a victim's harm. South Dakota therefore receives 0 points for this category.

Experience with the process

States are evaluated based on the availability and amount of emergency awards and whether perspectives of individuals directly affected by violence are consulted or included in the administration of victim compensation awards.

Weighted score: 3/6

Multiplier: 1.5

Raw score: 2/4

Category	Points Awarded For	Evaluation	Explanation
Emergency awards	Most states use a reimbursement model to distribute victim compensation. Without immediate and up-front financial support from states, survivors risk experiencing undue financial hardship, which can compound the trauma of becoming a survivor. States should make emergency awards available to help alleviate these burdens. States receive a maximum 2 points if, in statute, the state codifies a process to determine which victim compensation applicants can receive an emergency, tentative, or expedited award to alleviate financial hardship, and the established limit for such an emergency award is equal to or above \$3,750, after adjusting for the cost of living. States receive 1 point if, in statute, the state codifies an emergency award process, but the established limit for such an award is below \$3,750, after adjusting for the cost of living. States receive 0 points if there is no codified process in statute for victim compensation applicants to receive an emergency award.	1/2	S. D. C. L. § 23A-28B-27 authorizes the department to make an emergency award if an award is "likely" and "undue hardship will result to a claimant if an immediate award is not made." Such an award is capped at \$1,000. Adjusted for the cost of living in South Dakota, this is equivalent to \$1,135.14. As this is below \$3,750, South Dakota receives 1 point for this category.
Inclusion of victim, provider, and/or advocate perspectives	To meet survivors where they are, it is essential that victim compensation programs are trauma informed, extend compassion, and listen and learn from survivors' experiences. States can do so by including survivors in victim compensation program decisionmaking processes. States receive the maximum of 2 points if, in statute or regulations, the state requires at least one survivor to be included in the application review process or in advisory capacity to the review board. States receive 1 point if, in statute or regulations, the state requires at least one person with direct experience supporting survivors be included in the application review process or in an advisory capacity. States without this requirement receive 0 points.	1/2	S. D. C. L. § 23A-28B-3 establishes the South Dakota Crime Victims' Compensation Commission and the rules for its membership. Per statute, the South Dakota Crime Victims' Compensation Commission is required to have one member "with experience in providing victim assistance services." South Dakota therefore receives 1 point for this category.