
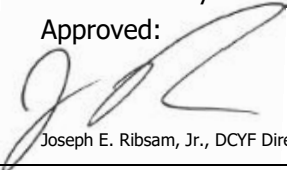


1347 RESTITUTION	
Chapter: Juvenile Justice Field Services	Section: Youth Supervision
	<p>New Hampshire Division for Children, Youth and Families Policy Manual</p> <p>Policy Directive: 18-24</p> <p>Effective Date: July 2018</p> <p>Scheduled Review Date:</p>
<p>Related Statute(s): RSA 21-M, RSA 169-A, RSA 169-B, RSA 169-D, RSA 170-G, and RSA 651:67</p> <p>Related Admin Rule(s):</p> <p>Related Court Ruling(s): State v. Fleming, 125 NH 238 (1984), State v. Smith 124 NH 260 (1983)</p> <p>Related Federal Regulation(s): Interstate Compact, Article VII</p>	<p>Approved: </p> <p>Joseph E. Ribsam, Jr., DCYF Director</p> <p>Related Form(s): FORM 1347, FORM 1348, FORM 1349, FORM 1479, and FORM 1480 Bridges' Screen(s) and Attachment(s):</p>

The Division for Children, Youth and Families is committed to professionalism in its delivery of Juvenile Probation and Parole Services. JJS is required by statute to perform investigative, supervisory, and enforcement functions. These functions include recommendations and enforcement of Court Orders for restitution. Through the application of restorative and balanced justice principles, and the development and imposition of graduated sanctions consistent with public safety, JJS promotes personal accountability and acceptance of responsibility by youth who commit offenses. This accountability is met in part by the youth's ability to fulfill their obligation to make restitution.

Purpose

This policy establishes the requirements for JPPOs to follow in the investigation, collection, enforcement, and retention of jurisdiction for restitution orders in delinquency and CHINS cases.

Definitions

"CHINS" means Child In Need of Services as defined in RSA 169-D:2, II.

"DCYF" or the **"Division"** means the Department of Health and Human Services' Division for Children, Youth and Families.

"JJS" means the Bureau of Field Services' Juvenile Justice Services within DCYF.

"JPPO" or **"Juvenile Probation and Parole Officer"** means an employee of DCYF who is authorized by the Division to perform functions of the job classification Juvenile Probation and Parole Officer.

"Restitution" means moneys, compensation, work, or service which is reimbursed by the offender to the victim who suffered personal injury or economic loss.

"SYSC," or the **"John H. Sununu Youth Services Center,"** or the **"Youth Detention Services Unit"** means the architecturally secure juvenile treatment facility administered by the Division for Children, Youth and Families for committed juveniles and detained youth, and for NH youth involved with the NH court system prior to their adjudication.

Policy

- I. Restitution may only be collected after a court has ordered a youth to pay in a pending delinquency or CHINS petition.
- II. When a court orders a summary disposition, a pre-dispositional investigation and/or the court orders JJS to determine restitution, JPPOs shall make recommendations based on the following:
 - A. The JPPO shall first contact the prosecutor to request the amount of restitution.
 - B. The JPPO may directly contact the victim to advise him/her on the restitution process and ask the status of their loss(es).
 1. Victims should be notified they will receive a check from the State of NH each time a restitution payment is received.
 2. In circumstances where the JPPO is seeking information to identify restitution the victim may be contacted via the Victim of a Crime Letter (Form 1348) depending on case specific circumstances.
 3. If the victim requests additional information, the JPPO shall direct the victim to contact the prosecutor in the case.
 - C. When making a recommendation for restitution, the JPPO shall be aware of the following legal considerations:
 1. The NH legislature established a presumption that offenders compensate victims for their uninsured losses. Further, the legislature established certain the right of victims to restitution.
 2. In delinquency cases, the court may find payment by the parent to be in the interest of justice and rehabilitation pursuant to RSA 169-B:2-a, I(d). The parent/guardian shall be obligated to pay a portion or all of any restitution.
 3. Restitution must be paid in full prior to the termination of juvenile court jurisdiction. If not, criminal adult contempt proceeding may be pursued pursuant to RSA 651:67 II in delinquency cases.
 4. When a committed youth becomes eligible for parole, the Juvenile Parole Board can impose a restitution requirement, as previously ordered in a delinquency case, as a condition of parole.
 5. Insurers are not eligible for statutory restitution.
 6. The court must close all cases other than those involving serious violent offenses no later than two (2) years after the date of adjudication. Thus, to ensure the continuation of any restitution payments beyond two (2) years, the JPPO must set forth the specific facts and remedies in the recommendation.
 - D. Staff need to be aware that if restitution is disputed, any party may request the court hold a restitution hearing to determine the final amount.

- III. For delinquency cases, other than those involving serious violent offenses, in which restitution shall be ordered, the JPPO shall request that the orders include one or more of the following provisions:
 - A. The youth has to pay restitution within a specified amount of time not to exceed the two (2) years;
 - B. The youth's parents to be held liable for any portion unpaid at the end of the two (2) years; and/or
 - C. The youth assents to an extension of the two-year closure period, during which the case may be maintained open administratively by the Division if restitution is not paid.

Enforcement

- I. JJS is obligated to work with the Court to enforce Court Orders for restitution by the youth and/or the youth's parent/guardian.
- II. When the court orders restitution, the JPPO shall do the following:
 - A. Meet with the youth and parent/guardian to discuss the restitution requirements, including the possible requirement that it take longer than two years, if applicable;
 - B. Inform the youth and parent/guardian of possible legal sanctions that can be imposed for failure to comply including contempt charges as an adult if payment is not made in full at the end of juvenile court's jurisdiction;
 - C. When monetary restitution is required establish a payment schedule; and
 - D. Only accept checks or money orders made out to the State of New Hampshire.
 - 1. JPPOs shall complete a Juvenile Justice Services Payment Voucher Form 1480 when a restitution payment is received:
 - (a) If payment was hand-delivered, the white colored copy of Form 1480 shall be immediately issued to the payer and delivered in-hand.
 - (b) If payment was received via mail, the JPPO shall provide the white colored copy of Form 1480 to the payer by mail.
 - 2. JPPOs shall record all restitution transactions on the collection accounting screens of NH Bridges.
 - 3. Restitution payments received by JPPOs shall be submitted via interoffice messenger mail or via postal mail, to the DHHS Office of Business Management no later than five (5) business days from the date received with the canary colored copy of Form 1480 Juvenile Justice Services Payment Voucher attached.
 - 4. The pink colored copy of Form 1480 Juvenile Justice Services Payment Voucher shall be filed in the youth's case file pursuant to [policy 1450](#).
- III. Any time a CHINS case changes such that the case will remain open only for the collection of restitution, the case must be designated as an administrative case.

- IV. Any time a delinquency case is closed in court after two years pursuant to RSA 169-B:31-c, the JPPO shall ensure that it is designated as an administrative case in Bridges and that the court is aware that the Division may request the court case be re-opened if the youth fails to pay restitution while still under the juvenile court's jurisdiction.
- V. Interstate Commission for Juveniles' Cases: JPPOs shall adhere to the Interstate Commission for Juveniles' requirements relative to restitution ([ICJ Rule 5-101 \(8 & 9\)](#)).
 - A. Restitution payments or court fines are to be paid directly by the youth/youth's family to the adjudicating court or agency in the sending state.
 - B. The sending state shall provide the specific payment schedule and payee information to the Division.
 - C. The JPPO shall encourage the youth to make regular payments in accordance with the Court Order of the sending state.
 - D. When all other terms and conditions of probation/parole have been completed, supervision through an Interstate Commission for Juveniles' case shall not continue or be extended for the sole purpose of collecting restitution and/or court fines.
- VI. If the youth and parent/guardian fails to make a scheduled payment, the JPPO may mail a Restitution Arrearage Notice (Form 1349) to the youth and parent/guardian, and may remind of the legal sanctions that can be imposed for failure to comply with the restitution requirement, depending on case specific circumstances;
 - A. If the youth and parent/guardian fails to respond as required, the JPPO shall inform the court by filing an appropriate motion with the court.
 - B. In the case of a youth on parole, the JPPO may initiate parole revocation proceedings.

Restitution Procedures for Youth in Placement

- I. For a youth placed at a Residential Treatment Program who have a resident account that is funded through his/her work, allowances, or cash gifts:
 - A. JPPOs may request court-ordered restitution be paid from resident accounts;
 - B. The court order for restitution must be provided to Residential Treatment Program;
 - C. JPPOs may request that the Residential Treatment Program "freeze" all or a portion of the resident account for the purpose of paying restitution.
- II. JPPOs will update Residential Treatment Program of any changes to the outstanding balance of restitution owed.
- III. JPPOs shall arrange a payment plan with the Residential Treatment Program.
- IV. JPPOs will receive payment(s) from the resident account, issued to "Treasurer, State of NH." Payments received shall be processed by standard restitution procedures.

Restitution Procedures for Committed Youth

- I. Youth committed to the Sununu Youth Services Center (SYSC), have resident accounts that are funded pursuant to [policy 2330](#), by either their work at the facility, allowances received at the facility, or cash gifts.
 - A. Court ordered restitution may be paid from resident accounts.
 - B. The court order for restitution must be provided to SYSC.
 - C. JPPOs must request funds to be “frozen” for the reason of paying restitution by immediately notifying the DHHS Office of Human Services-Finance at [DHHS: DCYF Check Request](#), including:
 1. Youth’s name and restitution account number from Bridges;
 2. Victim’s account number from Bridges (the victim list should be searched first to avoid duplicate accounts being set up for the victim); and
 3. The amount owed to the victim.
- II. The DHHS Office of Human Services-Finance must be updated of any changes or if any outside payments are made on behalf of the youth towards restitution.
- III. Once the full balance is achieved or if a youth is discharged and has an account balance that either matches the amount owed or below, a check is then issued from the youth’s SYSC account to “Treasurer, State of NH” after verifying the final amount owed with the JPPO.
 - A. Once the check is issued, an email is sent by DHHS Office of Human Services-Finance [DHHS: DCYF Check Request](#), to the JPPO with the juvenile’s name, restitution account number, check #, and check amount;
 - B. The JPPO enters the check information into the juvenile’s restitution account in Bridges and documents the email received in the notes section;
- IV. The DHHS Office of Business Management will deposit the check from the youth’s SYSC account into the restitution bank account and issue the check to the victim from the restitution bank account.

Youth Reaching Age of 18

- I. If a youth fails to pay restitution in full and will no longer be subject to the jurisdiction of the court by reason of age or the closing of the case, the JPPO shall contact the prosecutor within 90 days before the youth’s 18th birthday, to discuss and determine whether the matter should remain under juvenile jurisdiction or if adult jurisdiction will be pursued.
 - A. When the determination is to maintain juvenile jurisdiction, the JPPO shall file a motion to extend jurisdiction for the sole purpose of collecting restitution.

1. Advise of the status of the restitution account, including the amount the youth has failed to pay;
 2. Identify that the court's jurisdiction will soon expire; and
 3. Request maintaining the case open for restitution only until the youth's 19th birthday, including any payment plan developed for the remaining amount to be paid.
- B. The JPPO shall request the prosecutor file adult contempt proceedings if a restitution case was maintained open based upon a payment plan with the Division and the youth defaults on the agreed upon payments.
- C. When the determination is to file for adult jurisdiction:
1. The JPPO shall work with the prosecutor to ensure the prosecutor initiates adult criminal contempt proceedings for cases opened under RSA 169-B for Delinquency; or
 2. The JPPO shall work with the prosecutor to ensure the prosecutor initiates adult civil contempt proceedings for cases opened under RSA 169-D for CHINS.
 3. The JPPO shall concurrently file a Motion with the court advising of the request to the prosecutor to pursue adult criminal or civil contempt and request to close the JJS case.

Youth Reaching Age of 19

- I. If a youth fails to pay restitution in full and will no longer be subject to the jurisdiction of the court, the JPPO shall contact the prosecutor within 90 days before the youth's 19th birthday, to discuss and determine whether the matter should remain under juvenile jurisdiction or if adult jurisdiction will be pursued.
- A. When the determination is to maintain juvenile jurisdiction, the JPPO shall file a motion to extend jurisdiction for the sole purpose of collecting restitution.
1. Advise of the status of the restitution account, including the amount the youth has failed to pay;
 2. Identify that the court's jurisdiction will soon expire; and
 3. Request maintaining the case open for restitution only, including any payment plan developed for the remaining amount to be paid.
- B. The JPPO shall request the prosecutor initiate adult criminal or civil contempt proceedings if:
1. A restitution case was maintained open based upon a payment plan with the Division and the youth defaults on the agreed upon payments; or
 2. A youth's jurisdiction was extended and a restitution requirement remains as the youth nears their 19th birthday.
- C. When the determination is to file for adult jurisdiction:

1. The JPPO shall work with the prosecutor to ensure the prosecutor initiates adult criminal contempt proceedings for cases opened under RSA 169-B for Delinquency; or
2. The JPPO shall work with the prosecutor to ensure the prosecutor initiates adult civil contempt proceedings for cases opened under RSA 169-D for CHINS.
3. The JPPO shall concurrently file a Motion with the court advising of the request to the prosecutor to pursue adult criminal or civil contempt and request to close the JJS case.

Closing Restitution

- I. No case can be closed in Bridges if the restitution payable account is still open.
 - A. Any staff who attempts to close a case with open restitution will receive a message stating "There is an open Restitution payable associated with this client. Case cannot be closed. See Juvenile Justice Field Policy 1347."
 - B. JPPOs are responsible for entering information in Bridges to identify when a court has ordered a delinquency or CHINS case closed that has outstanding restitution remaining.
 - C. If a case is closed pursuant to RSA 169-B:31-c two years after the date of adjudication and outstanding restitution remains, the JPPO shall seek clarification from the court allowing it to be kept open administratively with the Division for the purposes of restitution.
- II. Upon the closing of the restitution payable the case can be closed pursuant to standard practice.

Practice Guidance

Do I need to include the victim's Social Security Number when opening a restitution account in Bridges?

- The victim's Social Security Number shall not be required. If Bridges will not allow the account to be opened with the field blank, staff should enter 000-00-0000.

Can JPPOs collect restitution without a delinquency or CHINS order?

- Restitution cannot be collected by JJS when:
 - No delinquency or CHINS petition has been filed;
 - Previously filed petitions are withdrawn or placed on file;
 - The prosecutor enters a *nolle prosequi*;
 - There is no identifiable victim; or
 - The petitions are dismissed by the court.

What do I do if a restitution payment is received by personal check and the check does not clear?

- Any personal check that bounces/does not clear when the Office of Finance attempts to deposit the funds will not be credited to the youth's restitution account.
- A JPPO may inform the family following a bounced payment that further personal checks will not be accepted and require a money order or cashier's check.

If the victim has insurance that covers all or part of the cost of the loss, can the youth still be held accountable for restitution?

- The youth can be held accountable to pay restitution for any portions not covered by the victim's insurance or the victim's deductible.

How do I enter a court order in Bridges upon receipt to close a restitution account?

- Open the claims module and click the Rest/Rev icon (third from the left);
- Go to the second toolbar (directly below the first) and click the Restitution icon;
- The Restitution Search box will open. Enter the youth's restitution account number, check the Payables/Receivables checkbox, and click "OK;"
- A screen will open with the youth's payment information, including a dropdown box labeled "status;"
- Change the restitution account status from "open" to "closed;"
- Enter a comment indicating the date of the Court Order, the name of the court issuing the order, and language from the order; and
- Click "Change."