



SOUTH DAKOTA PERSONAL INJURY LAWYERS

SOUTH DAKOTA INJURY LAW GUIDE



FAULT • EVIDENCE • DEADLINES • INSURANCE • COMPENSATION



CAR
ACCIDENTS



TRUCK
ACCIDENTS



MOTORCYCLE
ACCIDENTS



WRONGFUL
DEATH

KNOW THE LAW. MOVE FORWARD WITH CONFIDENCE.



How a South Dakota Injury Claim Fits Together

A CLEAR ROADMAP BEFORE THE LEGAL DETAILS.

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Five questions shape most serious injury claims

After an accident, people often receive pieces of information from doctors, insurers, police reports and online searches. The problem is that those pieces do not always show how a claim fits together. A South Dakota injury case is usually easier to understand when it is organized around five connected questions.

1

FAULT

2

EVIDENCE

3

DEADLINES

4

INSURANCE

5

COMPENSATION
& HELP

The guide follows these questions in order, so the legal issues connect instead of standing alone.

South Dakota's Fault Rule Is Different

Many states use a percentage-based comparative-negligence system. South Dakota does not use the familiar 50% or 51% cutoff. Under **SDCL 20-9-2**, an injured person who was also negligent may still recover when that negligence was **slight in comparison with the negligence of the defendant**. If that standard is met, damages are then reduced in proportion to the injured person's own negligence.

The key question is comparison — not a preset percentage.

The conduct of the injured person is compared directly with the conduct of the defendant.

At a Glance: How Fault Systems Differ

PURE COMPARATIVE

Damages are reduced by the plaintiff's percentage of fault.

MODIFIED COMPARATIVE

Many states bar recovery at a 50% or 51% threshold.

PURE CONTRIBUTORY

Under the traditional rule, any contributory negligence may bar recovery.

SOUTH DAKOTA

The plaintiff's negligence must be slight when compared with the defendant's.

Key Takeaway

A South Dakota injury claim is not just about whether an accident happened. Fault, evidence, deadlines, insurance and the full effect of the injury all work together. The next pages follow that same order.



FAULT, EVIDENCE AND THE SLIGHT-IN-COMPARISON STANDARD

Applying the Rule

1

Was the defendant negligent?

Examine what the defendant did or failed to do and whether that conduct caused the injury.

2

Was the injured person also negligent?

If not, contributory negligence does not reduce the claim. If yes, the analysis continues.

3

Was the plaintiff's negligence slight by comparison?

The two parties' conduct is compared directly, not a fixed percentage.

4

If slight, reduce the damages.

A plaintiff who passes the slight-comparison test may still have damages reduced in proportion to his or her own negligence.

EXAMPLE

Assume a driver enters an intersection against a red light and causes a serious collision. Evidence also shows the injured driver was traveling several miles per hour over the limit. In South Dakota, the first question is whether the injured driver's negligence was slight when compared with the conduct of the driver who ran the red light.

Why Evidence Matters So Much

Because South Dakota's rule can affect whether an injured person may recover at all, evidence about how the accident occurred is especially important.

Evidence may include:

- Police crash reports and scene photographs.
- Vehicle damage, skid marks and roadway evidence.
- Surveillance or dash-camera recordings.
- Eyewitness statements.
- Cell-phone records and vehicle event data.
- Road, traffic and weather conditions.
- Commercial truck logs, safety records and driver qualifications.
- Accident reconstruction and expert analysis.

South Dakota does not use a simple percentage shortcut. The strength of the evidence can affect whether the plaintiff's conduct is treated as slight, more than slight, or not negligent at all.

What this means after a serious crash

Early fault allegations and statements can matter. Preserving photographs, video, vehicle data, witness accounts and commercial records can matter before evidence disappears.

Where the Rule Can Matter

Car Accidents

Speed, lookout, right-of-way and reaction time.

Truck Accidents

Driver conduct, carrier safety practices and multiple responsible

Motorcycle

Visibility, lane position, speed and driver perception.

Wrongful Death

Fault in the underlying incident remains central to a death claim.

Key Takeaway

Under SDCL 20-9-2, shared fault does not automatically end a claim. The comparison of the parties' conduct — supported by evidence — is central.





The calendar starts moving before life feels normal again

After a serious injury, people often focus on medical appointments, transportation, work and family. But South Dakota law still places time limits on legal claims, and missing the applicable deadline can prevent a case from being heard.

3 YEARS PERSONAL INJURY

SDCL 15-2-14 generally provides a three-year period for a personal-injury action, unless a different statute controls.

3 YEARS WRONGFUL DEATH

SDCL 21-5-3 generally requires a wrongful-death action to be commenced within three years after the death.

2 YEARS MEDICAL MALPRACTICE

SDCL 15-2-14.1 generally requires covered malpractice actions within two years after the alleged act or omission.

180 DAYS PUBLIC ENTITY NOTICE

SDCL 3-21-2 generally requires written notice of time, place and cause within 180 days after injury for covered public-entity claims.

SOUTH DAKOTA EXAMPLE

A Sioux Falls resident is hurt when a city vehicle enters an intersection without yielding. The resident may have a personal injury claim, but the public-entity notice requirement can arrive far sooner than the ordinary three-year period. Waiting until treatment is complete could put the claim at risk.

Key Takeaway

Do not assume every South Dakota injury claim has the same deadline. The defendant, type of claim and date of the event can change the analysis. While the calendar runs, witnesses forget, video may be overwritten, vehicles are repaired and commercial records can disappear.

If you are unsure which deadline applies, have the facts reviewed promptly. People do not always know what claims they may have or which notice rules may apply.



The at-fault policy may not be the only available coverage.

A serious crash can create medical bills and lost income that exceed the responsible driver's liability limits. South Dakota law requires uninsured-motorist coverage in many auto policies, and underinsured-motorist coverage may also be available, subject to statutory and policy terms.

Potential Coverage Sources

LIABILITY COVERAGE

Often the first source considered when another driver or party caused the injury.

UNINSURED MOTORIST

May protect an insured who is legally entitled to recover from an uninsured or hit-and-run driver, subject to the policy.

UNDERINSURED MOTORIST

May become important when the responsible driver's liability limits are not enough to cover uncompensated bodily-injury or death damages.

COMMERCIAL / OTHER POLICIES

Truck crashes, work-related collisions or multiple responsible parties may involve more than one policy or layer of coverage.

What an Injury Claim May Include

MEDICAL LOSSES

Past care and reasonably supported future treatment, rehabilitation, medication or other care.

WORK-RELATED LOSSES

Lost wages, reduced hours and diminished future earning ability when supported by evidence.

HUMAN LOSSES

Physical pain, mental suffering, disability, disfigurement and loss of ordinary activities when legally recoverable.

PROPERTY / OTHER LOSSES

Vehicle damage and other proven losses may also be part of the overall claim depending on the facts.

Key Takeaway

Proof connects the loss to the injury. Medical records, bills, wage documents, tax records, employer statements and expert opinions may help establish financial losses. Testimony from the injured person, family members and treating professionals may help explain how the injury changed daily life. A claimed loss still must be connected to the defendant's conduct and supported by evidence.

Practical point: Keep the declarations page and the complete insurance policy. Coverage often cannot be evaluated accurately from the insurance card alone.

Punitive damages are different and are not automatic. SDCL 21-1-4.1 requires a court finding, based on clear and convincing evidence, of a reasonable basis to believe there was willful, wanton or malicious conduct before punitive-damages discovery proceeds or the claim is submitted to the finder of fact.



Why This Is Not a DIY — or AI — Situation

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TECHNOLOGY CAN INFORM YOU: IT CANNOT INVESTIGATE AND PROTECT A REAL CLAIM.



AI can explain general concepts.

It cannot inspect a crash scene, preserve evidence, read every policy, evaluate missing facts, negotiate with an insurer, take depositions or appear in court.

Why Personal Injury Claims Are Not “DIY” Matters

A personal injury claim involves much more than filling out a few forms. It requires knowledge of South Dakota liability law, insurance policy language, damages, deadlines and legal procedure. Important rights can be lost if issues are identified or handled incorrectly.

The Biggest Risk: Not Knowing What Is Missing

A person may wrongly believe there is no case because they were partly at fault, think low liability limits are the only insurance available, or accept an early settlement before the full extent of future treatment or lost earning ability is clear. Critical facts, coverage or claims may be overlooked without a complete investigation.

Common AI / self-representation risks

- Incorrect or incomplete legal filings.
- Missed deadlines or notice requirements.
- Undervaluing future medical care or earning loss.
- Recorded statements being used against the claimant.
- Accepting a release before the full claim is understood.
- Failing to identify additional coverage or responsible parties.

WHEN TO GET A REAL CASE REVIEW

- Fault is disputed or you may share some responsibility.
- An insurer asks for a recorded statement.
- You are unsure what insurance may apply.
- You are considering an early settlement or release.
- You used AI-generated paperwork and are unsure it is correct.

Not Sure Whether You Have a Claim?

Do not assume that you have no case simply because fault is disputed, insurance appears limited or you are uncertain which law applies. A review of the facts may identify claims, responsible parties, deadlines or coverage that are not immediately obvious.

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This guide provides general information about South Dakota law. Every situation involves different facts, parties, insurance coverage and deadlines. If you are unsure whether you have a claim, consider having the circumstances reviewed before important evidence or rights are lost.