

## National State Law Survey: Mandatory Restitution/ Civil Remedies

State <sup>1</sup>	Do state asset forfeiture laws apply to trafficking, CSEC, <sup>2</sup> and CSAM <sup>3</sup> offenses?	Must forfeited assets be applied to the payment of restitution first?	Is restitution mandatory for trafficking and/or CSEC offenses?
Alabama	Yes (all)	Yes (victim restitution → damages awarded to victims in a civil action → cost of investigation and prosecution → Alabama Crime Victims Compensation Fund)	Yes (HT only)
Alaska	Yes (all)	No	Yes (both)
Arizona	Yes (CSEC & CSAM only)	No (transferred property: any local or state government entity or agency or political subdivision, law enforcement agency or prosecutorial agency or any federal law enforcement agency; assets from sold property: expenses → anti-racketeering fund)	Yes (HT only)
Arkansas	Yes (HT only)	No (returned to rightful owner or possessor except contraband owned by a defendant)	No
California	Yes (CSEC only <sup>4</sup> )	No	Yes (both)
Colorado	Yes (all <sup>5</sup> )	No (lien balances → compensate an innocent partial property owner → any person who suffers bodily injury, property damage, or property loss → law enforcement agency (reasonable fees and costs incurred) → district attorney (>10% of property value) → court clerk (1%) <sup>6</sup> )	Yes (HT only)

Evaluations of state law are based on legislation enacted as of August 1, 2019. For related policy goals, background information, and select statute highlights, please visit [http://sharedhope.org/wp-content/uploads/2015/11/Issue\\_Briefs/Issue\\_Briefs\\_3.4.pdf](http://sharedhope.org/wp-content/uploads/2015/11/Issue_Briefs/Issue_Briefs_3.4.pdf).

<sup>2</sup> "CSEC" refers to state commercial sexual exploitation of children offenses.

<sup>3</sup> "CSAM" refers to offenses related to child sexual abuse material.

<sup>4</sup> Forfeiture provisions apply to prostitution offenses, not to HT, CSAM, or other CSEC offenses.

<sup>5</sup> Asset forfeiture is mandatory under Colorado's nuisance laws.

<sup>6</sup> The balance shall be delivered, upon order of the court, as follows:

- (A) Fifty percent to the general fund of the governmental body or bodies with budgetary authority over the seizing agency for public safety purposes or, if the seizing agency was a multijurisdictional task force, fifty percent to be distributed in accordance with the appropriate intergovernmental agreement;
- (B) Twenty-five percent to the managed service organization contracting with the office of behavioral health in the department of human services serving the judicial district where the forfeiture proceeding was prosecuted to fund detoxification and substance use disorder treatment. Moneys appropriated to the managed service organization must be in addition to, and not be used to supplant, other funding appropriated to the office of behavioral health; and

Connecticut	Yes (all)	No (lien balance → costs incurred for the storage, maintenance, security, and forfeiture of property → court costs → General Fund)	Yes (both)
Delaware	Yes (HT only)	No	Yes (HT only)
DC	Yes (HT & CSEC only)	No (General Fund)	No
Florida	Yes (all)	No	Yes (both)
Georgia	Yes (all)	No	Yes (both)
Hawaii	Yes (all)	No (administrative expenses → 25% to state/local government, 25% to prosecuting attorney, and 50% to criminal forfeiture fund)	Yes (both where verified losses)
Idaho	Yes (CSEC only)	No	Yes (HT only)
Illinois	Yes (all)	No	Yes (both)
Indiana	Yes (all)	No (any agency directly participating in the seizure or forfeiture; if HT committed on public place, money collected = 80% to human trafficking prevention and victim assistance fund and 20% to county general fund)	Yes (HT only)
Iowa	Yes (all)	No (delivered to the department of justice; may be destroyed, sold, disposed of, or transferred)	Yes (both)
Kansas	Yes (all)	No (property: state or federal agency subject to lien; proceeds: satisfaction of lien → proceeding expenses → attorney fees → repayment of law enforcement funds expended)	Yes (both)
Kentucky	Yes (CSEC & CSAM)	No (85% to law enforcement agency who seized the property and 15% to the Office of the Attorney General)	Yes (CSEC only)
Louisiana	Yes (all)	Yes (after cost of public sale or auction, court costs, and fees related to seizure and storage: victim restitution → remaining proceeds divided: 25% to seizing agencies, 25% to prosecution agency, and 50% to the Exploited Children's Special Fund)	Yes (both)

(C) Twenty-five percent to the law enforcement community services grant program fund . . . .

Maine	Yes (all)	No	No
Maryland	Yes (all)	No	No
Massachusetts	Yes (HT only)	Yes (victim-ordered restitution)	No
Michigan	Yes (all)	Yes (if property is declared a nuisance)	Yes (both)
Minnesota	Yes (all)	No	Yes (both)
Mississippi	Yes (HT only)	No	Yes (HT only)
Missouri	Yes (all)	Yes (satisfaction of the interest of any innocent party → payment of reasonable costs → distributed pursuant to Missouri Constitution, article IX(7))	Yes (HT only)
Montana	Yes (HT only)	No	Yes (both where economic loss)
Nebraska	Yes (all)	No	No
Nevada	Yes (all)	No	Yes (both)
New Hampshire	Yes (HT only)	Yes (after sale expenses: victim restitution → victims' assistance fund)	Yes (HT only)
New Jersey	Yes (all)	No (law enforcement)	Yes (HT only)
New Mexico	Yes (CSEC only)	No	Yes (HT only)
New York	Yes (all)	No	No
North Carolina	Yes (all)	Yes (any injured person has a right or claim to forfeited property or to the proceeds derived therefrom superior to any right or claim the state has in the same property or proceeds so long as the injured person intervenes in the forfeiture proceeding prior to its final disposition)	Yes (HT only)
North Dakota	Yes (all)	No	Yes (HT &, if pecuniary loss, CSEC)
Ohio	Yes (all)	No	Yes (HT only)
Oklahoma	Yes (all)	No	Yes (HT &, if injury or financial loss, CSEC)

Oregon	Yes (all)	Yes (when seizing agency is the state: pay costs and any amount ordered to the victim)	No
Pennsylvania	Yes (HT only)	No	Yes (HT &, if personal injury, CSEC)
Rhode Island	Yes (HT only)	No	Yes (HT only)
South Carolina	Yes (all)	Yes (property forfeited for violation of human trafficking shall first be applied to victim restitution: 25% to victim, 25% to the South Carolina Victims' Compensation Fund, and 50% law enforcement)	Yes (HT only)
South Dakota	Yes (all)	No (cost of investigation and prosecution → satisfy any civil judgments → South Dakota crimes against children fund)	No
Tennessee	Yes (all)	No (expenses incurred → state general fund)	Yes (both)
Texas	Yes (all)	No	Yes (both)
Utah	Yes (all)	No	Yes (both where pecuniary damages)
Vermont	No	N/A	Yes (HT only)
Virginia	Yes (all)	No (state treasury puts assets in a special fund under the Department of Criminal Justice Services' control, which it then distributes to federal, state, and local agencies to promote law enforcement)	Yes (both)
Washington	Yes (all)	Yes (victim restitution → seizing law enforcement agency)	No
West Virginia	Yes (all)	No (10% to the office of the prosecuting attorney → special law-enforcement investigation fund)	Yes (HT &, where personal injury or economic loss, CSEC)
Wisconsin	Yes (all)	No (50% administrative expenses of seizure, maintenance of custody, advertising and court costs and the costs of investigation and prosecution → school fund)	Yes (both)

Wyoming	Yes (all)	No (state)	Yes (both)
Totals:	HT: 44 & DC CSEC: 41 & DC CSAM: 38	Yes: 10 No: 40 & DC	HT: 40 CSEC: 25