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## **Frequently Asked Questions**

### **How much will my fine be?**

The maximum fine amounts are established by the legislature, and judges use their discretion and call upon their experience to determine what the exact amount should be. Fines for some of the more common offenses (for example, speeding or failing to stop at a stop sign) have standard amounts, and the clerk of courts can tell you about those. For some offenses, it is entirely up to the judge, within the limits set by the legislature, to decide.

### **How much will my license tags cost this year?**

License plate renewals and registrations are not processed by the courts. You should contact your local county Treasurer's office with this question.

### **Can you give me a copy of my birth certificate?**

No, we do not maintain the birth certificate or other vital statistic records (such as marriage or death certificates). You can contact your local county Register of Deeds office for this information.

### **What do I need to get a judgment against a person?**

Getting a judgment and collecting money owed to you are not quite the same things. To get a judgment, you must have a judge agree that your claim is valid and timely, and then enter a court order (judgment) against the person who owes you. Once a judgment is filed, it is good either until all the money is collected, or for 10 years, unless it is renewed for another 10 years. There are different methods available for collecting on a judgment. You should seek an attorney's advice about the best way for you to proceed, which will depend on the circumstances of your case.

### **What should I do to get a divorce?**

South Dakota does have fill-in-the-blank forms to use in filing your own divorce case in court. These forms can be obtained from any Clerk of Court office or on-line at [ujslawhelp.sd.gov](http://ujslawhelp.sd.gov). However, consultation with an attorney is strongly recommended before filing any documents with the court. There are various factors that need to be considered and you may be mistaken about the law regarding marital assets, support or custody/visitation. Agreements to child custody/support and the allocation of property/debt could have serious long-term consequences for both parties.

An attorney can advise you of the options available to you and the possible consequences of any choice you might make

### **Can I get an extension to pay my fines?**

All fines and fees are due the date of the court hearing when the judge sets the amount owed, whether you appear in person or send your money in the mail and plead guilty on a traffic violation. Sometimes a judge may allow an extension, depending on the circumstances of your case, but you should be prepared to make payment at the time of sentencing. All requests for an extension must be agreed to by the judge.

### **Now that I have a judgment, when do I get my money?**

It depends. See the answer above about how to get a judgment. The facts of your case usually will affect when you get paid. Some defendants (debtors) are able to and do pay right away. Others make arrangements to pay you over time. Some situations may require you to enforce the judgment by other legal means. An attorney is best able to advise you on the options that fit your circumstances.

### **How do I garnish wages to collect my judgment?**

Garnishment actions are usually handled by an attorney without a lawsuit, unless objections are filed by the person owing the money.

### **What do I need to get a marriage license?**

Marriage licenses are issued by the local county Register of Deeds office, not by the courts. You should contact them with specific questions. At a minimum, you should be prepared to provide identification and pay a fee, but they can inform you about the age and consent requirements and whatever else may be needed. We can tell you that once a license is issued, the wedding must take place within 20 days or the license becomes void.

### **How do I get a passport?**

Passports are issued by the United States Department of State, not by the courts and may be issued by most Post Offices.

## **What is the number for Driver Improvement?**

1-800-952-3696 in South Dakota.

## **How do I file a small claims suit?**

This is one of two actions you can file by completing a form at the Clerk's office. (The other is for a Protection Order.) You will need to pay a fee, the amount of which depends on your claim. By law, your claim cannot exceed \$12,000 to qualify for the small claims division; if it is more than \$12,000, you must file a regular civil action in circuit court. You will also need to provide information about the defendant (or also known as the debtor), such as name, and address. It may be important to know the age of the defendant as well, depending on the nature of your claim, or who the "agent for process" is if the defendant is a corporation. (You can find that out from the Secretary of State.) And you should provide any written evidence you may have that supports your claim. This could be a receipt, letter, contract, photographs or any other proof that you think will help the judge decide the case. See our Procedures tab for more information about Preparing for Small Claims Court.

## **Can I talk with a judge directly or write a letter?**

Generally, no, but it depends. All contact with a judge regarding any matters related to court cases (pending or not) should occur through your attorney. This ensures that the proper rules and laws are followed regarding communications with a judge and notice to the other parties in a case. If you are not represented by an attorney, your best option is to write a letter to the judge, in care of the Clerk of Courts office for the county where your case is pending, with a copy to all other parties. This will help keep the judge from having one-sided communication (called *ex parte*) or creating a conflict of interest for the judge by having access to information that may not be appropriate.

## **How do I get copies of documents from court files?**

Not all documents in court files are available to the public; some have limited access according to South Dakota laws. You can check with the Clerk of Courts for the county where the case is pending to find out if what you want is open for copying. If you don't have the case number, there may be a fee to search court records to find the particular case or name you want. There is a fee for copies; that fee depends on whether you want a regular copy or some kind of special copy (such as certified or authenticated), and

how many pages there are in the document you are requesting. Generally, all requests for copying and/or searches of records must be accompanied by payment.

### **How do I find an attorney to handle my case?**

Neither the Clerk nor the judge can recommend an individual attorney to help you, although in some criminal cases, the court may appoint specific counsel for you. If you cannot get a reference from a friend, or cannot find someone by using the Yellow Pages of the phone directory, you might check with the Lawyer Referral Help Line of the State Bar of South Dakota in Pierre. That number is 1-800-952-2333, and their web site is [www.sdbar.org](http://www.sdbar.org).

### **What if I have a complaint about my attorney?**

[www.sdbar.org](http://www.sdbar.org) It depends on the nature of your complaint and whether the attorney was chosen by you or appointed by the court. Discussing your concerns with the attorney may resolve your issues. Other options might include a notification to the judge assigned to your case, or filing an official complaint with the Supreme Court, which oversees discipline of members of the South Dakota Bar.

### **Can I fax documents to the court?**

Fax filings are allowed, for a fee, but must be followed up by mailing the original document. Contact the Clerk of Courts office where your case is pending for specific information.

### **How do I get a hearing before a judge or how do I get a hearing date changed?**

Your attorney will arrange for the necessary hearings. However, if you are not represented by an attorney, you should contact the Clerk of Courts office where your case is pending. The clerk will be able to tell you if those arrangements can be made through that office, or if the judge will need to be consulted. The answer will depend on the kind of case you have, the nature of hearing requested, how much time might be needed, and availability of the judge.

## **How do I get a transcript of a court hearing?**

Transcripts are prepared by the official court reporter who originally attended the court hearing. Most transcripts will have to be requested directly from that reporter. The Clerk of Courts office can tell you who the reporter is and how to contact that person. Depending on the kind of hearing and whether it was digitally recorded or stenographically reported, the fees for a transcript will vary, as will the time it may take for the transcription. In some cases, a CD of the audio from the hearing may be available, also for a fee.