



**DEPARTMENT OF CORRECTIONS  
PROBATION AND PAROLE DIVISION  
OPERATIONAL PROCEDURE**

Procedure No.: PPD 6.1.206	Subject: <b>YOUTH RESTITUTION</b>
Reference: 41-5-103, MCA; 41-5-1521, MCA; 52-5-127, MCA Applicable ACA Standards: 2-7065, 2-7142	Page 1 of 4
Effective Date: 04/06/18	Revised:
Signature / Title: /s/ Kevin Olson, Probation and Parole Division Administrator	

**I. PURPOSE:**

The Probation and Parole Division recognizes that restitution assists in the mission of holding youth accountable for their offenses by prioritizing the restoring of damage and harm done to victims. Parole Officers will monitor and enforce victim restitution ordered by the youth court or other court jurisdictions and whenever restitution is part of an intervention or on-site agreement

**II. DEFINITIONS:**

**PPD-Probation and Parole Division** – The Division oversees the Probation & Parole regional offices, interstate transfers, and the facilities providing assessments and sanctions, prerelease, and treatment services.

**Restitution** – Payments to the victim or services to the victim or the general community when these payments are made pursuant to a consent adjustment, consent decree, or other youth court order; or are part of an intervention agreement, on-site agreement, or restitution agreement.

**III. PROCEDURES:**

**A. GENERAL PROVISIONS**

1. The youth court may order a youth to pay restitution as part of his/her commitment to the Department of Corrections. The amount and type of restitution ordered is based on the:
  - a. age of the youth;
  - b. ability of the youth to pay;
  - c. ability of the parents or legal guardian to pay;
  - d. amount of damage to victim; and
  - e. legal remedies of the victim
2. In accordance with the standards in #1 above, youth may agree to pay restitution as part of *PPD 6.1.206(A) Youth Restitution Agreement*, *PPD 6.3.103(A) Youth Intervention Agreement*, or *PPD 6.4.203 Youth On-Site Agreement* for loss, theft, and/or damage done during the time the youth is on parole supervision.
3. Parole Officers (PO) are responsible to track youth's progress and compliance in meeting restitution requirements, restitution payments, and an ongoing balance while youth are on parole supervision.
  - a. Pine Hills Correctional Facility maintains records on restitution amounts paid and the restitution balance on all youth in their care.
  - b. Youth court services or another agency in the judicial district where the restitution was ordered maintains records on restitution amounts paid and an ongoing restitution balance.

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4. POs are responsible to encourage and guide youth with the goal of having their restitution paid in full by the time youth are transferred, released, or discharged from the Department.

## **B. RESTITUTION**

1. Youth may have a condition in the court order requiring the payment of a specific amount of restitution to victims. Payments will be directly to youth court services or another responsible department within the judicial district.
2. Restitution may be part of *PPD 6.3.103(A) Youth Intervention Agreement* or *PPD 6.4.203(C) Youth On-Site Agreement* following specific parole violations that involve property loss or damage.
  - a. The agreement should be completed and signed whenever youth are not being returned to a youth correctional facility. The agreement should specifically list the amount of restitution required as part of the agreement.
  - b. The restitution amount should correspond to the value of the property stolen, lost, or damaged as determined by the cost to replace or repair the property.
3. When a youth's parole is being revoked via an on-site hearing or waiver due to a parole violation involving damage, theft, or loss to property, the youth will be asked to sign a *PPD 6.1.206(A) Youth Restitution Agreement*.
  - a. If the youth agrees to pay restitution in the amount identified by the PO, he/she will sign the *Youth Restitution Agreement* and it will be forwarded to the youth correctional facility with the request the amount be added to the youth's current restitution balance:
    - i. PO will provide the victim's name and address; and
    - ii. when applicable, the youth correctional facility will send restitution payments directly to the victim whenever prior restitution responsibilities have been met.
  - b. If the youth refuses to accept responsibility for paying restitution, does not sign the agreement, or does not agree with the restitution amount figured, the matter may be referred to the county attorney's office for prosecution of the parole violation as a new delinquent offense.

## **C. RESTITUTION PAYMENTS**

1. When youth is not paying for independent living expenses, 75% of all earnings received by the youth will be paid toward his/her restitution responsibility.
2. When youth is paying for living expenses, or has other mitigating circumstances which hinders his/her ability to pay 75%, a lesser percentage can be established by the PO. The percentage being paid should be verified by the PO on an ongoing basis.
3. At no time will a PO accept cash for restitution payments.
  - a. Any checks or money orders will be photocopied as a receipt with a copy given to:
    - i. the youth
    - ii. the person making the payment; and
    - iii. the youth's file.
  - b. Payments for court-ordered restitution will be given or sent directly to youth court services or the other designated agency in the judicial district; or to the victim if this is a result of an intervention, on-site, or restitution agreement.
  - c. All checks or money orders received must be made payable to youth court services or to the victim.

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- d. Under no circumstances will the youth pay the victim directly unless the victim is a parent/guardian/custodian/representative with whom the youth lives with and there are no safety concerns within the family due to the youth's parole violations.
- e. For restitution payments made directly to youth court services or other designated agency, the youth should provide the PO with a receipt following each payment.

#### **D. FINES AND FEES**

- 1. When there are fines, fees, and surcharges ordered by the youth court, the PO is responsible to track the payments and balance.
- 2. Restitution payments should always be made first and the balance paid in full before payments are made for fines, fees, and surcharges.
- 3. Under certain circumstances, a PO may request youth court services waive fines, fees, and surcharges prior to the youth's transfer, release, or discharge.

#### **E. COMMUNITY SERVICE**

- 1. POs may be able to refer a youth to restorative justice programs (e.g., Sweat Equity) that will convert community service hours worked to actual restitution payments to victims. POs are responsible to track the completion of any restitution work hours and document this in YMS chronological notes.
- 2. Youth committed to the Department may have a condition in the court order requiring the completion of a specific number of community service hours.
  - a. POs are responsible for ensuring community service hours are completed by youth in compliance with court orders and tracking the completion of these hours during youth's parole supervision.
  - b. Documentation regarding community service hours completed should be submitted to youth court services in the county of the court order whenever the youth completes the required hours. A copy of the documentation is placed in the youth's field file and POs will make an entry in the youth's YMS chronological history.
- 3. Youth on parole may agree to complete an agreed-upon number of community service hours as part of an *Youth Intervention Agreement* or *Youth On-Site Agreement* following specific parole violations.
  - a. The agreement should be signed that specifically lists the timeframe and the number of community service hours agreed upon.
  - b. The number of hours agreed upon should fit the value of the property stolen, lost, or damaged as figured by the current minimum wage.
  - c. The number of hours may be figured according to the youth court services standard for community service hours for specific offenses.
  - d. The PO is responsible for tracking the completion of these hours and documenting this in YMS chronological history.
  - e. Unless the parole violation occurred in the youth's residence and the victims are family members, this can only occur following an approved victim-offender conferencing or other restorative justice program.
  - f. The youth and victim must both agree to this as part of the restorative justice process.

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4. Only non-profit community or government agencies can be utilized for the completion of community service hours except when there is a restorative justice program involved or the community service work is directly for a parent/guardian/custodian/representative with whom the youth resides.
5. The site or program that the youth works with to accomplish community service hours must cover the youth on workers' compensation prior to the start of work.

#### **F. FAILURE TO PAY RESTITUTION OR COMPLETE COMMUNITY SERVICE**

1. When a youth has not been making regular restitution payments, the PO will evaluate the reasons for non-payment.
  - a. In circumstances in which the youth has been unable to make restitution payments because of a lack of employment options, time, physical/mental barriers, or lack of restorative justice/community programs available, the PO will continue to refer the youth to all available resources.
  - b. In circumstances in which the youth has been unwilling to make restitution payments even though employment opportunities/resources/programs are available, the PO will notify youth court services or other designated agency and/or consider a case plan change/intervention.
2. Prior to transferring, releasing, or discharging a youth who still owes restitution, the PO will notify youth court services of the youth's restitution status.
3. Youth cannot receive an early discharge when they have a remaining balance of court-ordered restitution or restitution resulting from an intervention, on-site, or restitution agreement.

#### **IV. CLOSING:**

Questions concerning this procedure should be directed to the immediate supervisor.

#### **V. FORMS:**

PPD 6.1.206 (A) Youth Restitution Agreement