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U.S. Department of Justice  
Office of Justice Programs  
Office for Victims of Crime

# Victim Rights and Services: A Legislative Directory 1988

prepared by the

## National Organization for Victim Assistance

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U.S. Department of Justice  
National Institute of Justice

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## FOREWORD

The National Organization for Victim Assistance is pleased to publish the 1988 edition of *Victim Rights and Services: A Legislative Directory*, reporting on dozens of categories of legislation enacted in the states and the federal government through December, 1988.

In 1965, when California established the first victim compensation program in the United States, there was no "victims' lobby" to push for its enactment — no coalition of victim self-help groups or organized networks of victim and witness service providers. Indeed, it would be another seven years before the first victim crisis centers were established and at least seven years more before victims formed their first advocacy groups.

Thus, the history of the legislative record contained in this volume began with an initiative of some enlightened legislators who presumably heard about the idea of victim compensation that had recently been articulated by a British legal reformer, Margery Fry, who had been persuaded that the concept was wise, just, and workable, and who had, on their own initiative, put it into effect.

If it were only that easy today!

It is not. Behind virtually every page of this directory is the blood, sweat, toil, and tears of those who have fallen victim to crime, and who, with their advocates and allies, have worked long and hard to make ours a kinder and gentler nation. To them, as always, is this "legislative diary of the victims' movement" dedicated.

We are of course grateful to the enlightened legislators and executive branch leaders who have listened to us and responded to our petitions by putting on the books thousands of new laws and improvements of old ones. Among them are many who, like their California counterparts of a quarter-century ago, have stepped into the lead in fashioning just and humane responses to the pains of victimization.

Even though nothing comes easy to us now, we have made progress in this past year largely because there are public officials who know our jurisprudential and service revolution is far from over, and who have not treated the cause of victim rights and services as a political fad of yesteryear.

To those public servants, their aides, and their friends in the victims' movement who kept the movement moving in 1988, thank you — and thank you for your help in compiling this summary of your efforts. I extend the same thanks to my staff, led by Public Affairs Specialist D. Scott Beard, in bringing order to that collection of information, and to the Office for Victims of Crime, Bureau of Justice Assistance, in the U.S. Department of Justice, for underwriting the cost of this enterprise.

I expect that 1988 will most be remembered by future generations of victim advocates as the year the voters of Michigan and Florida gave "victim rights" a place in their state constitutions. It might seem arbitrary to single out either state, or any individual within that state, for special recognition over these legislative landmarks. But I will take that risk.

Robert Preston has endured many tragedies in his life, including the murder of his daughter Wendy. Out of that hell, he rose to found Justice for Surviving Victims in Florida, and to shape an increasingly-pointed legislative agenda, and to see his efforts begin to bear fruit, and then to breathe life into a Presidential Task Force recommendation that victim rights be given constitutional status, and then to rally the coalition that caused that to happen last November in Florida.

But Bob's legacy lives not merely in what he has done but in who he is — wickedly funny and irreverent, maddeningly patient and tolerant, lovingly smart and sweet. He is both friend and hero to virtually all who know him, and an exemplar of the idealism that guides the victims' movement.

So for Pat and Jeff and the the hundreds of others who count themselves as members of his family, this edition of *Victim Rights and Services* is for you, Bob.

Marlene A. Young, Ph.D., J.D.  
Executive Director  
National Organization for Victim Assistance  
Washington, D.C.  
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The Clearinghouse on Child Abuse and Neglect Information.

Mothers Against Drunk Driving.

The National Association of Attorneys General.

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The National Center on Women and Family Law.

The National Child Abuse Coalition.

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And most of all, staff of the state crime victim compensation programs, state legislators and their staff, executive agency staff, and victim activists in all fifty states who responded to NOVA's inquiries.

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## GUIDE TO ABBREVIATIONS

<b>Term:</b>	<b>Abbreviation:</b>
Allocution	Alloc.
Amendment	Amend.
Annotated	Ann.
Appropriation	Approp.
Assembly Bill	AB
Bill of Rights	BOR
Chapter(s)	Chpt(s).
District Attorney	DA
Domestic Violence	DV
General Revenue(s)	Gen. Rev(s).
House Bill	HB
Penalty Assessment(s)	Pen. Assmt(s).
Pre-Sentence Investigation Report	PSI
Public Act	PA
Public Law	PL
Section(s)	Sec(s).
Senate Bill	SB
Statute(s)	Stat(s).
Supplemental	Supp.
Victim Impact Statement	VIS
Victim Statement of Opinion	VSO



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## **PART ONE: LEGISLATION BY SUBJECT**

### **VICTIM COMPENSATION**

Victim compensation programs are now operating in forty-five states, the District of Columbia, and the Virgin Islands. Georgia, with a modest Crime Victim's Emergency Fund (maximum award, \$1,000), may soon establish a comprehensive program since an authorizing state constitutional amendment was adopted by the voters in November, 1988. However, the legislature has yet to fund the program.

Across all programs, annual compensation award payments have risen from \$67 million in federal Fiscal Year 1984 to \$81 million in 1985, \$115 million in 1986, and \$112 million in 1987. As will be discussed, these state payouts were substantially augmented with federal grants starting in 1989.

Victim compensation programs were first conceived by British legal reformer Margery Fry. New Zealand implemented the first program in 1963, followed by Great Britain in 1964, and then California in 1965. Since that time, victim compensation programs world-wide have had these common characteristics:

They are governmental programs (state and provincial in the United States and Canada, usually national elsewhere) which pay for certain costs imposed by crime on any injured victims or their survivors, provided that the victim reports the crime to, and cooperates with, law enforcement. They are designed to be "insurance systems of last resort," so compensation covers only costs unreimbursed from other sources. They offer compensation to bona fide, innocent victims of violent crime whether or not the criminal is arrested or tried or convicted.

In the United States today, twenty-four programs will compensate victims of certain crimes even if they sustained no physical injury -- to pay, for example, for psychotherapy for a sexual assault victim. And in all programs except Colorado, the definition of victim includes intervenors (other than law enforcement officers) who are injured in an attempt to assist the original victim or the police.

In nine states, eligibility is still limited to victims who can demonstrate that they would suffer a "financial hardship" without the program's aid. Seven states still deduct a certain amount from any award, and twenty require that the victim endure a certain minimum loss ranging from \$25 to \$200 be eligible.

Thirty-six programs make provisions for emergency awards, although few of them have established administrative techniques to make good on that offer in a timely way. New York is a notable exception. It authorizes local service agencies to be reimbursed for emergency financial aid they give victims when it is later found that the aid covered a compensable loss.

Compensation benefits generally are provided for actual losses due to the crime, paying for needed medical treatment and care, mental health counseling, lost wages (or disability pay), physical and sometimes occupational rehabilitation, and, for the surviving dependents or heirs of homicide victims, loss of support, replacement services, and funeral expenses. The few states which run their programs through the courts rather than an administrative agency generally permit successful claimants' attorneys to recover modest fees from the compensation fund.

Four states allow awards for pain and suffering (Hawaii, Rhode Island, Tennessee and West Virginia). The Tennessee program limits such recovery to victims of sexual assault.

Eleven states allow for limited property recovery. Colorado permits special emergency awards to be made for the replacement of doors, locks, and windows. Pennsylvania grants compensation for losses that are incurred when a victim is robbed of cash proceeds of Social Security checks. New York grants special emergency awards to replace critical property such as hearing aids and glasses and to provide reasonable, necessary transportation. It also offers elderly victims of such crimes as burglary limited aid to replace necessary property.

Alabama's program includes authority to make preliminary awards of up to \$400 for loss of cash or \$1,000 for essential

personal property. Utah allows recovery for essential personal property but without a limit. Wisconsin provides for \$300 recovery for clothing or bedding loss and \$200 for other property. Nevada allows \$1,000 maximum for property essential to physical or mental health. Indiana provides up to \$500 for property reimbursement. Finally, Louisiana permits recovery of \$10,000 in case of destruction of a house.

In addition to issues of financial hardship and the use of "deductible" or a "minimum loss," other limitations found in some programs are: the ineligibility of victims who live with or are related to the offender (a "family" or "household" exclusion rule) and the ineligibility of victims of drunk or otherwise criminally-reckless driving. But these exclusions will be dropped by 1991 by states that are eligible to receive Victims of Crime Act grants (see discussion below).

Other points of controversy are some programs' administrative delays in making their compensation awards and a low "ceiling" on maximum awards.

Over three-quarters of all programs get most or all of their revenues through so-called "abusers' taxes," either a percentage surcharge on any fine imposed on offenders, or a fixed "penalty assessment" on offenders; Rhode Island has both, requiring offenders to pay whichever penalty is higher.

While most states using abuser taxes have experienced initial problems getting the penalties ordered and collected, many have overcome those problems and the trend is away from relying solely on general revenues; only eighteen states continue to do so exclusively or in part. Nebraska's program was in suspension for some time for lack of tax revenues generally, but it was recently reopened with a small appropriation.

The Victims of Crime Act of 1984 (VOCA) has had a major impact on both the fiscal and administrative aspects of compensation. Some of the administrative effects are summarized in the next section, as are the effects of the 1988 VOCA amendments. Overall, the financial effects are clear: with VOCA grants of up to 35 percent (now 40 percent) of an eligible program's state-dollar payouts, VOCA awarded a total of \$24 million to 39 eligible programs in federal Fiscal Year 1986; \$28 million to 40 programs in 1987; \$39 million to 38 programs in 1988; and \$45 million to 42 programs in 1989.

### **Changes in Existing Programs**

The primary focus of legislative activity in 1988 has been to continue liberalizing the compensation programs. Much of that change has been the result of the need to bring state programs into compliance with the requirements of the Victims of Crime Act of 1984 (VOCA) to qualify for VOCA funding. The first major changes required under VOCA include expanding medical benefits to include payment for mental health counseling and extending eligibility to include non-residents and victims of federal crimes victimized within the state's borders.

VOCA has been an effective catalyst for change, offering eligible programs a grant equaling 35 percent of the state funds used for awards in the prior year. A second formula caps the total compensation grants to 49.5 percent of VOCA's Crime Victims Fund in any given year; that ceiling was hit in 1988 so that the first formula dropped to 33.5 percent in that set of grants. But in 1989, with more funds coming into the Crime Victims Fund and with the first formula changed, states are expected to get a full 40-percent-of-awards subsidy.

Thus far, VOCA has induced nearly every compensation state to meet the eligibility tests (Nevada has opted out because it still bars eligibility to non-resident victims). It has also induced these states to meet another key qualification, a pledge that the federal grant will not be used to "supplant" existing state funding. Moreover, 17 states made significant changes in their programs so as to meet the VOCA requirement that they compensate for mental health counseling.

Most states have seen the significant size of their VOCA grants as an opportunity to do more than the minimum required by VOCA. Maximum awards have been raised, minimums and deductibles have been lowered or dropped, and other reforms have been instituted to make the state programs more generous to victims.

During this period of reform, two issues remained particularly controversial: the household and drunk driving exclusions. The 1988 VOCA amendments were designed to end these blanket exclusions, an issue that is discussed more fully below.

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*Family/Household Exclusion:* The origins of the "household exclusion" rule were the fears of many legislators that compensation paid to an abusive spouse would end up in the pocket of the abuser or that a couple might somehow concoct a fraudulent compensation claim. It has even been suggested that some legislators believed that some abused partners in such a relationship might provoke the beatings they receive.

Opponents of the household exclusion have argued that, to the degree that such concerns are realistic, they can be met in less drastic ways. In fact, as they point out, most compensation laws already allow administrators to deny awards if they would cause "unjust enrichment" of the offender, or would create a fraud, or if the victim contributed substantially to his own misfortune (as with the person who provoked and lost a barroom fight). Moreover, with most programs now authorized to pay medical and other bills directly, bypassing the victim, there need be no fear that the assaulter would receive such a check.

Only five states — Alaska, Arizona Minnesota, Oregon, and Texas — have neither a family exclusion nor a provision authorizing denial on the basis of unjust enrichment of the offender. But others have made significant reforms so that these rules do not create a blanket exclusion of those who were criminally assaulted by household members or intimates.

A common way to lift the exclusion, followed in at least eighteen states, is to accept the claim if the victim is no longer living in the same household as the offender. Others have crafted narrower exceptions to the rule. With the exception of five states, programs now extend benefits to abused children, and nineteen permit administrators to waive the rule when it is "in the interests of justice" to do so. New York, as part of its omnibus compensation bill, extended compensation benefits to cover shelter costs of domestic violence victims.

In addition, Virginia amended its program to include victims of incest or who are mentally deranged, and victims who separate from, and cooperate in the prosecution of, the offender. Iowa established a three-tiered system for compensating victims of family violence: a family member may qualify for compensation if, after the first offense, the offender receives counseling; after the second offense, the victim files charges; and after the third offense or beyond, the offender is prosecuted. Iowa's revisions also included special provisions whereby child victims qualify for immediate counseling and medical benefits, regardless of parental notification.

A blanket exclusion and most of these "compromise" approaches to compensating victims of domestic violence will not be permitted in states receiving VOCA grants after September, 1990. A 1988 amendment to the law added this language: "such program does not, except pursuant to rules issued by the program to prevent unjust enrichment of the offender, deny compensation to any victim because of that victim's familial relationship to the offender, or because of the sharing of a residence by the victim and the offender."

It is expected that guidelines promulgated by the Justice Department's Office for Victims of Crime — which was given the status of a Justice Department bureau in the same act, with a director appointed by the President, subject to Senate confirmation — will help in the implementation of this new provision.

*Inclusion of Drunk Driving Crash Victims:* Thirty-seven programs now allow victims of drunk driving crashes to qualify for compensation benefits, and most of these did so by abolishing an exclusion that was originally in their statutes, largely out of fear that claims from drunk driving victims would bankrupt the fund (a fear that has proven to be unwarranted). However, the scope of coverage varies from state to state.

In Connecticut, Nebraska, Illinois and Washington, the offender must be convicted if the victim is to be eligible for benefits. In Delaware the victim is eligible when an offender is charged with the crime. In Minnesota, coverage is limited to instances where the victim suffers great bodily harm. Oklahoma curtails its language by requiring that the crash be willful and wanton in nature. Oregon actually broadens the range of coverage by including victims of reckless driving as well as victims of crashes where the driver was under the influence of alcohol or drugs.

The rationale for these changes has several elements: since many of the penalties and surcharges which support the state compensation fund come from drunk drivers, since some drunk drivers are under-insured or uninsured, and since drunk driving is not an "accident" but a crime, victims of drunk driving crashes should not be excluded from compensation programs.

MADD conducted research in the spring of 1987 which revealed that of states that grant awards to drunk driving crash

victims:

- less than 5 percent of the total compensation claims filed came from drunk driving crash victims;
- less than 10 percent of the total compensation awards go to drunk driving crash victims; and
- awards to drunk driving crash victims are generally larger than the average award due to seriousness of bodily injury.

*Changes in Maximum Awards:* An ongoing trend in state compensation programs has been to raise the maximum award amount allowed per claim. Fifteen states have raised their maximums since 1985 when the Victims of Crime Act subsidies were first awarded.

South Carolina raised its maximum award from \$3,000 to \$10,000. Tennessee has provided for a supplemental award of \$2,500 to be added to a maximum award of \$5,000 if there are funds available at the end of the year.

Four states — Alaska, Connecticut, Iowa, and West Virginia — have a two-tiered system for compensation awards. West Virginia, for instance, allows up to \$50,000 for death claims while maintaining a \$35,000 cap on all other awards. Alaska allows \$40,000 for death claims while maintaining a \$25,000 cap on all other awards. Connecticut's two tiers are \$25,000 and \$15,000; and Iowa's tiers are \$21,000 and \$10,000.

New York has now removed a cap on medical or rehabilitation expenses that may be reimbursed so that the amount is unlimited. Washington has done the same for medical expenses. However, Maryland has re-instituted a maximum award which is now \$45,000.

On the other hand, Iowa became the third state since the passage of VOCA to lower its non-death maximum; it was changed from \$21,000 to \$10,000.

Nebraska has re-instituted its program and reestablished awards that were temporarily defunded in 1985 due to the impact of the farm recession on state tax revenues.

*Minimum Loss/Financial Means Test:* One of the most controversial areas of victim compensation has been the requirement of a financial means test for compensation awards, a provision still found in nine programs. This sometimes discriminates against special victims, such as the elderly on a fixed income, or sexual assault victims who then must bear the cost of a rape exam. It also discourages many to file a claim, whether or not they are "over-income," and offends those who believe that compensation should be paid by the public to any of its members, regardless of financial status, when they are the losers in the public's efforts to prevent crime.

*Minimum loss provisions,* requiring that victims must incur, typically, \$100 to \$200 worth of losses in order to qualify for compensation, have also discriminated against special victims, like the elderly poor for whom a \$95 loss represents a significant hardship. Twenty states have such a provision, although in South Carolina the \$100 minimum loss requirement can be waived in the interests of justice and must be waived if the claimant is 65 years of age or more.

The minimum loss requirement in most states was made more onerous by the fact that many states initially had a "deductible" provision in their laws. This meant that a claimant was not allowed to collect the first \$100 to \$200 of the loss. The concept of a deductible was a carry-over from private insurance policies but has seemed regressive in the public sphere. Once quite common, only seven states now impose deductibles, and of the programs established since 1985, only Wyoming, with its \$100 minimum loss, have incorporated that feature or a deductible in its program.

*Notable Provisions:* Alabama, Minnesota, and Oklahoma require that members of their compensation board include at least one former victim of crime.

Alabama's program, established in 1984, remains among the most innovative. Its statute allows the board to make grants to local public or private non-profit organizations for specific activities, such as the collection of outstanding restitution. In 1987, it took advantage of this provision to make a grant to a statewide victim activist organization, Victims of Crime and Leniency (VOCAL).

A number of states have special provisions with regard to child victims. Thirty-four states have extended filing deadlines to accommodate problems faced by child victims. Pennsylvania extends its deadline for up to five years after the crime. Nevada simply does not apply the deadline to child victims of sexual abuse or minors involved in the production of pornography. However, children must apply for compensation before they reach age 18.

Iowa amended its statute in 1985 to provide for emergency awards to child victims for medical and counseling expenses. It also extended compensation benefits so that the board may now contract for counseling services for parents of missing children and for the family upon return of the child.

Other unusual provisions include the following:

Louisiana provides awards for loss of one's home to, say, arson. New York permits local victim service programs to make reimbursable emergency awards to needy victims. Indiana allows awards up to \$1,000 for child care. Alabama compensates dependents of firemen and peace officers killed in performance of their duties. Wisconsin has enacted legislation which provides up to \$1,000 for securing and cleaning up the scene of the crime. Massachusetts, Utah, Virginia, and Wyoming allow recovery for some moving or transportation expenses.

## FUNDING FOR VICTIM SERVICES

State funding for victim services is difficult to track due to the variations in what services are funded and the mechanisms used to do so. Forty-eight states have made provision for funding of domestic violence services. Five of those have done so directly through budget appropriations rather than through authorizing legislation; the more common device is through an extra fee or marriage licenses or divorce filing fees, though neither generates much revenue. Twenty-four states have funded sexual assault services. Seven of those have done so through the appropriations process with no other legislation.

In 1980, California became the first state to enact statewide funding for general victim services (as distinguished from funding of services to sexual assault, or domestic violence, or child abuse and neglect victims, who are the targets of special funding programs in many states). Since 1980, 33 states have made some provision for ensuring that general victim or victim/witness services be provided at the local level.

Three of those states, Delaware, Utah and Wisconsin, have made such provision through an item in an appropriations bill without special authorizing legislation. Conversely, North Carolina has passed such legislation but has appropriated no funds.

The more ambitious states have sought to use their funding support to encourage comprehensive services to all crime victims. This has been particularly true in Massachusetts where the Massachusetts Office for Victim Assistance has sought to fund special programs for racial minority victims, gay and lesbian victims, and other underserved victim populations.

Finding the funds for such programs is often difficult. The trend has been to fund general victim and witness services through the same kinds of "abuser's taxes" that support most compensation programs. Sexual assault program funding is generally from a mixture of state appropriations and federal block-grant funding.

The following is a summary of the primary methods of funding local services from state or state-authorized revenue sources:

- *Fixed penalty assessment:* a penalty is collected from a convicted offender that is a fixed dollar amount, e.g., in Alabama a convicted felon is charged \$15, a convicted misdemeanor is charged \$10, and a person convicted of a traffic offense is charged \$2.
- *Variable penalty assessment:* an assessment is levied by the judge based on statutory guidelines regarding the amount, e.g., in Alabama a judge must assess an additional penalty against a felon between \$25 and \$10,000.
- *A surcharge on fines:* this method is based on an allocation of a percentage of criminal fines to victim services or compensation. In Colorado, for example, 37 percent of all fines collected are designated to be appropriated to victim services. More common is a requirement that, whatever fine is assessed, the judge is to assess an additional amount (like 25 percent) to be transferred to the special fund. Under the Victims of Crime Act of 1984, all criminal fines collected



from those convicted of "Title 18" crimes (which cover most federal offenses) are allocated to the Crime Victims Fund until it reaches its cap of \$110 million. Under the 1988 amendments, that cap is now set at \$125 million, and goes to \$150 million in 1992.

- *Income tax check-offs*: this method of funding allows taxpayers to check-off a certain portion of their taxes to be used to fund victim services (commonly a children's trust fund, aiding child abuse prevention and treatment programs). Alabama, Kentucky and Massachusetts allow a \$2 check-off. Some states also allow taxpayers to designate a part of their income tax refund to be used for victim services. In Colorado \$1-10 of a tax refund can be designated for domestic violence; in Delaware and Idaho all or a part of the tax refund can be designated for a children's trust fund.
- *Notoriety-for-Profit laws*: some notoriety-for-profit laws dictate that a portion or all of the profits derived by an offender for the sale of the rights of the story concerning the crime for which he was convicted are put into funds for victim compensation or services (after victims have been restituted through civil lawsuits). Such states include Colorado, Connecticut, Kentucky, Louisiana, Massachusetts, Minnesota, Nevada, New Jersey, Oklahoma, Utah and Virginia. There are other states that have notoriety-for-profit acts, but do not confiscate leftover money after the victims are restituted to go into a services or compensation fund.
- *Bail forfeiture funding*: all or partial forfeitures of bail are used for victim services or compensation.
- *Marriage, divorce, birth, and death surcharges*: additional charges on licenses or certificates for these life events are used to fund victim services. In most cases the services are either associated with family violence or child victims. For instance, Arizona uses both marriage license and divorce certificate fees to support domestic violence programs; Ohio uses divorce fees, birth certificate fees, and death certificate fees to help fund children's services.
- *Wages earned by convicted offenders*: in this method, payments into victims funds are made by offenders earning salaries in prison work, while on work release, or while on parole. Rhode Island, Tennessee and Arizona collect funds for victim services in this manner.
- *Funding from filing fees*: this involves a surcharge on filing a court case that goes to victim programs. Arkansas is so far the only state to use this method of funding.
- *Drivers license reinstatement fee*: this is a fee paid by people who have had their license revoked as a result of a drunk driving conviction. Kentucky levies \$100 for license reinstatements that helps support victim service programs.
- *Alcohol taxes*: alcohol taxes are a source of some victim service revenues in Indiana and Nebraska.
- *Other funding mechanisms*: both recovered damages from racketeering cases and a bail bondsman tax has been considered as a source of revenue in some states. In addition, in Nevada, forfeited assets from criminal activity go toward the victims fund, and in South Carolina a portion of collected court costs are allocated to victim/witness programs.

Without state authorizing legislation, officials in Dade County (Miami), Florida, created a fund that is mostly used to support local services; the fund is supported by "contributions" made by non-indigent offenders. In addition, some creative judges are ordering offenders to pay restitution to local victim service programs in addition to restitution due directly to the victim or are simply ordering offenders to provide monetary contributions to local victim services as a part of a community service sentence.

In addition to state funding for victim services, the Victims of Crime Act (VOCA) provided \$41 million in federal Fiscal Year 1986, \$31 million in 1987, \$35 million in 1988, and \$43 million in 1989, all for distribution to local victim service programs.

## VICTIM BILLS OF RIGHTS

Bills of rights for crime victims focus primarily on criminal justice system procedures. While such legislation is called as "rights," the term "standards of fair treatment of victims and witnesses" has been used in the federal system and is probably more accurate since there are no remedies explicitly provided should a criminal justice agency fail to live up to the standards.

Indeed, most of the statutes end with a provision that typically says that "... nothing in this statute shall be construed as creating a cause of action against the state, a county or municipality, or any of its agents." While this would bar a suit for money damages when a "right" was violated, it still leaves open the possibility that a judge could order an agency to honor the bill of rights.

In fact, Yale law professor Abraham Goldstein argues that, when Congress enacted such a provision as part of the "fair

standards" section in the Victim and Witness Protection Act of 1982, it could not have meant to disallow a petition seeking such a judicial order, for the separation-of-powers doctrine always gives courts the power to order executive-agency compliance with legislatively-created policies. (Goldstein "The Victim and Prosecutorial Discretion: The Federal Victim and Witness Protection Act of 1982," *Law and Contemporary Problems*, Vol. 47, No. 4, Fall, 1984).

There has been increasing concern about the lack of enforcement mechanisms in bills of rights and some states have tried to address the issue obliquely.

The Idaho legislature seemed to have wanted to emphasize this distinction -- one that differentiates a suit for damages for past infractions from one seeking future compliance but no damages -- when it barred "causes of action for money damages" in its victims' bill of rights. Michigan's bill of rights has the same limited language and also eases the search for recourse by giving certain public agencies very specific responsibility for each of the enumerated rights. Minnesota established an office with the powers of an ombudsman to oversee the implementation of its bill of rights. And Utah's bill of rights establishes a grievance procedure for victims who have not had their rights honored, explicitly authorizing injunctive relief to enforce the enumerated rights.

The extent to which bills of rights have been implemented throughout the United States is still unknown. The American Bar Association's Victims Committee has a grant from the National Institute of Justice to study that implementation question.

Wisconsin passed the first Bill of Rights for victims and witnesses in 1980. In the eight years following, a total of 45 states have enacted some kind of bills of rights, although there are now only 44 because Delaware's had been in the form of a resolution with a one-year life. Hawaii passed a bill of rights in 1988 replacing Delaware in the total count. Four states have enacted a bill of rights through legislative resolution — Alabama, Delaware (now defunct), Georgia, and Virginia — and five states have effectively done it through "packages" of separate legislation (Indiana, New York, Ohio, Oklahoma, and Tennessee). While both resolutions and packages are a step in the right direction, most victim advocates believe that an actual bill of rights in one piece of legislation carries more force.

Hence, in some of the states such as Tennessee and Virginia, more legislative action is expected. Even then, the trend is to see states re-visit their statutes and to expand and improve their bills after first enactment.

The types of issues addressed in comprehensive bills of rights include some combination, or all, of the following:

- Information about available financial aid and social services
- Protection from intimidation
- Expeditious property return
- Secure waiting areas separate from the accused and his or her associates
- Victim participation in criminal justice proceedings
- Victim/witness information and notification of case status and scheduling
- Employer intercession
- Creditor intercession
- Speedy disposition of cases on petition of victims
- Court attendance

States where legislation has been enacted:

Alabama (resolution); Alaska; Arkansas; California (Proposition 8, passed by citizen initiative); Colorado; Connecticut (by package of separate legislation); Delaware (by Joint Resolution now expired); Florida; Georgia (resolution); Hawaii; Idaho; Illinois; Indiana (by a package of separate statutes); Iowa; Kentucky; Louisiana; Maine; Maryland; Massachusetts; Michigan; Minnesota; Mississippi; Missouri; Montana; Nebraska; Nevada; New Jersey; New Mexico; New York (by a package of separate statutes); North Carolina; North Dakota; Ohio (by a package of separate statutes); Oklahoma (by a package of separate statutes); Oregon; Pennsylvania; Rhode Island; South Carolina; Tennessee (by a package of separate statutes); Texas; Utah; Vermont; Virginia (by Joint Resolution); Washington; West Virginia; and Wisconsin.

The District of Columbia now has a package-type bill of rights pending in front of the City Council.

A new trend in victim bills of rights is an interest in developing legislation that would address specifically the rights of victims in juvenile court proceedings. Since juvenile offenders have special protections in the juvenile court system, some victim rights that have been provided in the adult criminal justice system do not carry over automatically to the juvenile system. Hence Michigan, Maryland, and Wisconsin have passed special Bills of Rights for victims of juvenile offenders. And a number of other states are showing increasing interest in this issue.

## U.S. AND STATE CONSTITUTIONAL AMENDMENTS

Because state bills of rights do not have an automatic enforcement system or inherent remedies should they be violated, in many jurisdictions the rights have not been implemented or they have been implemented sporadically. Some leaders in the victims' movement have urged another step in the push for rights within the criminal justice system — the passage of a constitutional amendment either at the federal or state level.

In December, 1982, the President's Task Force on Victims of Crime proposed that the Sixth Amendment to that United States Constitution be expanded by amendment to read as follows (with the new text in italics):

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor and to have the Assistance of Counsel for his defense. *Likewise, the victim, in every criminal prosecution shall have the right to be present and to be heard at all critical stages of judicial proceedings.*

On January 20 and 21, 1986, NOVA hosted a conference in Washington, D.C., to discuss the merits of this amendment. The participants at the final session chose to draw up a consensus statement reflecting their views as to the fundamental question posed by the conference: "Is it time for a Constitutional Amendment?" That statement read as follows:

First, having met for two days among ourselves and Congressional Representatives and aides, we have determined that the time has come for the United States Congress to initiate a constitutional amendment adopting the principles of the amendment proposed by the President's Task Force on Victims of Crime.

Second, we believe that those principles embody the concept of victim participation in all critical stages of the criminal justice process.

Third, we believe that participants of this conference should urge members of the Senate and the House of Representatives to introduce appropriate legislative resolutions and to call for hearings of the appropriate subcommittees of the House and Senate on this issue.

And fourth, having considered the language of both the President's Task Force Report and a recommended alternative, we believe that through the course of hearings, an appropriately-worded amendment can be obtained.

The alternative amendment read as follows:

"Victims of crime are entitled to certain basic rights, including but not limited to the right to be informed, to be present, and to be heard at all critical stages of federal and state criminal justice processes to the extent that these rights do not interfere with existing constitutional rights."

The conferees preferred not to endorse either the President's Task Force recommendation or the alternative but to continue to construct exact wording.

In the months that followed a Victims' Constitutional Amendment Network (Victims CAN) was formed that has become the basis for efforts to pass state constitutional amendments that vary on the above suggestions. The focus of that network has been state legislatures due to the complications and philosophical problems in amending the U.S. Constitution.

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California is said to have been the first state to amend its constitution to include a "bill of rights" for victims, although the parts of Proposition 8 that most resemble victim rights as others have defined them were statutory, not constitutional, changes. Thus, the title of "first" may go to Rhode Island, which included the following as part of the broad rewrite of the state constitution adopted in 1986:

A victim of crime shall, as a matter of right, be treated by agents of the state with dignity, respect and sensitivity during all phases of the criminal justice process. Such person shall be entitled to receive from the perpetrator of the crime, financial compensation for injury or loss caused by the perpetrator of the crime, and shall receive such other compensation as the state may provide. Before sentencing, a victim shall have the right to address the court regarding the impact which the perpetrator's conduct has had upon the victim.

In addition, the Florida electorate in 1988, by a margin of about 90 percent, adopted the following constitutional amendment:

Victims of crime or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard, when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused.

Michigan's state legislature also referred to the voters a constitutional amendment that was overwhelmingly passed in November, 1988. It reads as follows:

Crime victims, as defined by law, shall have the following rights, as provided by law:

The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.

The right to timely disposition of the case following arrest of the accused.

The right to be reasonably protected from the accused throughout the criminal justice process.

The right to notification of court proceedings.

The right to attend trial and all other court proceedings the accused has the right to attend.

The right to confer with the prosecution.

The right to make a statement to the court at sentencing.

The right to restitution.

The right to information about the conviction, sentence, imprisonment, and release of the accused.

The legislature may provide by law for the enforcement of this section.

The legislature may provide for an assessment against convicted defendants to pay for crime victims' rights.

Legislators in Arizona, Delaware, and Washington introduced proposed state constitutional amendments in 1987, but they were defeated. For a detailed discussion of the issues involved in these proposed policy changes, the reader is referred to "Symposium: Perspectives on Proposals for a Constitutional Amendment providing Victim Participation in the Criminal Justice System," *The Wayne Law Review*, Vol. 34, No. 1, Fall, 1987.

## **VICTIM INVOLVEMENT IN SENTENCING**

Modern legislation affords crime victims two basic ways to be involved in the sentencing of their offenders — the Victim Impact Statement (VIS) or the Victim Statement of Opinion (VSO). These are not mutually exclusive. Indeed, in a growing number of jurisdictions, judges are routinely getting both forms of communication from victims.

The VIS is the most common of the two. In its original conception, it presents a written, objective description of the medical, financial, and emotional injuries caused by the soon-to-be-sentenced offender. In its original form (starting in Fresno County, California, in 1984) and in many jurisdictions today, the VIS is prepared by a probation officer to be included in the probation department's "pre-sentence investigation report" (PSI) describing the background and circumstances of the offender and the offense.

However, the practice in some jurisdictions is to have the VIS prepared by others, including victim/witness advocates or

even the victims themselves, even though the latter practice may detract from the perceived objectivity of the statement.

Currently, 48 states have passed legislation allowing input by the victim at sentencing, and in all but New Hampshire, that input includes the use of the VIS. (New Hampshire allows a victim statement of opinion and allocution at sentencing.) The American Bar Association has drafted a model statute on victim impact statements that can be used by states in developing or reconsidering such legislation. The states that have enacted VIS legislation to date are the following (and the list notes states which have enacted a VIS in their bills of rights, or "BOR"):

Alaska (statute and BOR for felony cases); Arizona; Arkansas (mandated in DWI cases); California (BOR); Colorado (BOR); Connecticut (BOR and separate statute); Delaware; District of Columbia; Florida (BOR and separate statute); Georgia (BOR and separate statute); Idaho (BOR); Illinois; Indiana; Iowa (BOR and separate statute); Kansas; Kentucky (BOR); Louisiana (BOR); Maine (BOR); Massachusetts (BOR and separate statute); Maryland (BOR and separate statute); Michigan (BOR); Minnesota (BOR); Mississippi (BOR and separate statute); Missouri (BOR and separate statute); Montana; Nebraska (see also "Participation" section); Nevada (see also "Participation" section); New Jersey; New Mexico (BOR and separate statute); New York; North Carolina (BOR); North Dakota (BOR); Ohio (BOR); Oklahoma (BOR); Oregon (BOR and separate statute); Pennsylvania (BOR); Rhode Island (BOR); South Carolina (BOR); South Dakota; Tennessee (BOR); Texas (BOR); Utah (BOR and separate statute); Vermont (BOR); Virginia; Washington (BOR); West Virginia (BOR); Wisconsin (BOR); and Wyoming.

The second method of involvement is what is termed a Victim Statement of Opinion (VSO). Here the sentencing judge gets the victim's opinion as to the appropriate sentence to be ordered. Note the distinction between the "facts" presented in a VIS and the "opinion" given in a VSO -- even though, in practice, victims often buttress their views with facts.

The most common legislatively-mandated VSO is a "right of allocution" whereby victims are permitted to express their opinions orally -- to "allocute" -- at the sentencing hearing itself (in just the same way that offenders have traditionally been allowed to address the sentencing judge). Other methods of presenting a VSO is by a written statement or letter to the judge. In the state-by-state charts, legislation that allows a statement of opinion in writing is separated from legislation providing for allocution at sentencing.

Currently, 34 states have enacted legislation providing for victim allocution or other ways of directly presenting a victim's opinion. These states are the following:

Arizona; California (BOR); Colorado (BOR has both as well as a separate statute addressing allocution); Connecticut (BOR includes allocution with a separate statute providing for allocution for sexual assault victims); Florida (BOR/allocution); Georgia (allocution only, by statute); Idaho (BOR/allocution); Illinois (allocution only); Indiana; Kentucky (BOR/VSO); Louisiana (BOR/allocution); Maine (BOR and a separate statute addressing allocution); Maryland (BOR/VSO and statute for allocution); Massachusetts (BOR); Michigan (BOR); Minnesota (BOR/VSO); Mississippi (BOR/allocution and a statute for VSO); Missouri (BOR and a separate statute addressing allocution); Montana (BOR/VSO); Nebraska (VSO); New Hampshire; New Mexico (BOR); New York (VSO); North Dakota (BOR and a separate statute addressing allocution); Ohio (BOR); Oregon (BOR); Rhode Island (BOR/allocution); South Carolina (BOR/allocution); South Dakota; Tennessee (BOR); Texas (BOR/allocution); Vermont (BOR); Washington (statute for both and allocution in BOR); and West Virginia (BOR/allocution).

Some states allow both the objective impact and the victim's opinion, as noted in the charts. However, in a number of the VIS-only states, the practice in some local jurisdictions is to include a separate victim statement of opinion regarding sentencing along with the material dealing with the impact of the crime on the victim's life. Check with the courts in your locality to see if the VIS in practice includes VSO materials, or whether local judges, using their discretion, permit either a written or oral communication of such opinion without a statute requiring it.

Input at sentencing was brought under serious scrutiny in 1987 when the U.S. Supreme Court ruled on the case of *Booth v. Maryland*. Its holding was that a victim impact statement read to a jury during the sentencing phase of a capital case was unconstitutional. The court found that the feelings of the survivors of the homicide victims in that case were inflammatory and irrelevant to the decision.

The reaction of the media to *Booth* was that it brought into question the constitutionality of any victim impact statement. But a careful reading of the decision suggests otherwise.

The statement of the question by the Court was "whether the Constitution prohibits a jury from considering a victim impact statement during the sentencing phase of a capital murder trial." Note that in the decision that followed, the Court seemed to stray from just jury sentencing to include cases where judges may impose a death penalty — though some might argue that this remains an open question.

The majority opinion explicitly excludes other cases (note our highlighted passages):

*While the full range of foreseeable consequences of a defendant's action may be relevant in other criminal and civil contexts, we cannot agree that it is relevant in the unique circumstances of a capital sentencing hearing.*

... We thus reject the contention that the presence or absence of emotional distress of the victim's family, or the victim's personal characteristics, are proper sentencing considerations *in a capital case*.

This sentence is footnoted by the following:

Our disapproval of victim impact statements at the sentencing phase of a capital case *does not mean, however, that this type of information will never be relevant in any context*. Similar types of information may well be admissible because they relate directly to the circumstances of the crime. Facts about the victim and family also may be relevant in a non-capital criminal trial.

And in the final sentence of the opinion, the Court adds the following footnote:

We note, however, that our decision today is guided by the fact *death is a punishment different from other sanctions* and that therefore the *considerations that inform the sentencing decision may be different from those that might be relevant to other liability or punishment determinations*. At least 36 States permit the use of victim impact statements in some contexts, reflecting a legislative judgment that *the effect of the crime on victims should have a place in the criminal justice system* [here citing the 1985 edition of this Legislative Directory].

Since the opinion was so narrow, one should not assume that it constitutes a major setback for the victims' movement as a whole or for the use of victim input at sentencing in any case other than death-penalty cases. However, some courts and judges are indeed doing just that.

The *Booth* decision will receive a review by the Supreme Court when it rules on *South Carolina v. Demetrious Gathers*. On October 11, 1988, the Court agreed to decide whether the South Carolina Supreme Court applied *Booth* properly when it reversed the death sentence imposed on Gathers, holding that a prosecutor had acted improperly when he adduced good character traits to the victim from articles found at the crime scene and possibly read by Gathers before he committed the murder. The state court said that comments on the victim's character were "unnecessary to an understanding of the circumstances of the crime" and "conveyed the suggestion [that Gathers] deserved a death sentence because the victim was a religious man and a registered voter."

## VICTIM PARTICIPATION

More and more states have extended the concept of victim input at sentencing to the concept of victim involvement in other decisions as well. In this directory these concepts are addressed under the rubric of victim participation.

For example, Arizona involves the victim in parole, discharge, and supervised release hearings as well as all mitigation hearings. Nebraska requires a "good faith" effort by prosecutors to consult with victims regarding plea negotiations and decisions. Ohio passed legislation in 1984 which permits victims of felonies to attend sentencing, dispositional, parole, or early release hearings.

The number of laws allowing or mandating participation by the victim in a plea bargain — which generally gives victims a voice in a proposed plea before it is entered, but never requires the victims' opinion to veto a plea — has doubled since 1985. And participation rights at parole have increased by over 50 percent. The following is a listing of states with legislation in these areas.

*Plea-Bargaining Participation (24 states):*

Arizona (for surviving families of homicide victims only); Connecticut (BOR); Florida (BOR); Hawaii (BOR); Illinois (BOR); Indiana; Kentucky (BOR); Michigan (BOR); Minnesota (BOR); Montana (BOR); Nebraska; New Jersey (BOR); New Mexico (BOR); New York (BOR); North Dakota (BOR); Ohio (BOR); Oregon (BOR); Pennsylvania (BOR by virtue of the authority vested in the Pennsylvania Commission on Crime and Delinquency to mandate requirements of service); Rhode Island (BOR); South Carolina (BOR); South Dakota; Tennessee (BOR); Utah (allowed by judicial rule); and West Virginia (BOR).

*Parole Hearing: Victim Impact Statement or Allocution (40 states):*

Alabama; Alaska (BOR and statute); Arizona; Arkansas; California (BOR); Colorado; Connecticut (BOR and statute); Delaware; Florida; Georgia (BOR and statute); Idaho (BOR); Illinois (BOR); Indiana; Iowa (BOR); Kansas; Kentucky; Louisiana (BOR); Maryland (BOR and statute); Massachusetts (BOR); Michigan (BOR); Missouri (BOR); Montana; Nebraska; Nevada; New Hampshire; New Jersey; New Mexico (BOR); New York; North Dakota (BOR); Ohio (BOR); Oklahoma; Oregon (BOR); Pennsylvania; Rhode Island (BOR and statute); South Carolina (BOR); South Dakota; Texas (BOR and statute); Utah (BOR and statute); Wisconsin and Wyoming.

The American Bar Association has drafted a model statute on victim participation at parole hearings to serve as a guideline for states in enacting such legislation. The theory behind developing such a statute is that victims, witnesses, and members of the general public are often dismayed to discover that offenders are released on parole months, years, or even decades before their nominal sentences have been served.

Notice of forthcoming hearings is rarely given. Even if notice is given, the reasons for release decisions are likely to be shrouded in secrecy since parole hearings are generally closed to the public. The President's Task Force on Victims of Crime stated that closed hearings insulated parole boards from accountability for decisions which may directly affect the safety of the community. Accordingly, the Task Force called for open parole hearings.

Under the model statute, certain notices of parole hearings and decisions are required. Moreover, hearings must be open unless the board finds on the record that one or several designated exceptions would warrant holding all or part of a hearing behind closed doors.

State laws governing public access to parole hearings currently vary considerably. For example, Florida and Nevada explicitly require open parole hearings. In Nebraska, North Dakota, Oklahoma, Tennessee, and Utah, parole hearings are governed by general open meeting acts. Colorado has open parole meetings as a result of a Parole Board ruling, rather than legislation.

## RESTITUTION

Restitution is a method of victim reparations predicated on the apprehension and conviction of the criminal. Judges have always had authority to order restitution—it is an ancient feature of our legal heritage and that of most other cultures. However, judges have often been reluctant or have simply forgotten to use the restitution sanction. All fifty states now have restitution laws that provide statutory reinforcement of courts' common law authority.

In some states, such legislation goes even further and requires a judge to order restitution unless he provides a written statement indicating the reason for not making such an order. The American Bar Association has been reviewing restitution issues for several years, and a set of restitution guidelines were approved by the A.B.A.'s policy-making House of Delegates in August, 1988.

Currently, 23 states have enacted legislation which mandates that restitution be ordered unless a judge explains in writing reasons for not issuing such an order. Whether restitution is "mandatory" or permissive is noted in the following listing:

Alabama (required); Alaska (permitted); Arizona (required); Arkansas (required); California (required by statute and BOR); Colorado (permitted by statute and BOR); Connecticut (permitted); Delaware (required); D.C. (permitted); Florida (required and permitted by BOR); Georgia (permitted); Hawaii (required); Idaho (required/BOR); Illinois (permitted); Indiana (permitted); Iowa (required); Kansas (required); Kentucky (required); Louisiana (required by statute and addressed in BOR); Maine (permitted by statute and required in BOR); Maryland (permitted); Massachusetts (permitted/BOR); Michigan (required by statute and permitted in BOR); Minnesota (permitted by statute and BOR); Mississippi (permitted); Missouri (permitted by statute and BOR); Montana (permitted); Nebraska (permitted); Nevada (required); New Hampshire (permitted); New Jersey (permitted); New Mexico (required by statute and BOR); New York (required); North Carolina (permitted); North Dakota (required); Ohio (permitted); Oklahoma (permitted); Oregon (permitted, DA is required to report damages if no VIS); Pennsylvania (permitted by statute and BOR); Rhode Island (permitted by statute and BOR); South Carolina (permitted by statute and BOR); South Dakota (required); Tennessee (permitted); Texas (permitted); Utah (required by statute and addressed in BOR); Vermont (required/BOR); Virginia (permitted by statute and BOR); Washington (required); West Virginia (required/BOR); Wisconsin (permitted); and Wyoming (permitted).

NOVA has long argued that restitution laws should include language that makes an order of restitution automatically become a civil judgment or lien, at least if it had not been fully paid before the end of a probationary period, parole period, or imprisonment. The federal Victim and Witness Protection Act provides for the treatment of restitution in the same manner as a judgment in civil cases and that provision has been upheld in the courts.

The following states allow for restitution to be enforced in the same manner as a civil lien: Alabama, Arizona, California, Indiana, New Jersey, Missouri, New York, Rhode Island, South Dakota, Utah, Vermont and West Virginia.

Another special restitution issue is whether restitution may be ordered in juvenile cases. Nine states specifically address this question and allow for restitution to be made by juvenile offenders. They are Idaho, Louisiana, Mississippi, Oklahoma, Oregon, Rhode Island, Tennessee, Utah, and West Virginia.

## **VICTIM/WITNESS NOTIFICATION**

The majority of states have begun to respond to the natural desire of victims to be kept informed about the progress of their case investigations, about other important events in the criminal justice process, and about the status of incarcerated offenders. Indeed, the number of notification statutes have more than doubled since 1985.

A number of states give advance notice of critical proceedings while others notify victims only after such events occur. Some 46 states where parole is still used now provide victims notification of parole hearings and decisions.

Also, other methods of release — such as work furloughs — have been the targets of victim involvement and notification efforts. It should be noted that notification of any event does not imply that the victim has a concurrent right to give input into the upcoming decision. These are two separate issues.

The following is a breakdown of notification statutes, some of which have been enacted as part of a bill of rights (BOR) or were amendments to a BOR.

### *Scheduling of Court Proceedings (43 States):*

Alabama (BOR); Alaska (BOR); Arkansas (BOR); California; Colorado (BOR); Connecticut (BOR); Delaware (BOR); Florida (BOR); Georgia (BOR); Hawaii (BOR); Idaho (BOR); Illinois (BOR); Iowa (BOR); Kentucky (BOR); Louisiana (BOR); Maryland (BOR and statute); Massachusetts (BOR); Michigan (BOR); Minnesota (BOR); Mississippi (BOR); Missouri (BOR); Montana (BOR); Nebraska (BOR); Nevada (BOR); New Jersey (BOR); New Mexico (BOR); New York (BOR); North Carolina (BOR); North Dakota (BOR); Ohio (BOR); Oklahoma (BOR); Oregon (BOR); Pennsylvania (BOR); Rhode Island (BOR); South Carolina (BOR); South Dakota; Tennessee (BOR); Texas (BOR); Utah (BOR); Vermont (BOR); Virginia (BOR);



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Washington (BOR); West Virginia (BOR); and Wisconsin (BOR).

*Pre-trial Release (31 states):*

Alabama (BOR); Colorado (BOR); Connecticut (BOR); Florida (BOR); Hawaii (BOR); Illinois (BOR); Iowa (BOR); Kentucky (BOR); Louisiana (BOR); Maryland (BOR); Massachusetts (BOR); Michigan (BOR); Minnesota (BOR); Missouri (BOR); Montana (BOR); Nebraska (BOR); Nevada (BOR); New Mexico (BOR); New York (BOR); North Carolina (BOR); North Dakota (BOR); Pennsylvania (BOR); Rhode Island (BOR); South Carolina (BOR); South Dakota; Utah (BOR); Vermont (BOR); Virginia (BOR); West Virginia (BOR); and Wisconsin (BOR).

*Bail (27 states):*

Alabama (BOR); Colorado (BOR); Florida (BOR); Hawaii (BOR); Illinois (BOR); Iowa (BOR); Kentucky (BOR); Louisiana (BOR); Maryland (BOR); Massachusetts (BOR); Michigan (BOR); Mississippi (BOR); Missouri (BOR); Montana (BOR); Nevada (BOR); New Mexico (BOR); New York (BOR); North Dakota (BOR); Pennsylvania (BOR); Rhode Island (BOR); South Carolina (BOR); South Dakota; Texas (BOR -- indicates that safety of victim or family should be taken into consideration at bail; may or may not imply notification); Utah (BOR); Vermont (BOR); and Virginia (BOR).

*Plea Agreements (30 states):*

Colorado (BOR); Connecticut (BOR); Florida (BOR); Hawaii (BOR); Illinois (BOR); Indiana; Kentucky (BOR); Maine; Maryland (BOR); Massachusetts (BOR); Michigan (BOR); Minnesota (BOR); Mississippi (BOR); Missouri (BOR); Montana (BOR); Nebraska; New Jersey; New Mexico (BOR); New York (BOR); North Dakota (BOR); Ohio (BOR); Pennsylvania (BOR); Rhode Island (BOR); South Carolina (BOR); South Dakota; Tennessee (BOR); Texas (BOR); Utah (BOR); Virginia (BOR); and West Virginia (BOR).

*Sentencing (34 states):*

Alaska (BOR); Arizona; California (BOR); Colorado (BOR); Connecticut; Florida (BOR); Hawaii (BOR); Illinois (BOR); Indiana; Kentucky (BOR); Louisiana (BOR); Maine (BOR); Maryland (BOR); Massachusetts (BOR); Michigan (BOR); Minnesota (BOR); Mississippi (BOR); Missouri (BOR); Montana (BOR); New Jersey (BOR); New Mexico (BOR); New York (BOR); North Dakota (BOR); Ohio (BOR); Oregon (BOR); Pennsylvania (BOR); Rhode Island (BOR); South Carolina (BOR); Tennessee (BOR); Utah (BOR); Vermont (BOR); Virginia (BOR); Washington (BOR); and West Virginia (BOR).

*Final Disposition (34 states):*

California; Colorado (BOR); Connecticut; Florida (BOR); Hawaii (by statute and BOR); Idaho (BOR); Illinois (BOR); Iowa (BOR); Kentucky (BOR); Louisiana (BOR); Maryland (BOR); Massachusetts (BOR); Michigan (BOR); Minnesota (BOR); Missouri (BOR); Montana (BOR); Nebraska (BOR); Nevada (BOR); New Jersey (BOR); New Mexico (BOR); New York; North Carolina (BOR); North Dakota (BOR); Ohio (BOR); Oregon (BOR); Pennsylvania (BOR); Rhode Island (BOR); South Carolina (BOR); Utah (BOR); Vermont (BOR); Virginia (BOR); Washington (BOR); West Virginia (BOR); and Wisconsin (BOR).

*Parole Hearings (46 states):*

Alabama; Alaska (statute and BOR); Arizona; Arkansas; California (BOR); Colorado; Connecticut (statute and BOR); Delaware; Florida (BOR); Georgia (statute and BOR); Hawaii (statute and BOR); Idaho (statute and BOR); Illinois (statute and BOR); Indiana; Iowa (BOR); Kansas; Kentucky (statute and BOR); Louisiana (statute and BOR); Maryland (statute and BOR); Massachusetts; Michigan (BOR); Mississippi; Missouri (BOR); Montana (BOR); Nevada; New Hampshire; New Jersey; New Mexico (statute and BOR); New York; North Carolina (BOR); North Dakota (BOR); Ohio (BOR); Oklahoma; Oregon (statute and BOR); Pennsylvania; Rhode Island (statute and BOR); South Carolina (BOR); South Dakota; Tennessee (BOR); Texas (statute and BOR); Utah (BOR); Vermont (BOR); Washington (BOR); Wisconsin; and Wyoming.

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*Pardon (31 states):*

Alaska (BOR); Connecticut (BOR); Florida; Georgia; Hawaii (statute and BOR); Idaho (BOR); Indiana; Kentucky (BOR); Louisiana; Maine (BOR); Maryland (BOR); Massachusetts (BOR); Michigan (BOR); Missouri (BOR); Montana (BOR); Nevada; New Mexico (BOR); New York; North Carolina (BOR); North Dakota (BOR); Ohio (BOR); Oklahoma; Oregon (BOR); Pennsylvania (BOR); South Carolina (BOR); Tennessee (BOR); Utah (BOR); Vermont (BOR); West Virginia (BOR); Wisconsin (BOR); and Wyoming.

*Work Release (31 states):*

Alaska (BOR); California; Delaware; Florida (BOR); Hawaii (statute and BOR); Idaho (BOR); Iowa (BOR); Maine (BOR); Maryland (statute and BOR); Massachusetts (BOR); Michigan (BOR); Minnesota (BOR); Missouri (BOR); Montana (BOR); New Mexico (BOR); North Carolina (BOR); North Dakota (BOR); Ohio; Oregon (BOR); Pennsylvania (BOR); Rhode Island (BOR); South Carolina (BOR); South Dakota; Tennessee (BOR); Texas; Utah (BOR); Vermont (BOR); Washington (statute and BOR); West Virginia (BOR); and Wisconsin (BOR).

*Release of a Felon (39 States):*

Alaska; Arizona; Colorado (BOR); Connecticut; Florida (statute and BOR); Georgia; Hawaii (statute and BOR); Idaho (BOR); Illinois (BOR); Indiana; Iowa (BOR); Kentucky (BOR); Louisiana (BOR); Maine (statute and BOR); Maryland (statute and BOR); Massachusetts (BOR); Michigan (BOR); Minnesota (BOR); Missouri (BOR); Montana (BOR); Nebraska (BOR); Nevada (statute and BOR); New Mexico (statute and BOR); New York; North Carolina (BOR); North Dakota (BOR); Oklahoma; Oregon (BOR); Pennsylvania (BOR); Rhode Island (BOR); South Carolina (BOR); South Dakota; Tennessee (BOR); Utah (BOR); Vermont (BOR); Washington (statute and BOR); West Virginia (BOR); Wisconsin (BOR); and Wyoming.

*Notification of Escape of a Prisoner (22 States):*

Arizona; Arkansas; California; Idaho (BOR); Illinois (BOR); Iowa (BOR); Maryland (BOR); Massachusetts (BOR); Michigan (BOR); Missouri (BOR); Nevada; New Mexico; New York; North Carolina (BOR); North Dakota (BOR); Ohio; Oregon (BOR); South Carolina (BOR); South Dakota; Utah (BOR); Vermont (BOR); and Washington.

Mississippi and Oregon provide specifically for notification of juvenile proceedings to victims of juvenile crimes.

## **PROTECTION FROM INTIMIDATION**

A 1979 study by the Victims Committee of the America Bar Association inspired the enactment of a number of new laws in the last ten years concerning pre-trial intimidation of, and post-trial retaliation against, victims and witnesses.

New legislation has been enacted in many states to broaden the definition of witness to include non-subpoenaed witnesses and third parties. Some legislation makes intimidation a felony where threats or conspiracy are involved. Many laws treat attempted intimidation as seriously as successful intimidation.

One interesting development is the kind of legislation that gives judges increasing scope in issuing "protective orders." As with the federal Victim and Witness Protection Act of 1982, these "intimidation-prevention" tools are often borrowed directly from laws permitting protective orders in domestic violence cases.

Since the changes in the laws of intimidation often reflect differences in state criminal codes, it is important for interested readers to review their own state criminal codes for the exact effect of legislative enhancements. The 45 states where legislation has been enacted to increase protections against intimidation and harassment are:

Alabama (statute and BOR); Alaska (BOR); Arizona; Arkansas (statute and BOR); California; Colorado (statute and BOR); Delaware (statute); Florida (BOR); Georgia (BOR); Hawaii (statute and BOR); Idaho; Illinois; Indiana; Iowa (BOR); Kansas;

Kentucky (BOR); Maine (statute and BOR); Maryland (BOR); Massachusetts (BOR); Michigan (BOR); Minnesota (BOR); Mississippi (statute and BOR); Missouri (BOR); Montana (BOR); Nebraska (BOR); Nevada (statute and BOR); New Jersey (statute and BOR); New Mexico (statute and BOR); New York (statute and BOR); North Carolina (BOR); North Dakota; Ohio (BOR); Oklahoma (BOR); Oregon (BOR); Pennsylvania (BOR); Rhode Island (BOR); South Carolina (BOR); South Dakota; Texas (BOR); Utah (BOR); Vermont (BOR); Virginia (BOR); Washington (BOR); West Virginia (BOR); Wisconsin (statute and BOR).

## **NOTORIETY-FOR-PROFIT ACTS**

In past years, there have been several instances where offenders who have committed particularly sensational crimes have received substantial sums of money as a result of their notoriety. Books, magazine articles, and movies describing heinous crimes have resulted in significant royalties to criminals (or, often, to relatives they designate) while their victims languished without any form of restitution.

The most notorious case of this type occurred in New York, where the "Son-of-Sam" murders occurred. David Berkowitz, the convicted murderer in those cases, was sought out by the media with financial offers to tell his story. In response, the New York legislature passed a law in 1977 which prevents convicted criminals from receiving such financial remuneration until his or her victims have been compensated. As a result, this type of legislation was later called "Son-of-Sam" statutes. This was unfortunate because such a title worked against one purpose of the legislation: to avoid glorifying a notorious criminal (or at least to see the victims achieve some benefit from that continuing notoriety). Hence, to deny Mr. Berkowitz any further, undeserved glory, NOVA's term for such legislation is "notoriety-for-profit".

The President's Task Force on Victims of Crime proposed that notoriety-for-profit proceeds be used to provide full restitution to criminals' victims, pay the costs of prosecution, and assist state crime victim compensation programs

The Task Force's call for "model" legislation here has in some respects been unnecessary. Most states have enacted such laws in recent years, and all contain the basic requirement of making offender profits available for satisfaction of judgments resulting from successful victim suits against their offenders and specified purposes. Still, only a minority would then deprive the offender of any remaining money in the fund.

Forty-one states have now enacted Notoriety-for-Profit statutes. In many, this is part of its victim compensation legislation, and the compensation agency is responsible for administering the funds.

Most require the establishment of an escrow account for all such proceeds. The first claim on such accounts is usually for civil damages awarded to victims. Remaining funds, or funds from accounts where no victim claims are made, are directed to pay court costs and attorneys fees, or are deposited in the victim compensation fund, or are given to the offender. States still not having such legislation are the District of Columbia, Maine, New Hampshire, North Carolina, North Dakota, Vermont, Virginia, West Virginia, and Wyoming.

## **VICTIM PRIVACY PROTECTIONS**

Crime victims' interest in maintaining their privacy has been controversial in two areas. The first involves the rights of victims in contrast to the rights of the media. The media perceives its responsibility to communicate news to the public. Where crime is concerned, that news may include descriptions or photographs, names, addresses, and other personal information relating to the victim. Victims, on the other hand, feel that they have a right to privacy — that they should not be exposed to public scrutiny simply because they have been the innocent victims of crime.

Public information laws complicate this issue. In states that allow public access to police records and other criminal justice documents, the media and others have free access to much information about victims. Victim advocates often support this access because it aids them in making outreach to victims and offering help — and in jurisdictions where such records are not open to the public, advocates have had great difficulty in getting needed information quickly.

However, since the U.S. Supreme Court has ruled unconstitutional laws which make it a crime to publish victim-identifying information when it has previously appeared in public documents, victims are caught on the horns of a policy dilemma.

Thus, in some communities, the effort has been to get the news media to adopt a policy of self-restraint whereby, for example, some kinds of victims are never named, and with others the victim's street address is not used. Other suggestions have been made that are designed to promote more accurate reporting and to limit sensationalism.

NOVA has published a Media Code of Ethics that incorporates some of those suggestions and propounds some standards for more sensitive and effective reporting. It is reproduced here:

### **Media Code of Ethics**

#### *I shall:*

Provide the public with factual, objective information about crime stories concerning:

- the type of crime that has occurred;
- the community where the crime occurred;
- the name or description of the alleged offender if appropriate under existing state law;
- significant facts that may prevent other crimes.

Present a balanced view of crime by ensuring that the victim and the criminal perspective are given equal coverage when possible.

When requesting to speak with victims, advise them that they may be interviewed off the record or on the record, if they desire such an interview; and advise them that they have a right not to be interviewed at all.

When reporting conversations with victims, quote victims, family members, and friends fairly and in context;

Avoid photographing or filming crime scene details or follow-up activities such as remains of bodies or brutality; instruments of torture; disposal of bodies.

Notify and ask permission of victims and their families before using pictures or photographs for documentaries or other news features.

#### *I shall not:*

Photograph, film, or print for publication photographs of victims, graphic crime scenes, or victims in the courtroom without permission.

Print or broadcast unverified or ambiguous facts about the victim, his/her demeanor, background, or relationship to the offender.

Print or broadcast facts about the crime, the victim, or the criminal act that might embarrass, humiliate, hurt, or upset the victim unless there is a need to publish such details for public safety reasons.

Print, broadcast, photograph, or film lurid or graphic details of the crime.

Promote sensationalism in reporting crime or criminal cases in anyway.

A second reason for victims to be concerned about privacy arises out of fear of harassment or intimidation by defendants or their associates. While enhancements of criminal sanctions for harassment and intimidation have been reviewed above, the President's Task Force on Victims of Crime recommended that additional protections be established by limiting the

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dissemination of the victims' names or addresses through the criminal justice process.

It recommended that prosecutors not divulge the victim's address to the defense except in extraordinary circumstances, and that this policy be carefully formulated into draft legislation. Thereafter, the National Association of Attorneys General drafted a model statute for address protection. The model statute would protect the privacy of victims and help prevent intimidation by mandating that prosecutors, police, court officials, and other government employees not disclose the addresses and telephone numbers of victims to the public or the defense absent a court order.

Twenty-two states have enacted some kind of privacy protection for victims' names and addresses. These states are: California; Connecticut (BOR); D.C.; Florida; Georgia; Idaho (BOR); Illinois; Maine; Maryland; Massachusetts; Michigan (statute and BOR); Minnesota (BOR); Nevada; New Mexico (BOR); North Dakota (BOR); Ohio; Oregon (BOR); South Carolina; South Dakota; Texas; Wisconsin; and Wyoming. However, the protections afforded under these statutes vary greatly so readers should review the statute in their own jurisdiction to understand the scope. In eight states privacy protection is limited to victims of sexual assault.

Nineteen states have passed additional legislation to protect the privacy of child victims involved in court procedures. Those states are: Alabama; Alaska; California; Colorado; Florida; Hawaii; Iowa; Maine; Minnesota; New Hampshire; New York; North Dakota; Pennsylvania; Rhode Island; South Dakota; Tennessee; Washington; Wisconsin; and Wyoming. Iowa, North Dakota, Pennsylvania, Washington and Wisconsin enacted the protections as part of Children's Bill of Rights legislation.

## COURT ATTENDANCE

Most victims and witnesses have a deep-seated need for information about their case. While bills of rights and right-to-information statutes provide victims with potential access to information concerning case status and other proceedings, victims often have been denied a right to be in the courtroom to observe hearings or certain stages of the trial.

Our Constitution provides for a defendant to have rights to counsel and to confront accusers, which translate into a number of subsidiary rights, including a qualified right to be in the courtroom virtually at all times. But all other potential or actual witnesses are subject to "the rule of sequestration" (exclusion from the courtroom when not actually testifying) since it is thought that what they hear may cause them to change their testimony initially or when they are recalled to give additional testimony. In addition, even if victims or survivors are not going to be called as witnesses, they or their families may be removed from the courtroom on the grounds that their presence may unfairly influence the jury (while no such rule applies to the defendant's relatives and associates).

Victims feel that they should have the same exemption from the general rule of sequestration that a defendant has. They also feel that if they or their families are removed because of the possibility that they may influence a jury, then the defendant's family should be subject to the same kind of treatment.

The first state to pass a "court attendance" statute was Alabama in 1983. Its court attendance law grants victims the following rights: to be present in the court hearing their case and to be seated at the prosecutor's table; not to be excluded from that court or counsel table during any pertinent hearing or trial or portion thereof except for reasons that would also justify a defendant's removal; and to be exempt from rules and regulations or other laws that separate or exclude witnesses from court in criminal trials or hearings (i.e., sequestration).

The Alabama statute was developed in response to two factors. First, as indicated above, the President's Task Force on Victims of Crime Report recommended a constitutional amendment that would ensure a victim's right "to be present and to be heard at all critical stages of judicial proceedings." While the Alabama statute does not contain a clause in relation to "the right to be heard," it was the first effort to codify the proposed amendment. Second, some counties in Alabama already had such a practice in their courts; this statute simply expanded the practice to the whole state and made it a legislative right.

At present, seventeen states have enacted court attendance legislation. These are: Alabama, Arkansas, California, Georgia (statute and BOR), Maryland, Michigan (BOR), Mississippi (BOR), New Hampshire (by court rule), New Mexico (BOR), North Dakota (BOR), Oklahoma; Oregon (BOR), South Carolina, South Dakota, Texas (BOR), Utah, and Washington (BOR). In

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many of these states the law simply allows victims in the courtroom subject to the judge's discretion, and in Mississippi, victims are allowed to attend the trial but are subject to open sequestration.

One reason for the proposed constitutional amendment in Florida is to remove any ambiguity in the right of court attendance for victims and their survivors. However, victim advocates in that state anticipate that defense attorneys will seek to bar victims on the ground that their presence violates some precepts of "fundamental fairness," that is, of constitutional due process. Thus, if a judge finds sequestration of victims a defendant's due-process privilege, the Florida amendment would not be honored, since its rights are effective only "to the extent that these rights do not interfere with the constitutional rights of the accused."

Should such a ruling be made, the victim advocates are prepared to appeal it in the expectation that higher courts will affirm that the sequestration of victims is not mandated by state or federal constitutional provisions.

### **SPEEDY DISPOSITION OF CRIMINAL CASE**

Defendants in the criminal justice system have certain due process rights, including the right to a speedy trial — a right defendants often (and properly) invoke when they are kept in jail before trial, but otherwise tend to ignore, hoping, it often seems, that long delays in the system will wear out prosecution witnesses and undermine the government's case.

Crime victims are not accorded the same constitutional right to have their cases hastened through the system to a just disposition, with one result being that it often takes U.S. courts many months or years to bring to conclusion a criminal case which their sister courts in Europe and other democracies would complete in a matter of weeks.

Many American victims describe a special anguish at having been forced to wait those months or years to have the criminal justice system bring their case to resolution. Consequently, victims and their advocates are working to overcome the stresses they have endured at the hands of what seems to be a uniquely sluggish justice system.

Eighteen states have enacted statutes calling for the speedy disposition of cases involving certain crimes: Alabama (BOR), California, Colorado (BOR), Delaware (BOR), Kentucky (BOR), Maryland (BOR), Massachusetts (BOR), Michigan (BOR), Minnesota (BOR), Missouri (BOR), Nebraska (BOR), Nevada, New Hampshire, North Dakota (BOR), South Carolina (BOR), South Dakota, Utah (BOR), Vermont (BOR) and Wisconsin (BOR).

Again, statutes vary considerably and so each jurisdiction's law should be examined for further details. However, most speedy disposition statutes are limited because of the lack of enforcement provisions. If a defendant demands a speedy trial and does not receive one, his case is dismissed. However, few parallel remedies for the victim or the state exist.

One remedy that has been suggested is to require the chief judge of the judicial district to bar any civil case from going to trial until the improperly-delayed criminal case is sent to trial. While the state of Oregon does not have a specific speedy disposition law for victims, there is authority for that remedy in Oregon, where court rules state that no civil case can go forward while a criminal trial is pending.

### **CHILD VICTIMS' RIGHTS**

Because our laws at every turn recognize a duty to treat children with special care — witness our juvenile justice system — it should be clear that children need special protections when involved as victims and witnesses in the justice system.

The first step toward establishing such protections has been to extend typical Bill-of-Rights protections to minors. In addition, children need age-specific explanations of the process, given with appropriate vocabulary and reasoning; their own counselors and advocates to speak for the child's interests in discussions among judges, parents, and lawyers; specialized services for the children and their families aimed at helping them recover from the crime's effects; and the right to a speedy disposition of a case in which they are key witnesses.

In recognition of the extraordinary stress it puts on a child to give testimony in an imposing courtroom setting — right in

front of the person the child is accusing of criminal wrongdoing, who is very often a person the child has looked to for love and protection — some states have sought to use the technology of television to make that testimony less traumatizing.

Some have made admissible a child's videotaped statement of what happened to a specially-trained investigator (an unsworn interrogatory). Others have made admissible such a videotaped statement if the child was put under oath and subjected to cross-examination (a deposition). Still others have permitted the child to give "live" testimony in a trial but transmitted from another room by way of closed-circuit television. At last count, 44 states had made some type of provision for protecting children while they testify.

The constitutionality of some of these protections has been placed in question by *Coy v. Iowa* decided by the U.S. Supreme Court on June 29, 1988. That decision held that the Confrontation Clause of the Sixth Amendment by its words provides a criminal defendant the right to "confront" face-to-face the witnesses giving evidence against him at trial, and that therefore the defendant's right to face-to-face confrontation was violated since a screen was used to enable the complaining witnesses (two child victims of sexual assault) to avoid viewing him.

The impact of the decision on legislation or the interpretation of legislation in the future is hard to predict. While the opinion was based on a 6-2 decision by the Court, the concurring opinions and dissenting opinion raise key questions. First, was the decision based on the fact that there had been no review by the trial court judge that showed that the two victims required the assistance of the technique? Second, are there any exceptions to the face-to-face confrontation rule? Third, if there may be exceptions, is the protection of child witnesses such a compelling state interest that states may legislate it as such an exception? It is probable that the Supreme Court will be called upon to address these issues in the future.

Twelve states — California, Colorado, Delaware, Iowa, New Hampshire, New York, North Dakota, Pennsylvania, Rhode Island, Utah, Washington and Wisconsin — have enacted Child Victims' and Witnesses' Bills of Rights to provide some combination of these protections.

Wisconsin passed the first "Children's Bill of Rights" in 1984. In addition to extending the existing Bill of Rights for adults to children, the act states that the court shall appoint a guardian who will provide the following rights and protections for children:

- explain, in language understandable to the child, all legal proceedings in which the child will be involved;
- act as a friend of the court, to advise the judge, whenever appropriate, of the child's ability to understand and cooperate with any court proceeding;
- assist the child and the child's family in coping with the emotional impact of the crime and subsequent criminal proceedings in which the child is involved;
- advise the district attorney on the ability of a child witness to cooperate with the prosecution and on the potential effect of the proceedings on the child
- and advise the judge concerning the possible use of a videotaped deposition.

Iowa's law establishes the following nine rights for children:

- prohibition of the disclosure of the child's identity;
- extending the statute of limitations by one year for the prosecution of offenses against children;
- providing for the videotaping of pre-trial interviews and closed circuit testimony for children under 14;
- requiring speedy trials for offenses against children;
- prohibition of the requirement of corroboration of a child's testimony; establishes that children are presumed to be competent witnesses;
- mandating that children under 10 years of age cannot be forced to appear before a grand jury;
- providing child victims and witnesses the right to have a "guardian ad litem" to act as a representative throughout the criminal justice proceedings; and
- liberalizing the rules for children seeking victim compensation awards.

Other legislative developments to protect child witnesses include the following:

- amending child competency requirements: 31 states
- amending hearsay admissibility requirements: 29 states
- requiring counselors or "guardians ad litem" for children: 31 states
- extending the statute of limitations for child offenses: 29 states
- requiring speedy trials for offenses against children: 21 states
- protecting children's privacy during prosecution: 19 states

In addition, legislation covering cases involving missing children has been enacted in 40 states. Many statutes have established clearinghouses for reporting, investigating, and coordinating efforts to find missing and exploited children.

At the national level, the National Association of Attorneys General developed model statutes recommended by the U.S. Attorney General's Task Force on Family Violence that would eliminate competency requirements for child victims of sex offenses, and extend the statute of limitations for such victims.

The U.S. Justice Department is also supporting the work of the National Center for Missing and Exploited Children, which in 1985 published "Selected State Legislation: A Guide for Effective State Laws to Protect Children," a publication it updates annually. It covers such topics as: missing children; sexual abuse; the child in the courtroom; and the guardian ad litem in criminal proceedings. For a copy, contact the Center at 1835 K Street, N.W., Washington, D.C. 20006 (202) 634-9821.

Further, the American Bar Association, under a grant from the U.S. Department of Justice, has drafted a model statute which will enable certain employers whose employees work with children the opportunity to receive certain sex offense-related conviction and arrest records to use in making employment decisions.

The rationale behind such a statute is that child molesters often seek employment which will bring them into contact with children, and while statistics show that child molesters tend to repeat the crime, in many cases they have a history of arrests for molestation but few if any convictions. There are several reasons for this pattern. Some parents may be afraid that the trauma of prosecution may further injure the child. The child may be deemed a less-than-persuasive potential witness. Often there is little corroborative physical evidence and the child's testimony is the only basis for the prosecution's case.

The problem for employers in child-caring occupations is that state privacy laws, where they exist, do not allow public access to arrest records. Indeed, in many states, even conviction records are withheld from employers on privacy grounds. States which do allow access to criminal records have one of three types of laws. "Open records" laws are based on the principle of freedom of information and allow general access to all public records. Some laws allow all or certain kinds of employers access to conviction or arrest records. And some laws provide for access to conviction or arrest records by employers whose employees work with children.

Some 24 states have adopted legislation to provide for background checks of employees working with children. These are: Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Nevada, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Texas, Washington, West Virginia.

## COMPENSATION FOR MENTAL HEALTH COUNSELING

Victims of crime are often emotionally traumatized. The long-term effects of trauma can be debilitating. As a result victims and survivors may need immediate crisis intervention and some form of mental health counseling.

The cost of counseling can be prohibitive to many victims. It was this concern that the Victims of Crime Act of 1984 sought to address by mandating that state compensation programs receiving federal funds must compensate for mental health counseling.

While all compensation programs have expanded their coverage to include such counseling, many problems still exist.

First, VOCA provides no guidance on what reasonable mental health benefits might be. Hence, two programs, Iowa and



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Montana, cap awards for counseling to \$500 per claimant.

Second, there has been ongoing controversy over the definition of mental health counseling, the basis of assessing the need for counseling, and who should provide such counseling. The language in VOCA was drafted with care and "mental health counseling" was specified to encourage states not to restrict compensation to payments or reimbursements to traditional mental health professionals.

Prior to the infusion of federal and state funds in the victim assistance field, most crisis intervention and supportive counseling had been provided by volunteers and victim service practitioners who may not have had educational degrees or certification, but who usually received specialized training on crime victimization and crisis intervention prior to service. These constitute the primary recipients of VOCA's victim assistance subgrants, and only a few such programs have also sought compensation payments when, for example, one of their clients needs more than supportive counseling and goes into a program-sponsored therapy program.

Traditional mental health professionals, on the other hand, often had little experience or specialized training in dealing with victims of crime.\* There was deep concern that a traditional definition of mental health counseling might result in the reimbursement of professionals who lack specialized training and skills at the same time as minimizing the usefulness of trained lay counselors.

There are other points of confusion. While the victim assistance field developed training programs for service providers in crisis intervention and supportive counseling, there has been little standardization of training or services. All of these issues result in some critical questions:

Should compensation be made for certain services provided by victim service practitioners without professional credentials? If so, how does one know whether such practitioners are providing appropriate services? Does it suffice that they are working under the supervision of licensed professionals?

Similarly, should compensation be provided for services by mental health professionals without specialized training in treating crisis and trauma? Should a system of specialized certification in victim services or trauma treatment be developed to insure that those providing services are appropriately trained in order to receive compensation for service?

These questions are not only applicable to services provided and paid for through victim compensation, but are also central to services that are being funded by state or federal legislation. While there has been some work on developing guidelines for program standards, there has been little legislation that translates such standards into requirements for funding or provides for accountability from service providers or programs. California's standards for training printed in the appendix, and standards for services developed by Massachusetts are steps in this direction.

## COUNSELOR CONFIDENTIALITY

Crisis intervention and supportive counseling are essential elements of comprehensive victim services. While most service programs refer victims to psychiatrists or psychologists for mental health therapy if needed, many programs provide in-house crisis and supportive counseling. Since most practitioners are not psychologists or psychiatrists, the victims/survivors they serve do not have a pre-existing right to have their discussions kept confidential.

As a result, some victims/survivors may be reluctant to discuss their feelings or reactions. Even if they are willing to talk about their concerns, their discussions could be used against them if they said something that might be misinterpreted or taken

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\* Task Forces of both the American Psychological Association and the American Psychiatric Association examined the issues around effectively assessing the emotional needs of and providing appropriate treatment to crime victims and found that specialized training and education was a critical need in the mental health profession. This was underscored by the report of the Colloquium on Crime Victimization: A Mental Health Crisis sponsored by the National Institute of Mental Health in cooperation with NOVA, February 28 - March 3, 1985. See *Final Report of the American Psychological Association Task Force on the Victims of Crime and Violence*, Arnold Kahn, Ph.D., editor, November 30, 1984; and *Post-Trauma Therapy and the Victims of Violence*, Frank Ochberg, M.D., editor, Brunner/Mazel: New York, 1988.

out of context. In some jurisdictions, defense attorneys routinely seek to obtain counselors' notes in their search for ways to discredit the complaining witness.

The issue was dramatized a few years ago in Rhode Island where a rape crisis center burned its records on the courthouse steps to avoid having them opened to the defense, and the director of the center went to jail having been found in contempt for failure to disclose. In Connecticut, on the other hand, a battered women's shelter won a protective order in which names and addresses were to be removed from the shelter's records and they were to be sealed separately within the grand jury file. Other courts which have acknowledged a privilege have been a New Mexico court in an unreported opinion and the Pennsylvania Supreme Court *In the Matter of Pittsburgh Action Against Rape*, (423 A.2d 126).

The National Organization for Victim Assistance has since 1979 supported counseling confidentiality for victims of sexual assault. It participated in the Pennsylvania appeal cited above as an amicus curiae. But NOVA, like the appellants in Pennsylvania, has concluded that the issue should not ultimately be decided by appeals courts but by state legislatures, and to that end, NOVA has provided testimony to a number of states contemplating legislation making client/counselor communications privileged.

The general reasoning behind those legislative proposals is as follows:

One major principle of criminal jurisprudence is that anyone who has knowledge of a crime may be compelled to provide that information during the truth-seeking process. However, society has recognized certain exceptions to that rule where a private relationship is deemed so important that a witness may keep his or her private thoughts to the other party confidential (e.g., priest/penitent, doctor/patient, attorney/client, and the spousal relationship).

The President's Task Force on Victims of Crime recommended that legislation should be enacted to ensure that victim counseling is legally privileged and not subject to defense discovery. This recommendation went beyond prior laws to cover all counselors, not just those aiding victims of sexual assault or domestic violence. The American Bar Association, under a grant from the U.S. Department of Justice, developed a model statute to extend the type of testimonial privilege to counselors of sexual assault and domestic violence victims, though clearly, that model could be broadened to cover all such counselors.

No state has enacted general counselor confidentiality that establishes a privilege for victims and their victim service provider. New Jersey and New York have laws that protect victims in their communication with a social worker. And most states protect clients who are working with psychologists.

The Office for Victims of Crime, with Congressional encouragement, issued VOCA victim assistance guidelines that create a limited confidentiality privilege to clients whose counselors are supported by a VOCA subgrant. That "federal" privilege has been recognized as superseding state law on the issue, although both the guidelines and the courts seem insistent that no communication to any therapist or counselor may be kept confidential if it presents a reasonable case that child abuse has been committed. In that situation, a state's mandatory child abuse reporting law takes precedence.

Twenty states have enacted statutes providing either absolute or partial protection of confidential communications between victims and sexual assault counselors. They are: Alabama, California, Connecticut, Florida, Illinois, Indiana, Iowa, Kentucky, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, Ohio, Pennsylvania, Texas, Utah, and Wyoming. The state of Pennsylvania has one of the most comprehensive statutes for protecting sexual assault counselors and victim communication. A copy of this statute is provided in the appendix.

In addition, nineteen states have passed counselor confidentiality statutes for domestic violence counselors and victims. They are: Alabama, California, Connecticut, Florida, Illinois, Indiana, Iowa, Massachusetts, Michigan, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, and Wyoming.

Counselor confidentiality raises a number of issues. For example, do counselors who are employed by law enforcement agencies or prosecutors have the same duty as their host agencies to divulge exculpatory evidence they come across? (In the commentary on its model statute, the ABA says that such counselors must disclose the exculpatory evidence.) Do counselors who claim the privilege need certification or special training to qualify as "counselors?" These and other considerations raised by the new privilege will become more and more pressing in the years to come.

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## DRUNK DRIVING LAWS

Thirty-seven states now allow victims of drunk driving crashes to qualify for victim compensation programs. Those states are: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Mexico, New York, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Organizations such as Mothers Against Drunk Driving (MADD), Remove Intoxicated Drivers (RID), and Students Against Drunk Driving (SADD), have contributed to the increasing awareness that drunk driving is not "accidental," it is not simply a social problem, it is also a crime with often-lethal effects. Within the last few years over 400 new laws have been enacted on the subject. In addition, the legal drinking age has been raised to twenty-one in all the states.

Current legislative goals of the drunk driving groups include working with other victim organizations to pass comprehensive, meaningful, and enforceable Victims Bills of Rights, inclusion of all victims in compensation programs, administrative revocation of drivers' licenses at the time of arrest, license plate confiscation, mandatory incarceration for repeat offenders, "open container" laws, color-coded embossed driver's licenses (unable to be duplicated or altered), and "dram shop" laws which impose strict liability on drinking establishments that serve alcohol to intoxicated drivers.

MADD, NOVA, and others were successful in having the Victims of Crime Act amended in 1988 to bar subsidies to state compensation programs after 1990 if that state excluded drunk driving crash victims.

### *Third-Party Liability in Drunk Driving Cases*

While the legislative focus of the drunk driving victim organizations is primarily on criminal justice reform, third-party liability laws and insurance reform have recently come to the forefront as issues of concern for victims. While a number of third party cases involving alcohol-related death or injury have fallen under municipal liability, most have been directly concerned with liquor liability, or "dram shop" statutes. Such liability exists in many states either by statute or under common-law doctrine. New legislation is increasingly being proposed to revise or curtail such provisions.

In recent years there has been expanded use of dram shop action in response to the high incidence of alcohol-related traffic fatalities. An early case opening the way for expansion of common-law negligence was *Rappaport v. Nichols*, 156 Atlantic 2nd, 1 (1959) in New Jersey. This case resulted in a ruling the states could find liability without a statute. A second New Jersey case broadened liability substantially in 1984 by finding liability of social hosts for drinking guests. *Kelly v. Gwinnell*, 476 Atlantic 2nd, 1219 (1984).

Through litigation and legislative activity, the number of states with either case law or statute providing for dram shop liability has risen dramatically. According to the National Highway Traffic Safety Administration, 42 states now have some form of liability precedent. The number of dram shop lawsuits in America has tripled in the last three years. Damages awarded typically exceed \$100,000.

While dram shop provisions vary from state to state, they generally include either or both of two main elements: serving alcohol to a minor and/or serving alcohol to an obviously intoxicated person, or serving a person to the point of intoxication.

Under a grant from the National Institute of Alcohol Abuse and Alcoholism, the Model Dram Shop Act of 1985 was drafted by the Prevention Research Center in California. This model act addresses responsible business practices and defenses as server negligence and liability, reckless service of alcoholic beverages, and damages. The model act has been introduced in several states.

## OTHER MODEL LEGISLATION

In addition to the model statutes cited throughout this text, the Office for Victims of Crime, working with technical assistance from the National Association of Attorneys General (NAAG), made the following recommendations for state

legislation:

*Bail reform:* states are urged to consider enacting versions of the federal Bail Reform Act of 1984, which allows courts to deny bail to persons found by clear and convincing evidence to present a danger to the community, and gives the governor the right to an expedited appeal of adverse bail determinations. It also requires defendants to refrain from criminal activity as a mandatory condition of release, and reverses, in the case of serious crimes, any standard that presumptively favors release of convicted persons awaiting sentence or appealing their convictions.

Another approach taken by some states is to adjust or deny bail when the accused is dangerous to the specific victim or the victim's family members. The state of Texas addressed this issue in its Bill of Rights for Victims of Crime in 1985. Under the statute, the court must take into consideration the safety of the victim or the victim's family in setting bail. Many localities make it a standard condition of release that the defendant stay away from the complaining witness or face having the release revoked.

*Sentencing reform:* the federal Sentencing Reform Act of 1984 restricts parole and mandates guidelines to limit judicial discretion in sentencing, seeking less disparity in sentencing like offenders for like offenses, and greater certainty in the actual time a criminal serves, commonly known as "truth-in-sentencing." States are urged to consider establishing guidelines to similarly restrict judicial discretion.

*Hearsay:* victims frequently are required to return to court again and again to testify at pre-trial proceedings as well as at trial. The model statute developed by the Office for Victims of Crime allows a victim's testimony to be presented by affidavit or through an appropriate law enforcement officer at certain preliminary hearings, as is already the practice in many states.

## **RAPE EXAM PAYMENT**

Legislation has been enacted in thirty-seven states to keep rape victims from having to pay for medical exams that may have some therapeutic value to the victim but whose primary purpose is to collect forensic evidence that a rape was committed.

The rape exam is paid for by the jurisdiction in which the rape occurred in: Arizona, California, Kansas, Louisiana, Maine, Minnesota, Mississippi, Nevada, Ohio, South Dakota, Virginia, and Wyoming. Compensation pays for rape exams in: Colorado, Florida, Indiana, North Dakota, Oklahoma, Pennsylvania, Utah, Washington, and Wisconsin.

The exam is paid for through a social service organization in Iowa, Missouri, Rhode Island, and Vermont. The exam is paid for by doctors or by a hospital, to be reimbursed by the state in: Arkansas, Illinois, Maryland, New Hampshire, New Mexico and South Carolina. It is financed by a law enforcement agency requesting it in: Idaho, Montana, Oregon, and Texas.

In Kentucky, the exam is paid through the Attorney General's office, and in North Carolina, a sexual assault service fund pays for the exam. Note that some local governments may cover the cost, even though the state may not have legislated this policy. The District of Columbia pays for rape exams that are performed at certain hospitals.

## **GUILTY AND MENTALLY ILL**

After the shooting of President Reagan in 1981, many people believed that his assailant "got off easy" by successfully pleading not guilty by reason of insanity. In response, sixteen states abolished the insanity defense in favor of "guilty and [or "but"] mentally ill" whereby the offender is sentenced to a prison term but is first sent to a mental institution for treatment; if successful, the treated offender is remanded to the corrections department to complete the balance of the sentence.

In Oregon, the psychiatric review board is given supervision of the offender equal to that of the corrections department. The states having "GMI" laws are: Alaska, Delaware, Georgia, Idaho, Illinois, Indiana, Kentucky, Mississippi, New Mexico, Oregon, Pennsylvania, South Carolina, South Dakota, and Utah.

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## **SEXUAL ASSAULT DEFINITION**

At the urging of victim advocates, all state legislatures in the past two decades have revised their sexual laws. The common theme is to expand the definition of the proscribed conduct and call all such acts by the generic term "sexual assault," often dropping the term "rape" altogether.

Three additional themes characterize this reform movement: (1) Is the statute non-gender specific? In thirty-seven states, the language of the sexual assault code is gender-neutral. (2) Does it include penetration with any object as sexual assault? Forty-three states now call such penetration with an object a rape or a sexual assault. (3) Is it tiered into degrees of sexual assault? This type of statute usually refers to the degrees of force involved in the assault. Thirty-three states break the code down into degrees.

States that include all three elements: Alaska, Colorado, Connecticut, Delaware, Florida, Hawaii, Indiana, Iowa, Louisiana, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Texas, Washington, Wisconsin, and Wyoming.

States that include non-gender specific language and penetration with an object: Arizona, California, Idaho, Illinois, Mississippi, Nevada, Tennessee, Utah, and Virginia.

States that include non-gender specific language and tiered degrees of force: South Dakota and West Virginia.

States that include penetration with an object and tiered degrees of force: Arkansas, Maryland, New Jersey and North Dakota.

The state that includes only non-gender specific language: Pennsylvania.

States that include only penetration with an object: Kansas, Maine, New Mexico, Oregon, and Vermont.

States that include only tiered degrees of force: Alabama and Missouri.

## **LAW ENFORCEMENT TRAINING IN VICTIM ISSUES**

An increasing number of states now mandate a certain level of pre-service and in-service training of all law enforcement officers, and some specify topics for such training. Of special interest here is mandatory training on the topics of sexual assault, domestic violence, and child abuse as well as general victim issues.

In Virginia and South Carolina, law enforcement training is mandated, and it is the policy of the state agency implementing the mandates that there be training in victim issues. Tennessee mandates specific training in the handling of child abuse cases, Ohio in dealing with sexual assault cases, while California, Wisconsin, and Wyoming require training in the handling of domestic violence cases.

Many states require all lawyers (including prosecutors and judges) to take "continuing legal education" courses every year, while Montana and New York specifically mandate such training for prosecutors. The states with one form or another of law enforcement training in victim issues are: Alaska, California, Connecticut, Florida (BOR), Minnesota, Montana (statute and BOR), New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Wisconsin, and Wyoming.

## **WARRANTLESS ARREST IN MISDEMEANOR DOMESTIC VIOLENCE SITUATIONS**

Thirty states now authorize police officers to make an arrest for a misdemeanor assault in domestic violence cases on the basis of probable cause alone, without having witnessed the assault or having an arrest warrant.

This is a change in the once-universal rule that the officer could make a "warrantless" arrest only if there was probable cause that a felony had been committed. In misdemeanor cases, an arrest was lawful only if the crime was committed in the officer's presence.

Among the states altering this rule, some authorize what is a kind of citizen's arrest, giving the officer authority to make the arrest if the victim requests it. The states authorizing warrantless arrests in misdemeanor domestic violence cases are: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Vermont, Virginia, Washington, Wisconsin and Wyoming. In Ohio, the victim must sign a statement alleging that abuse has occurred (which is close to the old rule that no arrest can be made unless the victim "swears out a complaint").

### **MANDATORY ARREST IN DOMESTIC VIOLENCE SITUATIONS**

Ten states have gone further than warrantless arrests in dealing with the officer's arrest powers in domestic violence cases — they mandate that, if probable cause exists, the arrest must be made. This effectively shifts the burden of deciding whether to arrest from the victim -- who frequently fears retaliation for pressing such charges — to the officer.

Iowa goes even further in that it prohibits a prosecutor from arriving at a disposition, either through a plea bargain, referral to a substance abuse or batterers' counseling program, or simply dropping charges without judicial review. It should be noted that more and more prosecutors are choosing to adopt a strict or modified "no-drop" policy in the prosecution of such cases.

States with the mandatory arrest laws are: Connecticut, Iowa, Louisiana, Massachusetts, Minnesota, Nevada, Oregon, Rhode Island, Washington, and West Virginia.

### **MARITAL RAPE**

Through most of American history, laws defining the crime of rape specifically exempted husbands from its provisions. The following states have abolished that exemption altogether: Alabama, Alaska, Arizona, California, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Hawaii, Illinois, Kansas, Maine, Massachusetts, Michigan, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. All the other states have limited the exemption in one or more of the following ways: the exemption does not apply if the parties are living apart, or at least one party has initiated divorce or separation proceedings, or the exemption applies only in certain degrees of sexual assault.

Prosecution for marital rape can be initiated if the parties are separated in: Colorado, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Montana, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, and Utah.

### **HATE VIOLENCE**

Forty-four states and the District of Columbia have adopted legislation criminalizing violence motivated by racial or religious hatred; Nebraska has only a civil cause for action.

While some of the laws date back many decades to when the Ku Klux Klan terrorized blacks, Jews, and Catholics, the recent resurgence of hate-motivated arson, bombings, personal threats, cross burnings, assaults, anti-gay and lesbian violence, and other acts of terrorism have caused a number of legislatures to write new or revised hate-crime laws.

There are three groups of laws in this category. One criminalizes broadly-defined acts which interfere with constitutional or civil rights based on race, color, creed, religion, national origin, or sex. These states are: California, Colorado, Connecticut,

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D.C., Idaho, Illinois, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Washington, and Wyoming. Massachusetts' law has been interpreted as specifically including anti-gay violence. Both California and Wisconsin provide for increased penalties for anti-gay violence. Connecticut and Minnesota mandate the collection of statistics on anti-gay violence and other crimes of bias. And there are bills pending that would address anti-gay violence in New York and Michigan.

A second group of laws concerns the intentional desecration of religious places of worship, cemeteries, or property. These include: Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

The third group is the willful disruption of religious gatherings, wearing hoods or masks for other than entertainment purposes, and preventing persons from practicing their religion: Arkansas, California, Connecticut, the District of Columbia, Florida, Idaho, Illinois, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Mexico, New York, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, and Wisconsin.

Paralleling many of these criminal laws are statutes giving victims a civil cause of action against perpetrators of hate violence.

## **ELDERLY ABUSE/PROTECTIVE SERVICES**

Most states have enacted adult protective service programs much like the child protective service systems aimed at having cases of suspected abuse reported (with certain professions named as "mandatory reporters"), investigated, and prosecuted in civil or criminal proceedings.

Some are designed to be protective of all dependent or vulnerable adults. These states are: Arizona, Arkansas, Colorado, Delaware, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, New Hampshire, New Mexico, New York, South Carolina, South Dakota, Tennessee, Utah, Washington, West Virginia, and Wyoming.

Some address generally the category of elderly or older adults. These states are: Florida, Idaho, Maine, Massachusetts, Montana (and disabled adults), Nebraska, North Dakota, Utah, Wisconsin, and Wyoming.

Others are limited to such adults over a specified age (typically 60 or 65): Alaska, California, Connecticut, Hawaii, Illinois, Missouri, Nevada, New Jersey, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, Texas, Vermont, and Virginia.

Some have statutes that protect dependent or vulnerable adults and have some age specification. They are: Arizona, Colorado, Delaware, Maine, Nebraska, New Mexico, North Dakota, Pennsylvania, Tennessee, Utah, and Wyoming.

Other statutes focusing on elderly victims include special provisions in victims' bills of rights (such as speedy trials when the victim is elderly), registries of abusers, hotlines, the use of nursing home and other ombudsmen, and enhanced criminal penalties for crimes committed against the elderly. Arkansas has statutes providing for protection from and reporting of abuse, enhanced criminal penalties, a registry and hotline. Georgia has statutes providing for long-term care abuse reporting and an ombudsmen to make sure these rights are carried out.

## **CHILD ABUSE REPORTING**

While most child abuse laws are similar — with provisions for reporting, investigating, and prosecuting in civil and criminal courts — states differ in who is named a mandatory reporter of suspected abuse. All fifty states and the District of Columbia name members of certain professions, such as licensed teachers, medical staff, police officers, and child care workers.

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Twenty states mandate that anyone who suspects such abuse must report. These states include: Connecticut, Delaware, Florida, Idaho, Indiana, Kentucky, Maryland, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Utah, Vermont and Wyoming.

Although Montana provides that a mandated reporter who fails to report is subject to civil damages, the following have criminal penalties for failure to report: Alabama imposes a six month jail sentence or a fine of not more than \$500; Arkansas imposes a \$100 fine and up to 5 days in jail; California imposes up to six months in jail, a fine of \$1000, or both; Louisiana imposes a fine of not more than \$500 or up to six months in jail, or both; Massachusetts imposes a fine of not more than \$1000; New Mexico imposes a fine between \$25 and \$100.

Most states provide immunity from civil damages for those who report in good faith.

## **"TORT REFORM"**

Many forms of liability insurance have become expensive in recent years, with medical malpractice coverage in some parts of the country costing certain kinds of physicians over \$200,000 a year. These economic trends have given rise to what has been called an insurance crisis, and the liability insurance industry, often in teamwork with the professions most affected by high judgments in tort suits and high malpractice insurance premiums, have sought legislative relief under the banner of "tort reform".

That term is put in quotes because opponents of the legislative proposals dispute the connotation that these "reforms" are needed or desirable. Among the opponents of the changes are some victim activists groups who are working for improved redress for crime victims in the civil and criminal justice systems alike, and who therefore are hostile to "reform" efforts that seek as their primary goal to reduce the size of jury awards to victim/plaintiffs.

In fact, court challenges in 1988 to a number of "tort reforms," typically grounded on the proposition that there was no "insurance crisis" and thus no need to restrict traditional methods of recovering damages, were at least partially successful in Alaska, Kansas, Oklahoma, Texas, and Wyoming, while similar challenges were unsuccessful in California, Delaware, Maryland, New York, and Wisconsin.

The chart in the next section displays the three principle methods of instituting the change favored by the insurance industry, as well as a catch-all category covering changes in the states' insurance laws advocated by victim groups and others.

The first category, on "joint and several liability," describes laws aimed at abolishing or curtailing the legal doctrine that all defendants — even ones with a small share of the blame — are fully responsible for all the damages they are found liable for.

Thus, if a person is hurt by a negligent (and penniless) driver of a badly engineered car, and both the driver and manufacturer are found liable, the plaintiff could recover all the damages from the party with the so-called "deep pockets," here the manufacturer. A common method of limiting this practice is to get juries to estimate the level of contribution of each negligent party had and then limit their share of the damages to the same level. Thirty states have made these or similar changes.

In the next category, the aim of capping "non-economic" damages is to fix a ceiling on the amount a plaintiff can recover for "pain and suffering." These damages are designed to recompense for this form of harm victims suffer, and they have also served the practical purpose of getting awards above the actual or projected costs of the tort to the victim so that, after the plaintiff's attorney has taken his or her contingency fee from the award, there is enough left to "make the victim whole." Eighteen states have instituted caps on such damages.

The third category shows laws seeking to limit punitive damages, which are another traditional method of getting damage awards above pure economic losses. They are awarded when juries are convinced that the defendant's conduct was so reckless that it deserves to be punished. As it happens, some of the most celebrated cases whereby crime victims successfully sued "third parties" for their contributions to their victimizations involved very substantial punitive damages, and these awards may have had a "crime prevention" effect. Some observers believe, for example, that hotels have made their premises far safer for their



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guests because of the large punitive damages awarded to the singer Connie Francis by a hotel that was easy for her assailant to break into.

Twenty-four states have limited punitive damages.

## AIDS LEGISLATION

"First, a stark dose of reality: Rapists don't use condoms. They don't follow the surgeon general's guidelines for safer sex." Ellen Goodman, *Boston Globe*, October 19, 1988.

Ms. Goodman's opening sentence of a column on AIDS testing of suspected or convicted rapists underscores the fear and anguish that shapes the intense debate over the appropriate way to deal with AIDS as an issue for victims and victim services. That debate is only a small part of a more global concern in developing policies and laws to manage the AIDS epidemic. By the end of May, 1988, the AIDS Policy Center reported that approximately 580 new pieces of legislation had been introduced in 41 states, and that 25 of the states in session had enacted over 55 new AIDS laws. As the Center's charts demonstrate (see next section), most do not deal directly with the impact of AIDS policies on victims. Only six states — Illinois, Oregon, Washington, Indiana, Georgia, and South Carolina — have passed laws that require convicted rapists to be tested for the AIDS virus. Two states, Texas and Colorado, allow testing before conviction. However, most observers see legislation governing AIDS testing of sex offenders as a trend. But it is not a trend without controversy.

The controversy is multi-faceted. A threshold question revolves around mandatory testing of anyone for AIDS. Those who argue against such testing do so on several grounds. First, forcible testing is an invasion of privacy and thus of civil liberties. This argument is strongest when applied to individuals accused rather than convicted of a crime. This country's legal system is based on the precept that a person is innocent until proven guilty. The suggestion that one forcibly test a suspect controverts that presumption.

And some argue that preserving privacy, confidentiality, and free choice in AIDS testing is an essential, practical way to cope with the public health crisis — that without these efforts of protection, high-risk populations will avoid testing procedures and thus endanger more people. Such advocates resist creating any exceptions to this general policy of voluntary, private testing.

On the other hand, it is constitutional to take a blood sample or do other intrusive procedures if the results might produce evidence linking the suspect to a serious crime or even a lesser infraction, like driving under the influence; but the evidentiary value of testing suspects for AIDS is non-existent, since even when both victim and suspect test positive, there is no scientific link of cause and effect that can be shown in these findings.

Similarly, it is constitutional to require everyone undertake some obtrusive procedures like vaccinations to protect the public health. Whether the public health policy might be invoked to protect jail or prison populations is uncertain, but even if adopted, it is possible that the knowledge of such infection might be confined to the inmate and his custodians, not the complainant in a criminal case.

Second, positive HIV testing can result in discrimination in all aspects of everyday life. While confidentiality concerning the results may be mandated, it is never guaranteed.

Third, there is no absolute certainty in test results. A negative HIV test does not mean that the person tested does not carry the virus. The lag time between the time of infection and the time antibodies develop is lengthy. Most counselors of high-risk populations and of sexual assault victims urge that testing be repeated over a period of months or even years to provide any degree of assurance that the virus is not present. Note: there is no evidence at this point that victims of sexual assault should be considered "high-risk" populations.

Those who support mandatory testing of some individuals — particularly those who are accused or convicted of certain sex crimes — may differ in their approaches. The arguments for testing individuals who are convicted of rape include: the victim's right to know outweighs the accused or convicted rapist's right to privacy; many convicted rapists are recidivists and

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testing may be important in preventing the spread of AIDS in jail or prison or after release; and the victim's need to know because of the possibility of transmitting the disease to a loved one should not be overlooked.

Those who advocate testing individuals merely accused of sexual assault argue that a majority of individuals arrested for rape are, indeed, found guilty of rape at a later stage. Some individuals believe that a sexual assault performed while the assailant has knowledge that he may carry the AIDS virus should be considered a greater crime, perhaps even a sexual assault and attempted murder. If the assailant is not tested at the time of the arrest, then it becomes impossible to know whether the enhancement of the crime should be charged, since the defendant could argue, for example, that he contracted the disease while awaiting trial.

Even if the threshold question is resolved in favor of testing of either convicted or accused rapists, there is a second critical question. Should the victim be told the results? If he or she wants to know and asks, some say she has a right to know. But what if he or she doesn't want to know, is it reasonable to argue that the victim should still be told if the test is positive as a public health precaution? Again, the issues that center around the lack of certainty of the test results become problematic.

Other questions that muddy the waters on these issues include: if it is determined that the victim should be told, who should tell him or her? Should the rape victim be automatically tested for HIV antibodies when he or she undergoes a rape exam in the same manner other sexually-transmitted diseases are tested for? If it is determined that the victim should be tested, or wants to be tested, who should pay for the test?

There will be no quick resolution of these issues, but victim advocates should be aware that state legislation on such questions will surely affect their services in the future. In South Carolina, for instance, the statute provides for the prosecutor to notify the victim of the results of HIV tests of the offender. This will mean that local victim advocates will be providing that notification and will surely call for special training in the area. The South Carolina law reads as follows:

"SECTION 17. Article 7, Chapter 3, Title 16 of the 1976 Code is amended by adding:

" Section 16-3-740. Within fifteen days of the conviction of any person for a crime involving sexual battery as defined in Section 16-3-651 or sexual conduct as defined in Section 16-3-800, if the conduct results in the exposure of the victim to blood or vaginal or seminal fluids of the convicted offender, the solicitor shall require that the convicted offender be tested for Human Immunodeficiency Virus (HIV), the virus that causes Acquired Immune Deficiency Syndrome (AIDS). The test must be administered by the local public health authority or the medical professional at the prison where the convicted offender is imprisoned. The results of the test must be reported to the South Carolina Department of Health and Environmental Control and to the solicitor who ordered the test. The solicitor shall notify the victim and the convicted sexual offender of the test results. The convicted offender shall pay for the test unless he is indigent, in which case the cost of the test must be paid by the State."

Finally, a policy question of great concern to state legislatures is whether a person who knows he or she is HIV-positive and who nonetheless engages in sexual activity without the knowledgeable consent of the sex partner is thereby committing a crime. That issue becomes starker when the sexual contact is non-consensual — that is, it is a sexual assault — or when it results in impregnating the woman, leading to the birth of a fatally-infected child. The trend here is to enact laws that criminalize these forms of potentially-lethal, reckless behavior.



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**PART TWO:**  
**LEGISLATIVE CHARTS**



Chart 1.1 — Alabama through Kansas  
SUMMARY OF STATE VICTIM LEGISLATION, 1988

Legislation by Topic:	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL	IN	IA	KS
<i>Funding:</i>																	
• For General Services (33)			X	X	X	B	X	X <sup>3</sup>		X		X		X			
• Domestic Violence (48)	X	X <sup>3</sup>	X		X	X	X	X <sup>3</sup>		X	X	X <sup>3</sup>	X	X	X	X <sup>3</sup>	X
• Sexual Assault (24)		X <sup>3</sup>			X		X <sup>3</sup>	X <sup>3</sup>	X		X <sup>3</sup>	X <sup>3</sup>		X	X	X*	
Compensation (46)	X	X	X	X	X	X	X	X	X	X	X*	X	X	X	X	X	X
Bill of Rights (45)	XR	X		X	X	X	XP	*	I	X	XR	X	X	X	XP	X	
Witness Information (44)	B	B		B	X	B	BX			B	B	B	B	B		B	X
Intimidation Protection (45)	BX	B	X	BX	X	BX		X		B	B	BX	X	X	X	B	X
Property Return (43)	B		X	BX	X	B	BX			B	B	B	B	B	X	X	X
Secure Waiting Area (31)	B			B		B				B		B		B			
Employer Intercession (36)	B	B		B		B	BX			B				BX	X	B	
Creditor Intercession (12)	B					B				B							
Speedy Trial (18)	B				X	B											
Victim Impact Statement (48)		BX	X	X*	B	B	BX	X	X	BX	BX		B	X	X	BX	X
Victim Statement of Opinion (24)			X		B	B									X		
Allocation at Sentencing (29)			X		B	BX	BX <sup>4</sup>			B	X		B	X	X		
Plea Bargain Consultation (24)			X*				B			B		B		B	X		
Court Attendance (17)	X			X	X						BX						
<i>Parole Hearing:</i>																	
• Victim Impact Statement (34)	X	BX	X	X	B	X	BX				BX		B	B		B	X <sup>3</sup>
• Allocation (30)	X			X	B	X	BX	X	I	X			B	B	X	B	
<i>Restitution:</i>																	
• General (51)	X	X	X	X	BX	BX	X	X	X	BX	X	X	BX	X	X	X	X
• Condition of Probation/ Parole/Work Release (46)	X	X	X	X	X	X	X			BX	X		B	X	X	X	X
• Mandatory (23)	X		X	X	BX			X		B		X	B			X	X

Numbers in parentheses show the number of states, plus the District of Columbia, with such laws enacted.

Key: X=Enacted I=Introduced B=Bill of Rights (R=by Joint Resolution, P=by a package of bills) BX=enacted both ways

Chart 1.2 — Alabama through Kansas  
SUMMARY OF STATE VICTIM LEGISLATION, 1988

## Legislation by

Topic:	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL	IN	IA	KS
<i>Notification:</i>																	
• Court Schedule Changes (43)	B	B		B	X	B	B			B	B	B	B	B		B	
• Pre-Trial Release (31)	B					B	B			B		B		B		B	
• Bail (27)	B					B	B			B		B		B		B	
• Plea Agreements (30)						B	B			B		B		B	X		
• Sentencing (34)		B	X		B	B	BX			B		B		B	X		
• Final Disposition (34)					X	B	BX			B		BX	B	B		B	
• Parole Hearings (31)	X	BX	X	X	B	X	X	X	I	B	BX	BX	BX	BX	X	B	X
• Pardon (27)		B					X			X	X	BX	B		X		
• Work Release (31)		B			X		X	X		B		BX	B			B	
• Prison Release (39)		X	X			B	X			BX	X	BX	B	B	X	B	
• Escape (22)			X	X	X								B	B		B	
<i>Counselor Confidentiality</i>																	
• General (2)																	
• Domestic Violence (19)	X				X		BX			X				X	X	X	
• Sexual Assault (20)	X				X		BX			X				X	X	X	
Victim Privacy Protections (22)					X <sup>4</sup>		B <sup>4</sup>		X <sup>4</sup>	X <sup>4</sup>	X <sup>7</sup>		B	X <sup>1</sup>			
Notoriety-for-Profit (41)	X	BX	X	X	X	B	BX	X		X	X	X	X	X	X	X	X
<i>Child Victim Issues</i>																	
• Children's Bill of Rights (12)					X	X		X								X	
• Videotaped/Closed Circuit Testimony/Depositions (44)	X	X	X	X	X	X	BX	X	I	X	X	X		X	X	CB	X
• Funding for Services (36)	X		X	X	X			X		X	X <sup>3</sup>	X <sup>3</sup>	X	X		X	X
• Competency (33)	X	X	X	X	CB		X	X		X		X		X		CB	
• Missing Children's Act (38)	X			X	X	X	X	X		X	X		X	X		X	X
• Extend Statute of Limitations (29)	X	X		X	X	X	X			X	X	X	X	X		CB	X
• Background Check (25)	X	X	X		X	X		X <sup>4</sup>	I	X	X			X	X	X	
• Hearsay Admissibility (31)	X	X	X	X	CB	X				X	X		X	X	X		X
• Speedy Trial (19)			X	X	X	X		CB		X						CB	
• Address Protection (19)	X	X			X	X				X		X				CB	
• Court Attendant (26)		X		X <sup>1</sup>	X	CB		CB		X		X				CB	X

Key: X=Enacted I=Introduced B=Bill of Rights (R=by Joint Resolution, P=by a package of bills) BX=enacted both ways CB=Children's Bill of Rights

Chart 1.3 — Alabama through Kansas  
SUMMARY OF STATE VICTIM LEGISLATION, 1988

Legislation by Topic:	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL	IN	IA	KS
<b>Domestic Violence:</b>																	
• Protection Orders (50)	X	X	X		X	X	B	X	X	X	X	X	X	X	X	X	X
• Mandatory Arrest (10)							X									X	
• Warrantless Arrest (40)		X	X	X	X	X	X			X	X	X	X	X		X	X
<b>Sexual Assault:</b>																	
• Marital Rape a Crime (31)	X	X	X	X	X		X	X	X	X	X	X		X			X
• Only if Parties Separated (20)						X							X		X	X	
• Rape Exam Payment (37)			X	X	X	X				X			X	X	X	X	X
<b>Sexual Assault Definitions:</b>																	
• Adds Assault with an Object (43)		X	X	X	X	X	X	X		X		X	X	X	X	X	X
• Uses Degrees of Force (33)	X	X		X		X	X	X		X		X			X	X	
• Non-gender Specific (37)		X	X		X	X	X	X		X		X	X	X	X	X	
<b>Elderly Protection (48)</b>		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
<b>Guilty/Mentally Ill (14)</b>		X						X			X		X	X	X		
<b>Police Training on Victims Mandated (19)</b>		X			X		X			B							
<b>Hate Violence:</b>																	
• Deny Constitutional Rights/ Discrimination (24)					X	X	X		X				X	X			
• Deface Religious Property (34)	X		X	X	X	X	X	X	X	X		X	X	X	X		X
• Disturb Religious Practices/ Wear Hoods (24)				X	X		X		X	X			X	X			
<b>Required Child Abuse Reporters:</b>																	
• Named Professionals (51)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
• Anyone with Knowledge (20)							X	X		X			X		X		

Numbers in parentheses show the number of states, plus the District of Columbia, with such laws enacted.

Key: X=Enacted I=Introduced B=Bill of Rights (R=by Joint Resolution, P=by a package of bills) BX=enacted both ways





Chart 1.1 — Kentucky through North Carolina  
SUMMARY OF STATE VICTIM LEGISLATION, 1988

Legislation by

Topic:

	KY	LA	ME	MD	MA	MI	MN	MS	MO	MT	NE	NV	NH	NJ	NM	NY	NC
<i>Funding:</i>																	
• For General Services (33)	X				B		X	X	X		X		X	X		X	X
• Domestic Violence (48)	X	X <sup>3</sup>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
• Sexual Assault (24)	X		X	X	X <sup>3</sup>		X					X		X <sup>3</sup>	X	X <sup>3</sup>	X
Compensation (46)	X	X		X	X	X	X		X	X	X	X		X	X	X	X
Bill of Rights (45)	X	X	X	X	X	X	X	X	X	X	X	X		X	X	XP	X
Witness Information (44)	B	BX		B	B	BX	B	B	B	B	B	B	X	B	B	B	B
Intimidation Protection (45)	B		BX	B	B	B	B	BX	B	B	B	B		BX	BX	BX	B
Property Return (43)	B	B	B	B	B	B			B	B	B	B		B	B	BX	B
Secure Waiting Area (31)	B	B		B	B	B	B		B		B	B		B	B	B	B
Employer Intercession (36)	B			BX	B	B	B		B	B	B	B		X		BX	B
Creditor Intercession (12)					B				B	B						B	
Speedy Trial (18)	B			B	B	B <sup>4</sup>	B		B		B	X	X <sup>5</sup>				
Victim Impact Statement (48)	B	B	B	BX	BX	B	B	BX	BX	X	X	X		X	BX	X	B
Victim Statement of Opinion (24)	B		B	B	B	B	B	X	B	B	X		X		B	X	
Allocution at Sentencing (29)		B	BX	X	B	B		B	BX				X		B		
Plea Bargain Consultation (24)	B					B	B			B	X			B	B	B	
Court Attendance (17)				X		B		B					X		B		
<i>Parole Hearing:</i>																	
• Victim Impact Statement (34)	X	B		BX	B	B			B			X		X	B	X	
• Allocution (30)	X	B				B			B	X	X	X	X	X			
<i>Restitution:</i>																	
• General (51)	X	X	BX	X	B	B	BX	X	BX	X	X	X	X	X	BX	X	X
• Condition of Probation/ Parole/Work Release (46)	X	BX	BX	X		BX	X	X	X	X	X	X	X	X	X	X	X
• Mandatory (23)	X	X	B			X						X			BX	X	

Numbers in parentheses show the number of states, plus the District of Columbia, with such laws enacted.

Key: X=Enacted I=Introduced B=Bill of Rights (R=by Joint Resolution, P=by a package of bills) BX=enacted both ways

Chart 1.2 — Kentucky through North Carolina  
SUMMARY OF STATE VICTIM LEGISLATION, 1988

## Legislation by

## Topic:

	KY	LA	ME	MD	MA	MI	MN	MS	MO	MT	NE	NV	NH	NJ	NM	NY	NC
<i>Notification:</i>																	
• Court Schedule Changes (43)	B	B		BX	B	B	B	B	B	B	B	B		B	B	B	B
• Pre-Trial Release (31)	B	B		B	B	B	B		B	B	B	B			B	B	B
• Bail (27)	B	B		B	B	B		B	B	B		B			B	B	
• Plea Agreements (30)	B		X	B	B	B	B	B	B	B	X			X	B	B	
• Sentencing (34)	B	B	B	B	B	B	B	B	B	B				B	B	B	
• Final Disposition (34)	B	B		B	B	B	B		B	B	B	B		B	B	X	B
• Parole Hearings (46)	BX	BX		BX	X	B		X	B	B		X	X	X	BX	X	B
• Pardon (31)	B	X	B	B	B	B			B	B		X			B	X	B
• Work Release (31)			B	BX	B	B	B		B	B					B		B
• Prison Release (39)	B	B	BX	BX	B	B	B		B	B	B	BX			BX	X	B
• Escape (22)				B	B	B			B			X			X	X	B
<i>Counselor Confidentiality</i>																	
• General (2)														X*		X*	
• Domestic Violence (19)					X	X		X			X		X	X	X		
• Sexual Assault (20)	X		X		X	X	X						X	X	X		
Victim Privacy Protections (22)			X <sup>6</sup>	X <sup>4</sup>	X <sup>4</sup>	BX	B					X <sup>4</sup>			B		
Notoriety-for-Profit (41)	X	X		X	X	BX	X	X	X	X	X	X		X	X	X	
<i>Child Victim Issues</i>																	
• Children's Bill of Rights (12)													X			X	
• Videotaped/Closed Circuit Testimony/Depositions (44)	X	X	X	X	X	X	X	X	X	X <sup>4</sup>	X <sup>7</sup>	X	X	X	X	X	
• Funding for Services (36)	X		X	X	X	X	X	X	X			X	CB	X		X	X
• Competency (33)	X		X	X			X	X	X	X	X	X	X		X		
• Missing Children's Act (38)	X	X	X	X	X	X	X		X		X	X		X		X	X
• Extend Statute of Limitations (29)			X		X	X	X					X	X	X	X		
• Background Check (25)	X	X		X			X	X				X		X			
• Hearsay Admissibility (31)	X		X	X			X	X	X			X		X		X	
• Speedy Trial (19)	B					B	B		X				X	X		CB	X
• Address Protection (19)			X <sup>4</sup>				X						X			X <sup>4</sup>	
• Court Attendant (26)	X		X			X	X	X	X			X	X			X <sup>4</sup>	X

Key: X=Enacted I=Introduced B=Bill of Rights (R=by Joint Resolution, P=by a package of bills) BX=enacted both ways CB=Children's Bill of Rights

Chart 1.3 — Kentucky through North Carolina  
SUMMARY OF STATE VICTIM LEGISLATION, 1988

Legislation by

Topic:

	KY	LA	ME	MD	MA	MI	MN	MS	MO	MT	NE	NV	NH	NJ	NM	NY	NC
<b>Domestic Violence:</b>																	
• Protection Orders (50)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
• Mandatory Arrest (10)		X			X		X					X					
• Warrantless Arrest (40)	X	X	X	X	X	X	X		X			X	X	X	X	X	
<b>Sexual Assault:</b>																	
• Marital Rape a Crime (31)			X		X	X					X	X	X	X		X	
• Only if Parties Separated (20)	X	X		X			X	X	X	X					X		X
• Rape Exam Payment (37)	X	X	X	X			X	X	X	X		X	X		X		X
<b>Sexual Assault Definitions:</b>																	
• Adds Assault with an Object (43)		X	X	X	X	X	X	X		X	X	X	X	X	X	X	X
• Uses Degrees of Force (33)		X		X	X	X	X		X	X	X		X	X		X	X
• Non-gender Specific (37)		X			X	X	X	X		X	X	X	X			X	X
<b>Elderly Protection (48)</b>	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X
<b>Guilty/Mentally Ill (14)</b>	X							X							X		
<b>Police Training on Victims Mandated (19)</b>							X			BX				X	X	X	X
<b>Hate Violence:</b>																	
• Deny Constitutional Rights/ Discrimination (24)			X		X	X	X		X		X	X			X	X	
• Deface Religious Property (34)	X	X	X	X	X			X	X					X	X	X	X
• Disturb Religious Practices/ Wear Hoods (24)		X				X	X	X	X			X			X	X	X
<b>Required Child Abuse Reporters:</b>																	
• Named Professionals (51)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
• Anyone with Knowledge (20)	X			X				X			X		X	X	X		X

Numbers in parentheses show the number of states, plus the District of Columbia, with such laws enacted.

Key: X=Enacted I=Introduced B=Bill of Rights (R=by Joint Resolution, P=by a package of bills) BX=enacted both ways



Chart 1.1 — North Dakota through Wyoming  
SUMMARY OF STATE VICTIM LEGISLATION, 1988

Legislation by

Topic:

	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
<i>Funding:</i>																	
• For General Services (33)		X	X	X	X	X	X		X	X	X <sup>3</sup>	X	X	X		X	X <sup>3</sup>
• Domestic Violence (48)	X	X	X	X	X		X <sup>3</sup>	X	X	X	X	X	X	X	X	X	X
• Sexual Assault (24)					X		X <sup>3</sup>							X			X
Compensation (46)	X	X	X	X	X	X	X		X	X	X		X	X	X	X	X
Bill of Rights (45)	X	XP	XP	X	X	X	X		XP	X	X	X	XR	X	X	X	
Witness Information (44)	B	B <sup>1</sup>	B <sup>1</sup>	B <sup>1</sup>	B <sup>1</sup>	B	B		B <sup>1</sup>	B	B	B	B	B	B	B	X <sup>6</sup>
Intimidation Protection (45)	X	B <sup>1</sup>	B <sup>1</sup>	B <sup>1</sup>	B <sup>1</sup>	B	B	X		B	B	B	B	B	B	BX	
Property Return (43)	B	B <sup>1</sup>	B <sup>1</sup>	B <sup>1</sup>	B <sup>1</sup>	B	B	X		B	B	B	B	B	B	B	
Secure Waiting Area (31)	B		B <sup>1</sup>	B <sup>1</sup> X	B <sup>1</sup>	B	B			B	B		B	B	B	B	
Employer Intercession (36)	BX	B <sup>1</sup>	B <sup>1</sup>		X	B	B			B	B	B	B	B	B	BX	B
Creditor Intercession (12)					B <sup>1</sup>		B				B	B			B		
Speedy Trial (18)	B						B	X			B	B				B	
Victim Impact Statement (48)	B	B <sup>1</sup>	B <sup>1</sup>	B <sup>1</sup> X	B	B	B	X	B <sup>1</sup> X	B	BX	B	X	B	B	B	X
Victim Statement of Opinion (24)	B	B <sup>1</sup>		B <sup>1</sup>				X	BX			B		X			
Allocution at Sentencing (29)	BX	B <sup>1</sup>		B <sup>1</sup>		B	B	X	B <sup>1</sup>	B		B		BX	B		
Plea Bargain Consultation (24)	B	B <sup>1</sup>		B <sup>1</sup>	B <sup>1</sup>	B	B	X	B <sup>1</sup>		X*				B		
Court Attendance (17)	B*		X	B <sup>1</sup> X			X	X		B	X*			B			
<i>Parole Hearing:</i>																	
• Victim Impact Statement (34)	B	B <sup>1</sup>	X	B <sup>1</sup>	X	X	B	X		BX	BX					X	X
• Allocution (30)	B	B <sup>1</sup>	X	B <sup>1</sup>	X	B	B	X		B							
<i>Restitution:</i>																	
• General (51)	X	X	X	B <sup>1</sup> X	X	B	BX	X	B <sup>1</sup> X		BX	B	B	X	B	X	X
• Condition of Probation/ Parole/Work Release (46)	X		X	X	B	X	X	X	X*	X	X	B	X	X	B	X	X
• Mandatory (23)	X							X			X	B		X	B		

Numbers in parentheses show the number of states, plus the District of Columbia, with such laws enacted.

Key: X=Enacted I=Introduced B=Bill of Rights (R=by Joint Resolution, P=by a package of bills) BX=enacted both ways

Chart 1.2 — North Dakota through Wyoming  
SUMMARY OF STATE VICTIM LEGISLATION, 1988

Legislation by

Topic:	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
<i>Notification:</i>																	
• Court Schedule Changes (43)	B	B <sup>s</sup>	B <sup>s</sup>	B	B	B	B	X	B	B	B	B	B	B	B	B	
• Pre-Trial Release (31)	B				B	B	B	X			B	B	B*		B	B	
• Bail (27)	B				B	B	B	X		B*	B	B	B*				
• Plea Agreements (30)	B	B			B	B	B	X	B	B	B		B		B		
• Sentencing (34)	B	B		B	B	B	B		B		B	B	B	B	B		
• Final Disposition (34)	B	B		B	B	B	B				B	B	B	B	B	B	
• Parole Hearings (46)	B	B		BX	X	BX	B	X	B	BX	B	B		B		X	X
• Pardon (31)	B	B	X	B	B		B		B		B	B			B	B	X
• Work Release (31)	B	X	X	B	B	B	B	X	B	X	B	B		BX	B	B	
• Prison Release (39)	B			B	B	B	B	X	B		B	B		BX	B	B	X
• Escape (22)	B	X	X	B			B	X			B	B		X			
<i>Counselor Confidentiality</i>																	
• General (2)																	
• Domestic Violence (19)		X		X	X												X
• Sexual Assault (20)		X			X					X	X						X
Victim Privacy Protections (22)	B	X <sup>4</sup>		B			X	X		X						X	X <sup>4</sup>
Notoriety-for-Profit (41)		BX	X	X	X	X	X	X	X	X	X			X		X	
<i>Child Victim Issues</i>																	
• Children's Bill of Rights (12)	X				X	X					X			X		X	
• Videotaped/Closed Circuit Testimony/Depositions (44)		X	X		CB	X	B	X	X	X	X	X				X	X
• Funding for Services (36)	X	X				X	X		X	X	X	X		X	X	X	
• Competency (33)	X		X		X	X	X	X	X	X	X			X	X		
• Missing Children's Act (38)	X	X	X		X	X	X	X	X	X	X	X	X	X		X	
• Extend Statute of Limitations (29)	X				X	X			X	X <sup>4</sup>	X			X		X	
• Background Check (25)					X	X			X	X				X	X		
• Hearsay Admissibility (31)		X	X		CB	X	X	X <sup>4</sup>		X	X	X		X			
• Speedy Trial (19)	CB				CB	X										CB	
• Address Protection (19)	CB				CB	X		X <sup>4</sup>	X					CB		CB	X
• Court Attendant (26)	X				CB	CB		B			X			CB		CB	

Key: X=Enacted I=Introduced B=Bill of Rights (R=by Joint Resolution, P=by a package of bills) BX=enacted both ways CB=Children's Bill of Rights

Chart 1.3 — North Dakota through Wyoming  
SUMMARY OF STATE VICTIM LEGISLATION, 1988

Legislation by

Topic:

	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
<b>Domestic Violence:</b>																	
• Protection Orders (50)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
• Mandatory Arrest (10)				X		X								X	X		
• Warrantless Arrest (40)	X	X	X	X	X	X		X		X	X	X	X	X		X	X
<b>Sexual Assault:</b>																	
• Marital Rape a Crime (31)	X			X	X	X						X	X	X	X	X	X
• Only if Parties Separated (20)		X	X				X	X	X	X	X						
• Rape Exam Payment (37)	X	X	X	X	X	X	X	X		X	X	X	X	X		X	X
<b>Sexual Assault Definitions:</b>																	
• Adds Assault with an Object (43)	X	X	X	X		X	X		X	X	X	X	X	X		X	X
• Uses Degrees of Force (33)	X	X	X			X	X	X		X				X	X	X	X
• Non-gender Specific (37)		X	X		X	X	X	X	X	X	X		X	X	X	X	X
<b>Elderly Protection (48)</b>	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X
<b>Guilty/Mentally Ill (14)</b>				X	X		X	X			X						
<b>Police Training on Victims Mandated (17)</b>	X	X			X*		X		X <sup>1</sup>	X			X			X	X
<b>Hate Violence:</b>																	
• Deny Constitutional Rights/ Discrimination (24)	X	X	X	X	X	X	X							X			X
• Deface Religious Property (34)			X	X	X	X	X		X	X			X			X	
• Disturb Religious Practices/ Wear Hoods (24)	X		X				X	X	X				X		X	X	
<b>Required Child Abuse Reporters:</b>																	
• Named Professionals (51)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
• Anyone with Knowledge (20)						X			X	X	X	X					X

Numbers in parentheses show the number of states, plus the District of Columbia, with such laws enacted.

Key: X=Enacted I=Introduced B=Bill of Rights (R=by Joint Resolution, P=by a package of bills) BX=enacted both ways





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## Footnotes for Chart 1: Summary of State Victim Legislation

### Numbered Footnotes:

1. Child sexual assault only.
2. Optional services.
3. By appropriation only, no legislation.
4. Sexual assault only.
5. Elderly only.

### Footnotes Noted by Asterisks:

#### Arizona:

Plea bargaining consultation for surviving families of homicide victims only.

#### Arkansas:

Victim impact statements in drunk driving cases only.

#### Iowa:

Sexual Assault Service Funding: Money is designated for sexual assault services but has not been used.

#### New Hampshire:

Funding for Services: Funding appropriated for a statewide coordinator to provide information and coordination services.

#### New York:

Counselor confidentiality restricted to social workers.

#### North Dakota:

The victim is to be notified of a right to attend the trial, but the courts still may sequester witnesses, thus nullifying the right.

#### Pennsylvania:

The authority to encourage services is vested in the Commission on Crime and Delinquency. Includes other services as defined by the Commission.

#### Tennessee:

In felony cases only.

#### Utah:

Plea participation is allowed by judicial rule.

Victim is to be notified of a right to attend the trial but the court may still sequester witnesses, thus nullifying the right.

Chart 2.1 — Alabama through Iowa  
CRIME VICTIM COMPENSATION LEGISLATION, 1988

Compensation Program Elements:	Totals (n=46)	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL	IN	IA
<b>I. ELIGIBILITY</b>																	
Intervenor	44	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X
Dependants	46	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Third Parties	41	X	X	X	X	X	X	X	X	X	X	X	X		X	X*	X
Family Exclusion	41	X			X	X	X	X	X	X	X	X	X	X	X	X*	X
• Unjust Enrichment	30	X			X			X	X	X				X	X	X	X
• Cohabitation	27	X				X*	X	X			X	X	X*	X*	X*		X*
• Children Exclusion	5												X*		X		
• Overrule in the Interests of Justice	19				X		X		X	X		X					
Drunk Driving Cases Covered	36	X	X	X	X	X	X	X*	X*		X			X	X*	X	X
Motor Vehicle Cases if Intentional	45	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X
Means Test	9									X	X						
Physical Injury Required	22	X			X*			X*		X	X			X	X	X	X
<b>2. RECOVERY</b>																	
Medical	46	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X*
Counseling	46	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X*
Disability	28	X	X		X		X	X	X		X		X		X	X	
Rehabilitation	37	X	X		X	X	X	X		X	X		X		X	X	
Attorneys' Fees	29		X*			X*		X*	X*	X*			X*	X*		X*	
Loss of Earnings	46	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X*
Loss of Support	46	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X*
Funeral Costs (x \$1000)	46	2.0	X	1.5	X*	X	X	1.5	X	2.0	2.5	X	2.5	2.5	3	X	2.5
Pain and Suffering	4												X				
Replacement Services	29	X	X		X		X		X						X*	X*	X*
Property Recovery	11	X					X*						X			X*	
Other	22	X*						X	X*		X*						
<b>3. BENEFITS</b>																	
Maximum Award (x \$1000)	45	10	25-	10	10	46	10	15-25*	20	25	10	1	10	25	25	10	10-21
Minimum Loss (x \$1)	20		40*			100*	25	100	25	100						100	
Emergency Award (x \$100)	36	5		5	no max.	10	5	5	30	10	5			no max.		5	5
Deductible (x \$1)	7		15					100								100	
Reduced by Contribution	39	X		X	X	X		X	X	X	X	X	X	X	X	X	
Denied by Contribution	46	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

\* See footnotes organized by state

Chart 2.2 — Alabama through Iowa  
CRIME VICTIM COMPENSATION LEGISLATION, 1988

Compensation Program Elements:	Totals (n=46)	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL	IN	IA
<b>4. ADMINISTRATIVE REQUIREMENTS:</b>																	
Filing Deadline (in months)	46	12	24	12	12	12	12	24	12	6	12	6	18	12	12	24	6
• Exceptions to Time Limit	33	child*			gd.csc.	gd.csc.	gd.csc.	rb'l.csc.		gs.csc.*	gd.csc.			gd.csc.	just csc.*		gd.csc.*
Report to Police Required	46	X	x	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Time Limit to Report	44	3	5	3	3	none	3	5	3	7	3	3	asap	3	3	2	1
• Exceptions to Time Limit	40	gd.csc.	rb'l.csc.	gd.csc.	gd.csc.		gd.csc.	rb'l.csc.	gd.csc.		gd.csc.	gd.csc.		gd.csc.	just csc.*	just csc.*	rb'l.csc.
Cooperation with Prosecution	42	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X
Average Time to Decide (in months)		3	3-7	2	n/a*	3	1	4-6	4	n/a	2-4		10-12	2	6-12	8-12	6
• . . . then Time to Pay (in days)		5	14	7-10	n/a*	14	10	14	10	30	14-28		42-56	14	42-56	30	5
• . . . in Emergencies (in days)		1	4	2	n/a*	30	1	1	3	15	10		n/a	14	n/a	7-14	21
Mandated Time to Pay:																	
• Normal Awards (in months)	3					3											
• Emergency Awards (in days)	3					30											
<b>5. SOURCE OF FUNDS</b>																	
Total Fund (x \$1000)**		2,413*	633*	335	325	42,700	3,189	4,100	829*	394	9,519		481*	124*	2,400	2,400	1,250
Outlays (x \$1000)**		1,021*	633*	200	n/a	42,700	3,209	1,579	829*	502	7,866		512*	33*	2,400	1,260	750
Supported by:																	
• General Revenues	19		X							X		X	X		X		
• Fines	18	X			X		X	X	X		X			X			
• Penalty Assessments	30	X		X	X	X		X	X	X	X					X	X
• Other	17	X	X*			X*	X*		X*					X*		X*	

\* See footnotes organized by state

\*\* See footnotes organized by state

Chart 2.1 — *Kansas through Ohio*  
**CRIME VICTIM COMPENSATION LEGISLATION, 1988**

Compensation Program Elements:	KS	KY	LA	MD	MA	MI	MN	MO	MT	NE	NV	NJ	NM	NY	NC	ND	OH
<b>1. ELIGIBILITY</b>																	
Intervenor	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Dependants	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Third Parties	X		X*	X	X	X	X			X	X	X	X	X	X		X
Family Exclusion	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X
• Unjust Enrichment	X		X		X				X	X	X			X	X	X	X
• Cohabitation	X	X	X	X		X*		X	X		X	X	X	X	X		X
• Children Exclusion			X*						X								
• Overrule in the Interests of Justice	X	X	X	X				X*	X*	X	X				X		
Drunk Driving Cases Covered	X	X	*		X	X	X*	X		X*	X		X	X		X	
Motor Vehicle Cases if Intentional	X	X	X	X	X	X	X*	X	X	X	X	X	X	X	X	X	X
Means Test	X	X	X			X				X	X			X*			
Physical Injury Required		X	*	X	X	X		X	X*		X			X*		X	
<b>2. RECOVERY</b>																	
Medical	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X	X	X
Counseling	X	X	X	X	X*	X	X	X	X*	X	X	X	X	X	X	X	X
Disability		X		X						X	X	X*		X	X	X	X
Rehabilitation	X	X		X	X	X	X		X	X*	X	X	X	*	X	X	X
Attorneys' Fees	X*	X*	X*	X	X*			X*	X*	X*	X*	X*		X*	X*	X*	X
Loss of Earnings	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X	X	X
Loss of Support	X	X	X	X	X	X	X	X	X	X	X	X	X	X*	X	X	X
Funeral Costs (x \$1000)	.75	2.5	2.5	1.2	2	1.5	2.25	2	2	.750	1	2.5	3	2.5	2	1.5	1.250
Pain and Suffering																	
Replacement Services	X*		X*		X	X	X					X*		X*		X*	X*
Property Recovery			X*								X*			X*	X*		
Other	X*				X*	X	X*		X			X		X*		X	X*
<b>3. BENEFITS</b>																	
Maximum Award (x \$1000)	10	25	10	45*	25	15	50	10	25	10	15	25	12.5	30*	20*	25	25
Minimum Loss (x \$1)	100*		100	100		200*	100	200				100*			100		
Emergency Award (x \$100)		5	5	10		5	50	1		5	4	15	*	15	5	1	no max
Deductible (x \$1)			100	100				200*							100		
Reduced by Contribution	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Denied by Contribution	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

\* See footnotes organized by state

Chart 2.2 — *Kansas through Ohio*  
**CRIME VICTIM COMPENSATION LEGISLATION, 1988**

Compensation Program Elements:	KS	KY	LA	MD	MA	MI	MN	MO	MT	NE	NV	NJ	NM	NY	NC	ND	OH
<b>4. ADMINISTRATIVE REQUIREMENTS:</b>																	
Filing Deadline (in months)	12	12	12	6	12	12	12	12	12	24	12	24	12	12	12	12	12
• Exceptions to Time Limit		gd.cse.	gd.cse.	gd.cse.*	gd.cse.*		chd.abs. w/in 2yr	gd.cse.		*	gd.cse.		gd.cse.	child <sup>7</sup>	justice <sup>7</sup>	under 18	
Report to Police Required	x	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	x
Time Limit to Report (in days)	3	2	3	2	2	2	5	2	3	3	5	90	30	7	3	3	3
• Exceptions to Time Limit	gd.cse.	gd.cse.	gd.cse.	gd.cse.	gd.cse.	gd.cse.		gd.cse.	gd.cse.	disabled	gd.cse.		gd.cse.	gd.cse.	gd.cse.	gd.cse.	gd.cse.
Cooperation with Prosecution	X	X	X	X	X <sup>7</sup>	X	X	X	X	X		X	X	X		X	
Average Time to Decide (in months)	1-3	7	1.5	5-7	4	3-4	2-3	6	1-5	6	3	6	12-36	4-6	3	2	4
• . . . then Time to Pay (in days)	14	30	14	90	42-56	14	42	28-42	7-14	7	21	28-35	7-14	42-56	15	14	60
• . . . in Emergencies (in days)		30	4-6	1-2		42-56	5	30	n/a	7	21-28	2	n/a	1	3	14	by case
Mandated Time to Pay:																	
• Normal Awards (in months)										.57*	6*						
• Emergency Awards (in days)										107	10						
<b>5. SOURCE OF FUNDS</b>																	
Total Fund (x \$1000)**	590	966	3,000	2,514	1,789	2,630	2,000	1,470	499	69	1,277	6,500*	580	10,500	1,000	129	18,000
Outlays (x \$1000)**	450	874	800	2,227	1,789	2,640	1,450	1,700	339	69	688	6,500*	363	11,300		129	5,480
Supported by:																	
• General Revenues		X		X	X	X	X					X	X	X	X	X	X
• Fines			X				X		X		X						X
• Penalty Assessments	X	X	X				X	X	X			X					X
• Other							X <sup>7</sup>		X <sup>*</sup>		X <sup>7</sup>	X <sup>*</sup>			X <sup>*</sup>		

\* See footnotes organized by state

\*\* See footnotes organized by state

Chart 2.1 — *Oklahoma through Wyoming*  
**CRIME VICTIM COMPENSATION LEGISLATION, 1988**

Compensation Program Elements:	OK	OR	PA	RI	SC	TN	TX	UT	VA	WA	WV	WI	WY
<b>1. ELIGIBILITY</b>													
Intervenor	X	X	X		X	X	X	X	X	X	X	X	X
Dependants	X	X	X	X	X	X	X	X	X	X	X	X	X
Third Parties	X	X	X	X	X	X	X	X	X	X	X	X	X
Family Exclusion	X		X	X	X	X		X	X	X	X	X	X
• Unjust Enrichment	X		X	X	X	X		X	X	X	X	X	X
• Cohabitation					X		*	X			X	X	
• Children Exclusion					X								
• Overrule in the Interests of Justice				X	X						X	X	X
Drunk Driving Cases Covered	X*	X*		X	X	X	X	X	X	X*	X	X	X
Motor Vehicle Cases if Intentional	X	X*	X	X	X	X	X	X	X	X	X	X	X
Means Test													
Physical Injury Required	X					X			X				X
<b>2. RECOVERY</b>													
Medical	X*	X	X	X	X	X	X	X	X	no max.*	X	X	X
Counseling	X	X*	X	X	X	X	X	X	X	X	X	X	X
Disability	X*		X	X	X	X		X		X*	X	X	
Rehabilitation	X	X*	X	X	X	X	X	X		X*	X	X	
Attorneys' Fees	*		X*	X*	X*	X*	X				X	X*	
Loss of Earnings	X	X*	X	X	X	X	X	X	X	X*	X	X	X
Loss of Support	X	X*	X	X	X	X	X	X	X	X	X	X	X
Funeral Costs (x \$1000)	1.5	2	2	no max.	2,000	1,875	3	2.5	1.5	.982	2	2	1.5
Pain and Suffering				X*		X*					X*		
Replacement Services	X	X	X*	X	X*		X*	X*	X*	X*	X*	X*	X*
Property Recovery			X*					X*				X*	
Other		X*		X*	X			X*	X*	X	X	X*	X
<b>3. BENEFITS</b>													
Maximum Award (x \$1000)	10	23	25	25	10	5*	25	25	15	*	35-50	40*	10
Minimum Loss (x \$1)		100	100*		100*	100			100				100
Emergency Award (x \$100)	5	10	10		5	5	15	10	20	*		5	10
Deductible (x \$1)					100								
Reduced by Contribution	X	X	X	X	X	X	X		X		X		
Denied by Contribution	X	X	X	X	X	X	X	X	X	X	X	X	X

\* See footnotes organized by state

Chart 2.2 — Alabama through Iowa  
CRIME VICTIM COMPENSATION LEGISLATION, 1988

Compensation Program Elements:	OK	OR	PA	RI	SC	TN	TX	UT	VA	WA	WV	WI	WY
<b>4. ADMINISTRATIVE REQUIREMENTS:</b>													
Filing Deadline (in months)	12	6	24	24	6	12	12	12*	6	12	24	12	12
• Exceptions to Time Limit	chd.abs.	gd.cse.*	child*	child*	justice*	gd.cse	under 17	justice	*			justice*	gd.cse.
Report to Police Required	X	X	X	X	X	X	X	X	X	X	X	X	X
Time Limit to Report	3	3	3	10	2	2	2	7	5	3	3	5	no lmt.
• Exceptions to Time Limit	gd.cse.	gd.cse.	gd.cse.	child*	gd.cse.	gd.cse.	under 17	bl. time	jst.cse.	r'bl. rpt.	gd.cse.	justice*	gd.cse.
Cooperation with Prosecution	X	X	X	X	X	X	X	X	X	X	X	X	X
Average Time to Decide (in months)	3	3-4	8	12	4	2-4	2-3	1-2	2-3	2-3	12	5	3
• . . . then Time to Pay (in days)	14-21	45	42	360	30	30	21-28	7-10	14	7	14	28	28-42
• . . . in Emergencies (in days)	10	7-14	30-60	n/a	14	14-21	14	3-5	21-28	n/a	n/a	3	7
Mandated Time to Pay:													
• Normal Awards (in months)													
• Emergency Awards (in days)													
<b>5. SOURCE OF FUNDS</b>													
Total Fund (x \$1000)**	813	1,500*	5,880	909	1,208	3,861	15,400	4,100	1,539*	6,300	500	1,128	75
Outlays (x \$1000)**	715	1,300*	2,000	901	1,125	3,246	16,400	400	1,687*	6,300	771	1,128	45
Supported by:													
• General Revenues		X										X	X
• Fines			X	X		X		X	X	X			
• Penalty Assessments	X	X	X	X	X	X	X	X	X	X	X		X
• Other	X*				X*	X*	X*	X*					

\* See footnotes organized by state

\*\* See footnotes organized by state



## Footnotes for Chart 2: Crime Victim Compensation Legislation

### Alabama:

1. Recovery/other: includes rape victims moving expenses
2. Exceptions to time limit to file: child sexual abuse
3. Source of funds/other: restitution

### Alaska:

1. Recovery/attorney fees: maximum \$1,875
2. Benefits/maximum award: \$25,000 general, \$40,000 multiple dependants
3. Source of funds/other: restitution

### Arkansas:

1. Eligibility/physical injury required: required, but under liberal interpretation of physical injury
2. Recovery/funeral: cap not yet established
3. Administrative: program is just starting; as of January 1988 certain information is not available
4. Source of funds/total fund/outlays: \$325,000 projected fund for FY 1988, no outlays to date

### California:

1. Eligibility/cohabitation: cohabitation with offender precludes compensation
2. Recovery/attorney fees: \$500 limit
3. Benefits/minimum loss: \$100 deductible is for wage loss only
4. Source of funds/other: restitution

### Colorado:

1. Property recovery: range \$25 to \$250
2. Source of funds/other: restitution

### Connecticut:

1. Eligibility/DUI: requires conviction
2. Eligibility/physical injury required: physical contact also qualifies
3. Recovery/attorney fees: 15% of award
4. Benefits/maximum award: \$15,000 general, \$25,000 homicide
5. Exception to time limit to report to police: within 15 days of reasonable reporting

### Delaware:

1. Eligibility/DUI: covered if assault charge filed
2. Recovery/attorney fees: 15% of award or \$1,000 maximum
3. Recovery/other: nursing home
4. Source of funds/other: restitution

### District of Columbia:

1. Attorney fees: 10% of award up to \$1,000

### Florida:

1. Recovery/other: convalescent care
2. Exceptions to time limit for filing deadline: up to two years good cause

### Hawaii:

1. Eligibility/cohabitation: if cohabitation exists, pay only out-of-pocket medical expenses
2. Eligibility/children exclusion: if cohabitation exists, pay only out-of-pocket medical expenses
3. Recovery/attorney fees: 15% over \$1,000

### Idaho

1. Eligibility/cohabitation: requires separation at time of application
2. Recovery/attorney fees: 5% of award
3. Source of funds/other: restitution

### Illinois:

1. Eligibility/cohabitation: no coverage in homicides where offender and victim shared household
2. Eligibility/DUI: requires a conviction
3. Recovery/replacement services: includes cooking and cleaning costs
4. Exceptions to time limit for filing deadline: may be extended up to one year for good cause

### Indiana:

1. Program also administers Sex Crime Victims' Services Fund which pays hospitals for rape exams and immediate medical care for sexual assault victims. 1987 payments were \$200,000
2. Eligibility/family exclusion: requires prosecution and conviction to qualify
3. Recovery/counseling: extended to include family members of homicide and sexual assault victims
4. Recovery/attorney fees: 15% of first \$5,000, 10% of next \$5,000
5. Recovery/replacement services: child care
6. Exceptions to time limits to report to police: as justice requires
7. Source of funds/other: 10% work release wages from offender

### Iowa:

1. Eligibility/cohabitation: compensation awarded after first offense if reported, after second if charges filed, after third if conviction obtained
2. Recovery/medical: \$10,000 maximum
3. Recovery/counseling: \$500 cap to non-medical providers
4. Recovery/loss of earnings: \$2,000 cap

5. Recovery/loss of support: \$6,000 cap
6. Recovery/replacement services: \$100 cap on victim's clothing used for evidentiary purposes
7. Exceptions to time limit for filing deadline: extended one year for good cause

**Kansas:**

1. Recovery/attorney fees: \$500 maximum
2. Recovery/replacement services: child care
3. Recovery/other: needed transportation
4. Benefits/minimum loss: sexual assault excluded

**Kentucky:**

1. Recovery/attorney fees: 15% of award

**Louisiana:**

1. Eligibility/third parties: in cases of domestic violence payment goes directly to provider
2. Eligibility/child exclusion: child abuse victims not eligible if offender remains in home
3. Eligibility/DUI: despite Attorney General opinion that drunk driving is a form of aggravated battery or homicide (both compensable crimes), program has made no awards to such victims because injury was not "intentionally inflicted"
4. Eligibility/physical injury required: must be threat or use of force against victim to qualify
5. Recovery/attorney fees: covers attorney fees when hearing involved in claim
6. Recovery/funeral: no cap, pay average cost based on statewide survey
7. Recovery/replacement services: child care
8. Recovery/property recovery: cover catastrophic loss of property, e.g., arson, loss of home

**Maryland**

1. Exceptions to time limits to filing deadline: extended up to two years with good cause

**Massachusetts:**

1. Recovery/counseling: provide counseling for family members affected by death of victim
2. Recovery/attorney fees: 15% of award
3. Recovery/other: necessary transportation
4. Exceptions to time limit for filing deadline: extended up to three years with good cause
5. Cooperation with prosecution: only if victim related to, or lives or has sexual relations with offender

**Michigan:**

1. Eligibility/cohabitation: payments made directly to service provider if person resides with offender

2. Benefits/minimum loss: not applied to victims retired by age or disability or to rape victims

**Minnesota:**

1. Eligibility/DUI: covers great bodily harm due to negligent use of a motor vehicle
2. Eligibility/motor vehicle/intent: see above footnote
3. Recovery/other: child care, transportation
4. Exceptions to time limit to report to police: extended for victims of child abuse and sexual assault
5. Source of funds/other: surcharges and restitution

**Missouri:**

1. Eligibility/override interest of justice: requires prosecution to override in the interests of justice
2. Recovery/attorney fees: 15% of award
3. Benefits/deductible: deductible removed for elderly victims

**Montana:**

1. Eligibility/override interest of justice: rule will not override unjust enrichment provision
2. Eligibility/physical injury required: includes offensive touching
3. Recovery/counseling: includes mental health counseling for families of homicide victim and of sexually abused minor child if charges are filed: \$500 per person with maximum of \$1500 per family
4. Recovery/attorney fees: 5% of award
5. Source of funds/other: restitution, subrogation and notoriety-for-profit collections

**Nebraska:**

1. Eligibility/DUI: requires a conviction
2. Recovery/rehabilitation: limited to \$10,000
3. Recovery/attorney fees: 5% of award
4. Source of funds/other: prison industry profits

**Nevada:**

1. Recovery/attorney fees: 10% of award
2. Recovery/property recovery: \$1,000 maximum for property essential to physical or mental health
3. Benefits/emergency award: \$400 cash or \$1,000 property essential to physical or mental health
4. Statutory mandated time of recovery/general: 15 days after final report to Board on claim
5. Statutory mandated time of recovery/emergency: 15 days after final report to Board on claim
6. Source of funds/other: notoriety-for-profit collections and bail forfeitures

#### **New Jersey:**

1. Recovery/disability: payment if totally disabled
2. Recovery/attorney fees: 15% of award
3. Recovery/replacement services: child care
4. Benefits/minimum loss: \$100 waived if victim over 60 or disabled
5. Statutory mandated time of recovery/general: within six months of complete filing

#### **New York:**

1. Eligibility/means test: applies to claims over \$2000
2. Eligibility/physical injury required: not required for counseling benefits for homicide survivors, spouses of sexual assault victims, children, or for essential personal property of the elderly and disabled
3. Recovery/medical: unlimited
4. Recovery/rehabilitation: unlimited
5. Recovery/attorney fees: \$1,000 maximum
6. Recovery/loss of earnings: \$30,000 maximum, up to \$400 per week maximum
7. Recovery/loss of support: see above footnote
8. Recovery/replacement services: limited to medically related costs
9. Recovery/property recovery: \$500 maximum
10. Recovery/other: court transportation, cost of residing at or use of domestic violence shelter
11. Benefits/maximum: see specific maximum for each type of benefit

#### **North Carolina:**

1. Recovery/replacement services: child care
2. Benefits/maximum award: \$20,000 plus \$2,000 funeral costs
3. Exceptions to time limit to filing deadline: child sexual assault
4. Statutory mandated time of recovery/general: paid within 15 days after decision
5. Statutory mandated time of recovery/emergency: paid within 15 days after decision
6. Source of funds/outlays: none so far, program just began January 1988
6. Source of funds/other: restitution, probation, subrogation

#### **North Dakota:**

1. Recovery/attorney fees: \$70 per hour
2. Recovery/replacement services: child care
3. Administrative requirements/exceptions to time limit to filing deadline: interests of justice

#### **Ohio:**

1. Recovery/replacement services: program extends a broad definition to replacement services
2. Recovery/other: dependant's economic loss in death claims

#### **Oklahoma:**

1. Eligibility/DUI: covered if Board finds actions of drunk driver to be of willful and wanton nature
2. Recovery/medical: program administers Sexual Assault Fund which pays up to \$125 per rape exam
3. Recovery/disability: covered under lost wages
4. Recovery/attorney fees: provide for costs incurred for establishing guardianship for child up to \$500
5. Source of funds/total fund and outlays: Sexual Assault Fund which funds rape exams funded by general revenue; FY '87 total fund \$84,000, FY '87 outlays \$55,000
6. Source of funds/other: restitution and interest from unused compensation funds

#### **Oregon:**

1. Eligibility/DUI: must include reckless as well as drunk driving
2. Recovery/counseling: \$10,000 maximum
3. Recovery/rehabilitation: \$3,000 maximum
4. Recovery/loss of earnings: \$10,000 maximum
5. Recovery/loss of support: \$10,000 maximum
6. Recovery/other: provide counseling benefits to family members of sexually abused children
7. Administrative requirements/exceptions to time limit to filing deadline: one year for good cause

#### **Pennsylvania:**

1. Eligibility/physical injury required: certain homicide survivors eligible for counseling
2. Recovery/attorney fees: 15% of maximum or \$50-\$75 per hour, whichever appropriate
3. Recovery/replacement services: child care
4. Benefits/minimum loss: exemptions for victims 60 years and older

#### **Rhode Island:**

1. Recovery/attorney fees: \$2,000 maximum or 15% of award
2. Recovery/pain and suffering: unlimited now, expect to see maximum established in future
3. Recovery/other: program provides broad coverage for compensable losses
4. Time limit to filing deadline: under 18 years or of unsound mind
5. Exceptions to time limit to report to police: under 18 years or of unsound mind

#### **South Carolina:**

1. Recovery/attorney fees: 10% of award
2. Recovery/funeral: currently \$1,000; expect maximum award to be raised to \$2,000
3. Recovery/replacement services: limited to out-of-pocket expenses
4. Benefits/maximum award: currently \$3,000; expect

maximum award to be raised to \$10,000

5. Benefits/deductible: \$100 waived for victims over 65 years
6. Time limit to filing deadline: can be waived in the interests of justice
7. Source of funds/other: restitution

**Tennessee:**

1. Recovery/attorney fees: 15% of award
2. Recovery/pain and suffering: up to \$2,500 for sexual assault
3. Benefits/maximum award: \$5,000 general, \$2,000 cap on drunk driving victim awards
4. Source of funds/other: bond forfeitures, privilege tax on drunk and reckless drivers

**Texas:**

1. Eligibility/cohabitation: medical costs only for victims who continue to reside with offender
2. Recovery/counseling: relatives of homicide and child victims covered
3. Recovery/replacement services: child care

**Utah:**

1. Recovery/replacement services: child care
2. Recovery/property recovery: limited to essential personal property
3. Recovery/other: transportation and moving expenses
4. Exceptions to time limit to filing deadline: interests of justice; extended four years for incest victims
5. Source of funds/other: \$100 restitution fee from DUI convictions, inmate withholding fee, interest income, subrogation

**Virginia:**

1. Recovery/replacement services: child care
2. Recovery/other: moving expenses for sexual assault victims, transportation
3. Exceptions to time limit in filing: up to two years for just cause; longer for minors

**Washington:**

1. Eligibility/DUI: requires conviction of vehicular homicide or assault
2. Recovery/medical: unlimited
3. Recovery/disability: \$20,000 maximum
4. Recovery/rehabilitation: \$5,000 maximum
5. Recovery/loss of earnings: \$10,000 maximum
6. Recovery/replacement services: home and automobile modification for disabled
7. Maximum award: \$20,000, permanent disability/homicide; \$10,000 time loss; \$5,000 disability
8. Benefits/emergency award: none but program can pay immediately upon determination of eligibility

**West Virginia:**

1. Recovery/pain and suffering: up to \$15,000 with permanent

injury

2. Recovery/replacement services: child care and other necessary services

**Wisconsin:**

1. Recovery/medical: unlimited benefits
2. Recovery/attorney fees: 10% of award
3. Recovery/replacement services: \$1,000 for crime scene clean-up
4. Recovery/property recovery: \$300 for clothing or bedding; \$200 for other property
5. Benefits/maximum award: \$40,000 plus \$2,000 funeral costs
6. Administrative requirements/exceptions to time limit to filing deadline: interests of justice
7. Administrative requirements/exceptions to time limit to report to police: interests of justice

**Wyoming:**

1. Recovery/replacement services: child care, moving, transportation
2. Recovery/other: \$100 for personal belongings taken as evidence; \$100 for families moving into shelter.



Chart 3  
"TORT REFORM"

"Tort Reform"

Categories	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL	IN	IA	KS
Joint and severable liability <sup>1</sup> (30)	X	X	X		X	X	X			X	X	X	X	X			
Caps on noneconomic damages <sup>2</sup> (18)		X			X	X				X		X	X		X		X
Punitive damages abolished or limited <sup>3</sup> ((24)	X	X			X	X				X	X			X		X	X
"Insurance Reform" <sup>4</sup> (9)					X	X										X	

	KY	LA	ME	MD	MA	MI	MN	MS	MO	MT	NE	NV	NH	NJ	NM	NY	NC
Joint and severable liability <sup>1</sup> (25)	X	X				X	X	X	X	X		X		X	X	X	
Caps on noneconomic damages <sup>2</sup> (15)				X		X	X		X				X				
Punitive damages abolished or limited <sup>3</sup> ((15)	X			X			X			X			X	X			
"Insurance Reform" <sup>4</sup> (9)				X					X	X					X		

	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
Joint and severable liability <sup>1</sup> (25)	X	X		X				X		X	X			X			X
Caps on noneconomic damages <sup>2</sup> (15)				X				X			X			X		X	
Punitive damages abolished or limited <sup>3</sup> ((15)	X	X	X	X			X	X		X			X		X		
"Insurance Reform" <sup>4</sup> (9)		X											X				

(Numbers in parentheses indicate the number of states, plus the District of Columbia, that have adopted the legislation.)

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### Footnotes to Chart 3: "Tort Reform"

1. Joint and several liability is a doctrine that requires any losing defendant in a suit to pay up to 100% of an award, whatever that party's degree of fault, if co-defendants cannot pay.

2. Non-economic damages are awarded for "pain and suffering" on top of actual economic damages which cover such costs as medical care, lost or damaged property, and lost income.

3. Punitive damages may be awarded in addition to any economic damages and for pain and suffering as a civil

punishment for egregious wrongdoing.

4. Some states have instituted reforms of the insurance industry that are supported by attorneys representing plaintiffs in tort cases. But the states that have adopted such reforms have also adopted some tort reforms supported by the liability insurance industry.

*Sources:* American Bar Association's Quality of Law Center/State Legislative Clearinghouse, *Governing* magazine, and, for definitions, *The Journal of Commerce*.

TABLE 1  
ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION

STATE	PBT Law <sup>1</sup>	Implied Consent Hand Min 1st Refusal	Ref Lic 2nd Refusal	Admin- istrative Per Se (BAC Level)	Administrative Per Se (Hand Min Licensing Action)			Illegal Per Se (BAC Level)	Pre- sumptive (BAC level)	In Vehicle		Drum Shop Law <sup>13</sup>	Legal Purch/ Sale Age for Alc Rev	STATE
					1st Offense	2nd Offense	3rd Offense			Open Con- tainer <sup>12</sup>	Anti- Consump- tion			
AL		S-90 dys	S-1 yr	N	—	—	—	0.10	0.10			Statute	21	AL
AK	X	R-90 dys	R-1 yr	Y-0.10	R-30 dys	R-1 yr	R-10 yrs	0.10	—	X		Statute	21	AK
AZ		S-12 mos	S-12 mos	Y-0.10	S-30 dys	S-90 dys	S-90 dys	0.10	0.10		X <sup>14</sup>	Statute	21	AZ
AR		S-6 mos	S-1 yr	N	—	—	—	0.10	—		X <sup>15</sup>	No	21	AR
CA		S-6 mos	S-6 mos <sup>34</sup>	A <sup>2</sup>	—	—	—	0.10	0.10	X	X	Statute <sup>16</sup>	21	CA
CO	X	R-1 yr	R-1 yr	Y-0.10	R-3 mos	R-1 yr	R-1 yr	0.10	>.05..10 <sup>17</sup>		X	Statute <sup>19</sup>	21	CO
CT		S-6 mos	S-1 yr	N	—	—	—	0.10	—			Statute <sup>19</sup>	21	CT
DE	X	R-6 mos	R-18 mos	Y <sup>3</sup>	R-3 mos	R-1 yr	R-18 mos	0.10	0.10 <sup>20</sup>			No	21	DE
DC		S-12 mos	S-12 mos	Y <sup>4</sup>	—	—	—	0.10	>0.05 <sup>20</sup>		X	Case Law <sup>22</sup>	21 <sup>21</sup>	DC
FL	X	—	S-18 mos	N	—	—	—	0.10	0.10 <sup>20</sup>	X		Statute <sup>22</sup>	21	FL
GA		S-6 mos	S-6 mos	N	—	—	—	0.12	0.10			Statute	21	GA
HI		R-12 mos	R-2 yrs	N	—	—	—	0.10	0.10 <sup>18</sup>	X	X	Case Law	21	HI
ID		S-180 dys	S-180 dys	N	—	—	—	0.10	>0.08	X	X	Statute	21	ID
IL	X	—	S-90 dys	Y-0.10	—	S-90 dys	S-90 dys	0.10	0.10	X		Statute <sup>19</sup>	21	IL
IN		S-1 yr	S-1 yr	Y-0.10	S-180 dys <sup>5</sup>	S-180 dys <sup>5</sup>	S-180 dys <sup>5</sup>	0.10	0.10 <sup>31</sup>			Statute	21	IN
IA	X	R-240 dys <sup>6</sup>	R-360 dys <sup>6</sup>	Y-0.10	—	R-1 yr	R-1 yr	0.10	—	X	X	Statute	21	IA
KS	X	S-180 dys	S-1 yr	Y-0.10	S-30 dys	S-1 yr	S-1 yr	0.10	0.10 <sup>20</sup>	X	X	No	21	KS
KY	X	—	—	A <sup>7</sup>	—	—	—	—	0.10		X	Statute	21	KY
LA		S-90 dys	S-545 dys	Y-0.10	S-30 dys	S-365 dys	S-365 dys	0.10	0.10			Possible <sup>23</sup>	21	LA
ME		S-90 dys	S-1 yr	Y-0.08	—	—	—	0.08	—			Statute <sup>19</sup>	21	ME
MD	X	—	—	N	—	—	—	—	.07..10 <sup>20,24</sup>	X <sup>25</sup>	X <sup>14</sup>	No	21	MD
MA		S-120 dys	S-120 dys	A <sup>7</sup>	—	—	—	—	0.10		X <sup>14</sup>	Case Law	21	MA
MI	X	—	S-1 yr	N	—	—	—	0.10	.07..10 <sup>17</sup>	X	X	Statute	21	MI
MN	X	—	—	Y-0.10	—	—	—	0.10	—	X	X	Statute	21	MN
MS	X	S-90 dys <sup>8</sup>	S-90 dys <sup>8</sup>	Y-0.10 <sup>9</sup>	—	—	—	0.10	—			Statute	21	MS
MO		—	R-1 yr	Y-0.13	—	R-1 yr <sup>39</sup>	R-1 yr <sup>39</sup>	0.10	—			Statute <sup>26</sup>	21	MO
MT		S-90 dys	R-1 yr	N	—	—	—	0.10	0.10	X	X	Statute	21	MT
NE	X	R-60 dys	R-6 mos	N	—	—	—	0.10	—		X	No	21	NE
NV	X	R-1 yr	R-2 yrs	Y-0.10	—	—	—	0.10	0.10		X <sup>14</sup>	No	21	NV

Source: U.S. Department of Transportation, National Highway Traffic Safety Administration, "Digest of State Alcohol-Highway Safety Related Legislation," seventh edition, current as of January 1, 1989.



TABLE 1 (continued)  
ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION

STATE	PRT Law	Implied Consent Ref		Admin- istrative Per Se (BAC Level)	Administrative Per Se (Mand Min Licensing Action)			Illegal Per Se (BAC Level)	Pre- sumptive (BAC Level)	In Vehicle		Dram Shop Law <sup>13</sup>	Legal Purch/ Sale Age for Alc Rev	STATE
		1st Refusal	2nd Refusal		1st Offense	2nd Offense	3rd Offense			Open Con- tainer <sup>12</sup>	Anti- Consump- tion			
NH	X	R-90 dys	R-1 yr	N	—	—	—	0.10	0.10 <sup>20</sup>		X <sup>15</sup>	Statute	21	NH
NJ		R-6 mos	R-2 yrs	N	—	—	—	0.10	—		X	Statute	21	NJ
NM		R-1 yr	R-1 yr	Y-0.10	R-90 dys <sup>10</sup>	R-1 yr <sup>35</sup>	R-1 yr <sup>35</sup>	0.10	—			Statute	21	NM
NY	X	R-6 mos	R-1 yr	A	—	—	—	0.10	0.07-0.10 <sup>38</sup>		X	Statute	21	NY
NC	X	R-6 mos	R-12 mos	Y-0.10 <sup>9</sup>	R-10 dys	R-10 dys	R-10 dys	0.10	—	X <sup>25</sup>	X <sup>14,25</sup>	Statute <sup>19&amp;27</sup>	21	NC
ND	X	R-1 yr	R-2 yrs	Y-0.10	S-30 dys	S-364 dys	S-2 yrs	0.10	—	X	X	Statute	21	ND
OH		—	—	A	—	—	—	0.10	—		X	Statute	21	OH
OK		—	—	Y-0.10	R-30 dys	R-1 yr	R-3 yrs	0.10	0.10 <sup>20</sup>	X	X	Case Law	21	OK
OR		S-90 dys	S-1 yr	Y-0.08	S-30 dys	S-1 yr	S-1 yr	0.08	0.08 <sup>28</sup>	X	X	Statute	21	OR
PA	X	S-12 mos	S-12 mos	N	—	—	—	0.10	—		X <sup>14</sup>	Statute	21	PA
PR	X	—	—	N	—	—	—	—	0.10			No	18	PR
RI	X	S-3 mos	S-1 yr	N	—	—	—	0.10	—		X <sup>14</sup>	Statute	21	RI
SC		S-90 dys	S-90 dys	N	—	—	—	—	0.10 <sup>36</sup>	X	X <sup>15</sup>	Possible <sup>37</sup>	21	SC
SD	X	—	—	N	—	—	—	0.10	0.10	X		No	21	SD
TN		—	—	N	—	—	—	—	0.10			Statute	21	TN
TX		—	—	N	—	—	—	0.10	—		X <sup>14</sup>	Statute <sup>32</sup>	21	TX
UT		R-1 yr	R-1 yr	Y-0.08	S-90 dys	S-120 dys	S-120 dys	0.08	—	X	X	Statute <sup>19</sup>	21	UT
VT	X	S-6 mos	S-18 mos	N	—	—	—	0.10	—		X <sup>14</sup>	Statute	21 <sup>29</sup>	VT
VA	X	S-6 mos	S-1 yr	N	—	—	—	0.10	0.10		X <sup>15</sup>	No	21	VA
WA		R-1 yr	R-2 yrs	N	—	—	—	0.10	—	X	X	Case Law <sup>19,30</sup>	21	WA
WV	X	R-1 yr	R-5 yrs	Y-0.10 <sup>11</sup>	R-90 dys	R-5 yrs	R-10 yrs	0.10	0.10 <sup>31</sup>		X	No	21	WV
WI	X	R-30 dys	R-90 dys	Y-0.10	R-15 dys	R-15 dys	R-15 dys	0.10	—	X	X	Statute <sup>16</sup>	21	WI
WY		S-6 mos	S-6 mos	Y-0.10	—	S-90 dys	S-90 dys	—	0.10			Statute <sup>33</sup>	21	WY
TOTAL 26		S - 22	S - 24	Admin	S - 7	S - 9	S - 9	.08 - 3	>.08 - 1	21	35	Case Law - 5	18 - 1	
		R - 17	R - 19	Per Se	R - 8	R - 10	R - 10	.10 - 41	.10 - 17			Statute - 35	21 - 51	
				- 24				.12 - 1	.10 or more			Possible		
									prima			Case Law - 2		
									facie - 9					

S = Suspension  
R = Revocation

Y = Yes  
N = No  
A = Alternative

TABLE 1 (continued)  
ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION

- <sup>1</sup>Preliminary Breath Test (Pre-arrest/non-evidentiary breath test) Law
- <sup>2</sup>Pre-DWI adjudication licensing action for persons who have been involved in a DWI related accident and who have had a previous DWI related vehicle homicide conviction.
- <sup>3</sup>Based on probable cause of DWI.
- <sup>4</sup>Based on sufficient evidence of DWI.
- <sup>5</sup>Suspension up to 180 days or until the DWI charges have been disposed of which ever occurs first.
- <sup>6</sup>A restricted license may be issued for an implied consent law violation provided the defendant pleads guilty to a subsequent DWI charge.
- <sup>7</sup>Alternative pre-DWI criminal adjudication licensing action by the courts.
- <sup>8</sup>License suspension for one (1) year if the driver has a prior DWI offense conviction.
- <sup>9</sup>Special provisions/procedures.
- <sup>10</sup>Applies to persons 18 years old or above.
- <sup>11</sup>Or under the influence of alcohol.
- <sup>12</sup>Laws prohibiting the possession of an open container of an alcoholic beverage in the passenger compartment of a motor vehicle.
- <sup>13</sup>Ten (10) States do not have dram shop liability.
- <sup>14</sup>Applies only to drivers.
- <sup>15</sup>Possible.
- <sup>16</sup>Applies only to the actions of intoxicated minors.
- <sup>17</sup>The lower of the two numbers is driving while impaired; the higher is driving while under the influence.
- <sup>18</sup>Competent evidence of DWI.
- <sup>19</sup>This state has a statute that places a monetary limit on the amount of damages that can be awarded in dram shop liability actions.
- <sup>20</sup>BAC level or levels which indicated prima facie evidence.
- <sup>21</sup>Persons who were 18 before 9/30/86, may continue to purchase beer and light wine (14% alcohol or less).
- <sup>22</sup>Applies only to the actions of intoxicated minors or persons known to be habitually addicted to alcohol.
- <sup>23</sup>Possible case law based upon the actions of minors.
- <sup>24</sup>The lower of the two numbers is prima facie evidence of driving while under the influence; the higher is prima facie evidence of driving while intoxicated.
- <sup>25</sup>Limited application.
- <sup>26</sup>Cause of action limited to licensees who have been convicted of the offense of selling alcoholic beverages either to minors or to intoxicated individuals.
- <sup>27</sup>The statute applies specifically to the actions of intoxicated minors, but the law does not foreclose developing case law as to other types of dram shop actions.
- <sup>28</sup>Not less than 0.08 constitutes being under the influence of intoxicating liquor.
- <sup>29</sup>Persons who were 18 as of 6/30/86 may continue to purchase alcoholic beverages.
- <sup>30</sup>Applies only to the actions of (1) intoxicated minors and/or (2) adults who have lost their will to stop drinking.
- <sup>31</sup>This state has both prima facie and presumptive evidence laws with BAC levels of 0.10.
- <sup>32</sup>Statutory law has limited dram shop actions.
- <sup>33</sup>Liability limited only to the actions of persons who are under 21 years old.
- <sup>34</sup>Rev for 2 yrs (mandatory) if a person refuses to submit to a chemical test after having been convicted of a DWI offense w/n 5 yrs.
- <sup>35</sup>Provided there is also a 2nd or sub. DWI conviction.
- <sup>36</sup>This BAC level is an inference of DWI.
- <sup>37</sup>Possible case law.
- <sup>38</sup>Prima facie evidence of impairment.
- <sup>39</sup>This revocation is mandatory only if a restricted hardship license has not been issued for a previous offense w/n 5 years.

TABLE 2  
ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION

STATE	Fine (\$) (Mandatory Minimum For a DWI Conviction)			Imprisonment (Mandatory Minimum For a DWI Conviction)			Community Service In Lieu of Jail For a DWI Conviction			License Sanction (Mandatory Minimum For a DWI Conviction)			STATE
	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	
AL	—	—	—	—	48 con hrs	60 dys	—	20 dys	—	S-90 dys	R-1 yr	R-3 yrs	AL
AK	—	—	—	72 con hrs	20 con dys	30 con dys	—	—	—	R-30 dys	R-1 yr	R-10 yrs	AK
AZ	\$250	\$500	—	24 con hrs	60 dys	6 mos	8 hrs	—	—	S-90 dys <sup>20</sup>	R-1 yr	R-3 yrs	AZ
AR	—	—	—	—	—	—	—	—	—	—	S-1 yr	S-2 yrs	AR
CA	\$390	\$375	\$390	—	48 hrs <sup>1,2</sup>	120 dys <sup>1,2</sup>	—	10 dys <sup>2</sup>	— <sup>2</sup>	—	S-30 dys	R-3 yrs	CA
CO	—	—	—	—	7 dys	7 dys	(48 hrs) <sup>18</sup>	(60 hrs) <sup>18</sup>	(60 hrs) <sup>18</sup>	—	R-1 yr	R-2 yrs	CO
CT	—	—	—	48 con. hrs	10 dys	120 dys	100 hrs	—	—	S-1 yr	S-2 yrs	S-3 yrs	CT
DE	—	—	—	—	60 dys	60 dys	—	—	—	R-90 dys	R-6 mos	R-6 mos	DE
DC	—	—	—	—	—	—	—	—	—	R-6 mos	R-1 yr	R-2 yrs	DC
FL	—	—	—	—	10 dys	30 dys	(50 hrs) <sup>18</sup>	—	—	—	R-12 mos	R-24 mos	FL
GA	—	—	—	—	48 hrs	10 dys	—	80 hrs	30 dys	—	S-120 dys	R-5 yrs	GA
HI	\$150-1000 <sup>3</sup>	—	—	48 hrs <sup>3</sup>	48 con hrs	—	72 hrs <sup>3</sup>	10 dys	—	S-30 dys	S-1 yr	R-1 yr	HI
ID	—	—	—	—	10 dys	30 dys	—	—	—	—	S-30 dys	S-1 yr	ID
IL	—	—	—	—	48 con hrs	—	—	10 dys	—	—	—	—	IL
IN	—	—	—	—	5 dys <sup>4</sup>	5 dys <sup>4</sup>	—	10 dys	10 dys	S-30 dys	S-1 yr	S-1 yr	IN
IA	\$500 <sup>6</sup>	\$750	\$750	—	7 dys <sup>7</sup>	30 dys	—	—	—	—	R-1 yr <sup>30</sup>	R-2 yrs <sup>30</sup>	IA
KS	—	—	—	48 con. hrs	5 con. dys	90 dys	100 hrs	—	—	S-30 dys	S-1 yr	S-1 yr	KS
KY	—	—	—	—	7 dys	30 dys	—	—	—	S-30 dys	R-12 mos	R-24 mos	KY
LA	—	—	—	2 dys <sup>23</sup>	15 dys <sup>23</sup>	6 mos <sup>23</sup>	4 dys	30 dys	—	—	R-12 mos	R-12 mos	LA
ME	\$300	\$500	\$750	48 con hrs <sup>17</sup>	7 dys	30 dys	—	—	—	S-60 dys <sup>24</sup>	S-1 yr <sup>24</sup>	S-2 yrs <sup>24</sup>	ME
MD	—	—	—	—	48 con hrs	48 con hrs	—	80 hrs	80 hrs	—	—	—	MD
MA	—	—	—	—	14 dys <sup>8,25</sup>	60 dys <sup>25</sup>	—	—	—	S-45 dys	R-1 yr	R-2 yrs	MA
MI	—	—	—	—	—	—	—	—	—	—	R-1 yr	R-5 yrs	MI
MN	—	—	—	—	30 dys	30 dys	—	— <sup>26</sup>	— <sup>26</sup>	—	—	—	MN
MS	\$200	\$400	\$500	—	—	—	—	—	—	S-45 dys	S-1 yr	S-1 yr	MS
MO	—	—	—	—	48 con hrs	—	—	10 dys <sup>19</sup>	—	—	R-1 <sup>21</sup>	R-1 yr <sup>21</sup>	MO
MT	—	—	—	24 con hrs <sup>9</sup>	3 dys <sup>10</sup>	10 dys <sup>10</sup>	—	—	—	—	R-3 mos <sup>29</sup>	R-3 mos <sup>29</sup>	MT
NE	—	—	—	—	48 hrs	7 dys	—	—	—	R-60 dys	R-6 mos	R-1 yr	NE
NV	—	—	—	2 dys <sup>11</sup>	10 dys <sup>12</sup>	1 yr <sup>13</sup>	48 hrs	—	—	R-45 dys	R-1 yr	R-1.5 yrs	NV

TABLE 2 (continued)  
ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION

STATE	Fine (\$) (Mandatory Minimum For a DWI Conviction)			Imprisonment (Mandatory Minimum For a DWI Conviction)			Community Service In Lieu of Jail For a DWI Conviction			License Sanction (Mandatory Minimum For a DWI Conviction)			STATE
	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	First Offense	Second Offense	Third Offense	
NH	—	—	—	—	10 dys <sup>14</sup>	10 dys <sup>14</sup>	—	—	—	R-90 dys	R-3 yrs	R-3 yrs	NH
NJ	—	—	—	— <sup>15</sup>	48 con hrs	90 dys <sup>27</sup>	—	(30 dys) <sup>18</sup>	(90 dys) <sup>18</sup>	6 mos <sup>22</sup>	2 yrs <sup>22</sup>	10 yrs <sup>22</sup>	NJ
NM	—	—	—	—	48 con hrs	48 con hrs	—	—	—	—	R-1 yr	R-5 yrs	NM
NY	\$350	\$500	\$500	—	—	—	—	—	—	—	R-1 yr	R-1 yr	NY
NC	—	—	—	—	7 dys	7 dys	—	—	—	—	R-2 yrs	R-3 yrs	NC
ND	\$250	\$500	\$1,000	—	4 dys <sup>4</sup>	60 dys <sup>4</sup>	—	10 dys	—	S-30 dys	S-364 dys	S-728 dys	ND
OH	\$150	\$150	\$150	—	10 con dys	30 con dys	—	—	—	—	—	S-180 dys	OH
OK	—	—	—	—	— <sup>28</sup>	— <sup>28</sup>	—	— <sup>28</sup>	— <sup>28</sup>	R-30 dys	R-1 yr	R-3 yrs	OK
OR	—	—	—	48 hrs	48 hrs	48 hrs	80 hrs	80 hrs	80 hrs	—	S-90 dys	S-1 yr	OR
PA	\$300	\$300	\$300	—	30 dys	90 dys	—	—	—	S-1 mo	S-12 mos	S-12 mos <sup>5</sup>	PA
PR	—	—	—	—	—	—	—	—	—	—	—	—	PR
RI	\$100	\$400	\$400	—	10 dys <sup>4</sup>	6 mos <sup>4</sup>	—	—	—	S-3 mos	S-1 yr	S-2 yrs	RI
SC	\$200	\$1,000	\$3,500	48 hrs	48 hrs	60 dys	48 hrs	10 dys	—	—	S-1 yr	S-2 yrs	SC
SD	—	—	—	—	—	—	—	—	—	—	R-1 yr	R-1 yr	SD
TN	\$250	\$500	\$1,000	48 hrs	45 dys	120 dys	—	—	—	—	R-2 yrs	R-3 yrs	TN
TX	—	—	—	—	72 hrs <sup>16</sup>	10 dys <sup>16</sup>	—	—	—	—	—	—	TX
UT	\$50	\$1,000	\$1,000	48 con hrs	240 con hrs	720 dys	24 hrs	80 hrs	240 hrs	S-90 dys	R-1 yr	R-1 yr	UT
VT	—	—	—	—	48 con hrs	48 con hrs	—	10 dys	10 dys	S-90 dys	S-18 mos	R-2 yrs	VT
VA	—	—	—	—	48 hrs	30 dys	—	—	—	—	R-2 yrs <sup>24</sup>	R-5 yrs	VA
WA	\$250	\$500	\$500	24 con hrs	7 dys <sup>4</sup>	7 dys <sup>4</sup>	—	—	—	S-30 dys	R-1 yr	R-2 yrs	WA
WV	\$100	\$1,000	\$3,000	24 hrs	6 mos	1 yr	—	—	—	N/A	N/A	N/A	WV
WI	—	—	—	—	—	—	—	—	—	S-15 dys	R-60 dys	R-90 dys	WI
WY	—	—	—	—	7 dys	7 dys	—	—	—	—	S-1 yr	R-3 yrs	WY
TOTAL	16	15	14	15	43	40	9	14	6	S - 17 R - 8	S - 17 R - 28	S - 12 R - 33	

S = Suspension  
R = Revocation

TABLE 2 (continued)  
ANALYSIS BY STATES — HIGH-INTEREST LEGISLATION

- <sup>1</sup> The 48 hours (2nd off) and 120 days (3rd off) are not necessarily served consecutively.
- <sup>2</sup> 48 consecutive hours or 10 days of community service are mandatory if the Dept. of Motor Vehicles certifies that an application for 23 USC 408 grant funds has been submitted to the U.S. Dept. of Transportation.
- <sup>3</sup> The court must sentence defendants to at least one of these sanctions but may sentence them to more than one such sanction.
- <sup>4</sup> Must serve at least 48 consecutive hours.
- <sup>5</sup> Could be 5 yrs under the habitual offender law.
- <sup>6</sup> Not more than 200 hours of community service in lieu of the fine.
- <sup>7</sup> This sentence may not be suspended; however, the statute is silent as to probation.
- <sup>8</sup> Or 14 days in a treatment facility.
- <sup>9</sup> Does not apply to illegal per se offense; this sanction only applies to "regular" DWI offenses.
- <sup>10</sup> Must serve 48 consecutive hours; does not apply to illegal per se offenses.
- <sup>11</sup> One day imprisonment or 24 hrs of community service if rehabilitation is taken.
- <sup>12</sup> 5 days if rehabilitation is taken; 48 hours must be served consecutively.
- <sup>13</sup> 48 hrs. must be served consecutively.
- <sup>14</sup> Three (3) consecutive 24 hour periods in a house of correction and seven (7) consecutive 24 hour periods in a DWI detention center.
- <sup>15</sup> Mandatory treatment of not less than 12 nor more than 48 hours; this time is to be spent in an intoxicated driver resource center.
- <sup>16</sup> As a part of probation.
- <sup>17</sup> Provided the defendant either (1) had a BAC level of 0.15 or more, (2) was driving 30 MPH over the speed and had a BAC level of 0.10 or more, (3) was eluding a police officer and had a BAC level of 0.08 or more or (4) refused to submit to a chemical test.
- <sup>18</sup> Mandatory community service regardless of whether there is a mandatory imprisonment sanction.
- <sup>19</sup> Involving at least 40 hours.
- <sup>20</sup> May not apply to certain offenders who have been suspended pursuant to the administrative per se law.
- <sup>21</sup> Applies only to intoxicated offenses; for illegal per se and admin. per se actions, a restricted hardship license may be granted provided the defendant has not received such a privilege within the passed 5 years.
- <sup>22</sup> The law states that the right to operate a motor vehicle is "forfeited."
- <sup>23</sup> Home incarceration is possible.
- <sup>24</sup> Temporary restricted license may be issued only for the purpose of attending either an alcohol education or treatment program.
- <sup>25</sup> Work release is available for this period of time.
- <sup>26</sup> In lieu of imprisonment for 30 dys, 8 hrs of community service may be substituted for each day less than 30 dys that the person would have served in jail.
- <sup>27</sup> Not more than 90 dys as an alternative to imprisonment.
- <sup>28</sup> If there is no imprisonment sanction, the defendant must serve either 48 con. hrs. of impatient rehabilitation/treatment or 10 dys of community service.
- <sup>29</sup> This revocation may not be mandatory if the defendant meets certain eligibility requirements for and does participate in a driver rehabilitation or improvement program.
- <sup>30</sup> A person may be issued a restricted license notwithstanding this revocation if certain conditions are met.

# ISSUES COVERED IN 1988 AIDS LEGISLATION

TOTAL STATES IN SESSION - 48 + DC

7 DID NOT PASS ANY AIDS LAWS

Legend:

NO 1988 AIDS LAWS  
NOT IN SESSION

This chart reflects  
data collected as  
of December 1988

	AZ	BLOOD/ORGANS	CONFIDENTIALITY	CONSENT TO TEST	CORRECTIONAL FACILITIES	COUNSELING	CRIMINAL PENALTIES	DISCRIMINATION	DISCLOSURE TO SPOUSE	FINANCING	HIV REPORTING	HIV TESTING/TESTING PROGRAMS	IMMUNITY	INSURANCE	IV DRUG USE	MEDICARE	PARTNER NOTIFICATION	PROVIDER DISCLOSURE	PROVIDER TRAINING	PRENATAL INFORMATION	PUBLIC HEALTH MEASURES	PUBLIC EDUCATION	QUARANTINE & ISOLATION	REQUIRED NOTIFICATION	REQUIRED REPORTING	SCHOOL ATTENDANCE	SCHOOL EDUCATION	TASK FORCE/COMMISSION	TESTING PRISONERS	TESTING SEX PROSTITUTES	UNLAWFUL USE	UNLAWFUL USE	UNLAWFUL USE	UNLAWFUL USE
ALABAMA																																		
ALASKA																																		
ARIZONA																																		
ARKANSAS																																		
CALIFORNIA																																		
COLORADO																																		
CONNECTICUT																																		
DELAWARE																																		
DISTRICT OF COLUMBIA																																		
FLORIDA																																		
GEORGIA																																		
HAWAII																																		
IDaho																																		
ILLINOIS																																		
INDIANA																																		
IOWA																																		
KANSAS																																		
KENTUCKY																																		
LOUISIANA																																		
MAINE																																		
MARYLAND																																		
MASSACHUSETTS																																		
MICHIGAN																																		
MINNESOTA																																		
MISSISSIPPI																																		
MISSOURI																																		
MONTANA																																		
NEBRASKA																																		
NEVADA																																		
NEW HAMPSHIRE																																		
NEW JERSEY																																		
NEW MEXICO																																		
NEW YORK																																		
NORTH CAROLINA																																		
NORTH DAKOTA																																		
OHIO																																		
OKLAHOMA																																		
OREGON																																		
PENNSYLVANIA																																		
RHODE ISLAND																																		
SOUTH CAROLINA																																		
SOUTH DAKOTA																																		
TENNESSEE																																		
TEXAS																																		
UTAH																																		
VERMONT																																		
VIRGINIA																																		
WASHINGTON																																		
WEST VIRGINIA																																		
WISCONSIN																																		
WYOMING																																		

TOTAL STATES 1 15 24 16 5 22 10 11 7 5 6 20 14 12 7 4 12 13 9 8 12 10 4 20 16 6 11 9 9 12 9 1

Source:

AIDS Policy Center, The Intergovernmental Health Policy Project, The George Washington University, December 1988



## PART THREE: LEGISLATIVE SUMMARIES BY STATE

### Definitions for Terms Used in the Captions in this Section:

#### Child Bill of Rights:

This is a list of special rights available to children in the criminal justice system that usually includes similar things as adult bills of rights but may go beyond them by including special protections.

#### Child Competency:

This reflects changes the law from age-specific definitions of competency — presuming that younger children are not qualified to give competent testimony — to a presumption that all witnesses are competent to testify regardless of age. Court will decide merits of testimony without pre-trial examination or at least without placing a burden on the party seeking to use the child as a witness to prove the child's competence.

#### Child/Court Attendant:

This usually refers to a representative provided for child to give emotional support, to act as a companion and an advocate, to explain court proceedings, and to translate legal issues. It is usually someone other than a family member. It may or may not be a guardian ad litem (a "guardian" of the child's interests during court proceedings) who is appointed by the court to protect the interests of the child and has legal standing.

#### Counselor Confidentiality:

Communication between victim counselor and the victim is privileged communication. The victim's counselor is not required to disclose such communication. The privilege belongs to the victim so that the victim may disclose those communications (or authorize the counselor to do so), while the counselor has no such right to breach the confidentiality established by law.

#### Court Attendance:

This establishes an absolute or limited right of the victim to be able to attend any court hearing in which the defendant can attend. Originally designed to allow the victim or his representative at all stages of the criminal justice proceedings, it has been limited in most jurisdictions to trial proceedings after the victim has testified.

#### Domestic Violence Protection Orders:

These are orders in the form of injunctions enforceable by criminal or civil means in domestic violence cases. Typically an order can ban an abuser from being at or near the victim's residence regardless of ownership. A short-term order can be secured quickly, but, most states then require a court hearing to establish grounds for longer-term protection.

#### Elder/Adult Abuse:

These laws address mandatory reporting issues surrounding elderly abuse, enhancement of penalties for committing crimes against an older person, and issues of protective services for older adults.

#### Employee/Background Check:

This provides for a background check on personnel who will be placed in positions where they deal with children. The check is for prior arrests for sex offenses against children or other persons. Can include a variety of professions to be screened and methods for screening.

#### Employer Intercession:

Establishes the right to have a third party to intercede with employers orally or in writing on behalf of the victim to prevent discrimination against a victim because of their victimization or their participation in the criminal justice system. Intercession done orally or in writing and may address such issues as preventing promotion, wage loss, denying benefits, loss of job, harassment, and so forth.

#### Guilty/Mentally Ill:

This kind of law provides for an offender to be found guilty of a crime but also to be determined mentally ill at the time it was committed. The offender is held responsible for the crime in spite of his mental illness. Sanctions will designate that he be placed in mental institution for length of sentence or be placed there until well, after which he will serve the rest of his sentence in prison.

#### Hate Violence:

This is violence used to express hate directed at others due to race, religion, sexual orientation, creed or gender. Specific acts may include desecration of religious symbols; the wearing of hoods or masks in public for malicious purposes; denying individuals their constitutional rights; burning or destruction of symbols or effigies.

#### Mandatory Arrest/Domestic Violence:

Police in the past have had discretionary authority to arrest if they witness a crime or if they find probable cause to believe that a felony has been committed and the suspect committed it. "Mandatory arrest" means they are required to arrest in a case of domestic violence and to do so even in cases where the degree of violence does not rise above the misdemeanor level (*See also "Warrantless Arrest," below*).

#### Mandatory Restitution:

If a victim is involved, restitution (usually full restitution for the economic caused) must be ordered unless the judge explains why not in writing.

#### Missing Children's Act:

This act establishes a central registry for missing children



that connects with a national computer system. It includes a statewide clearinghouse for public information relating to missing and exploited children.

**Notoriety-for-profit:**

These acts limit the financial profits that convicted offenders may make from the sale of the rights to their stories for movies, books, or other commercial purposes. Such profits may be directed to restituting the victim or to supporting compensation programs. However, some programs allow offenders to receive profits after victims are compensated in a civil trial.

**Plea Participation:**

This is the right of the victim to be consulted by the prosecutor on a proposed plea agreement. This right gives the victim a voice in the agreement but not a veto over the prosecutor's ultimate decision.

**Privacy/Address Protection:**

This category includes various methods that are designed to keep the victim's name and address confidential. It may address protection from the defendant, the media, or the general public.

**Property Return:**

Under these laws, property taken as evidence should be returned to the victim as promptly as possible. Some statutes set time limits for return or specifically allow for photographs to substitute for property in court.

**Protection from Intimidation:**

These laws attempt to give victims and witnesses a right to be free from harassment or threats of injury or harm from the defendant or his friends and family after the crime and during every stage of the criminal justice process. Issues that are addressed include making attempted intimidation the same level of crime as intimidation, changing the crime from a misdemeanor to a felony, and increasing the sanctions against the crime.

**Secure waiting areas:**

This is a right for the victims or witnesses to have a safe place in the courthouse where they can wait until disposition or until they finish testifying. It should be separate from defendants and their families or associates.

**Sexual Assault Definitions:**

This issue revolves around the general trend in state laws to expand sexual assault definitions to include more than the traditional definition of rape, that is, the forced penetration of the vagina by the male penis. Expansion may include unwanted sexual contact, sexual assault by an object, non-gender specific language, and removal of force and types of force from the question of consent.

**Speedy Disposition:**

This requires the court to make every reasonable effort to provide for a timely resolution of the case in which a victim

is involved. It may or may not be restricted to certain victim populations.

**Victim Impact Statement**

As originally designed, such a statement was to be prepared by an objective expert — usually a probation officer — to present to the sentencing court an assessment of the financial, medical, and emotional effects of the crime on the victim and/or the victim's loved ones. However, many victim impact laws require or permit the victim to prepare and submit the statement and to include in it opinions about the appropriate sentence, thereby making it more like a subjective statement of opinion (*see next entry, below.*)

**Victim Statement of Opinion:**

This is a written or oral statement to the court at time of sentencing giving victims or their loved ones the opportunity to express how they feel about the crime and what they feel is a just sentence for the court to impose. It is by nature a subjective statement.

**Victim/Witness Information:**

This refers to information given to the victim on the criminal justice system. It may include referrals, crime prevention, compensation, restitution, how the system works, and the status of their case.

**Videotape/Closed Circuit:**

This refers to the use of videotaped depositions or interviews that can be used in place of or in addition to a personal appearance at preliminary hearings or during the trial. Closed circuit television refers to the use of such technology during a hearing or trial so that the witness can give "live" testimony and be cross-examined but in a room other than the courtroom.

**Warrantless Arrest**

These laws permit law enforcement officers to arrest a person for a misdemeanor assault in a domestic violence case without first securing a warrant. (*See "Mandatory Arrest," above.*)

## ALABAMA

## Enacted:

**Compensation/Victim Service Funding** Code of AL, 1984,  
Sec. 15-23-1 Amend. 1986

Max. Award: \$10,000. Establishes a board that includes a victim. Other innovations: allows grants and loans to public and non-profit groups for specific activities (e.g., collection of outstanding restitution, victim services). Amendments clarify definitions, provide for fines in all felonies instead of just violent felonies.

**Compensation/Law Enforcement** Code of AL, 1984  
Sec. 36-30-2

Provides compensation, up to \$20,000, for dependents of firemen and peace officers killed in performance of their duties.

**Service Funding Domestic Violence** Code of AL, 1981  
Sec. 30-6-1 to 30-6-13 Amend. 1987

Provides for confidentiality of records. Funding for domestic violence shelters; increases the fee from marriage licenses from \$5.00 to \$15.00.

**Victim Bill of Rights Resolution** Acts of AL, 1987  
#87-78

Joint resolution provides that crime victims be: (1) Informed of case status; (2) Informed of change of custody; (3) Notified of rescheduling of court proceedings; (4) Informed of available protection from harm arising from cooperation from authorities; (5) Informed of restitution or compensation programs; (6) Provided a secure waiting area during court proceedings; (7) Have personal property returned within ten days unless needed for prosecution purposes; (8) Provided with employer and creditor intercession services; (9) Provided a prompt disposition of the case. *Not yet codified statute with like provisions introduced.*

**Court Attendance** Code of AL, 1983,  
Sec. 15-14-50 to 15-14-57 Amend. 1986

Grants victim the right to attend trials and hearings, and to sit at counsel table with prosecutor during entire proceedings. Excludes victim from rules requiring separation of witnesses.

**Parole Allocation** Code of AL, 1983  
Sec. 15-22-36(l)

Provides for open parole hearings at which victims may speak or provide their views in writing.

**Restitution** Code of AL, 1975,  
Sec. 41-9-80 Amend. 1983

Requires offenders to disclose assets and income where there is an outstanding restitution order.

**Restitution/Mandatory** Code of AL, 1980  
Art. 4A,  
Sec. 15-18-65 to 15-18-77

Establishes mandatory restitution hearing, award and payment procedures. Mandates that sentencing court shall order that restitution

be paid by convicted offenders. Provides for monitoring and enforcement of court-ordered restitution, establishes restitution centers. Victim has right to be present and to be heard during any restitution hearing.

**Restitution P/P/WR** Code of AL, 1983  
Sec. 15-22-36

States that no pardon or parole will be granted until all court ordered restitution is made.

**Restitution** Code of AL, 1983  
Sec. 15-18-75

Makes restitution a civil judgment. Allows victims to seek remedies for nonpayment of restitution orders.

**Restitution** Code of AL, 1984  
Sec. 15-18-140 to 15-18-151

Provides for court orders to garnish wages for restitution payments. Allows attachment of other income and assets of convicts on work release, parole, or probation and others with outstanding restitution payments.

**Notification/Parole Hearings** Code of AL, 1983  
Sec. 15-22-36

Requires parole board to provide advance notice of hearings and right to comment for victims. Also requires the notification of victims of violent crimes (or their families) before paroling a criminal.

**Protection from Intimidation** Code of AL, 1977  
Sec. 13A-10-123 to 13A-10-124

Prohibits intimidation of, and tampering with, a witness. Provides definitions and sanctions.

**Domestic Violence Protection Orders** Code of AL, 1981  
Sec. 30-5-1-11

Protection from family/household member abuse. Provides for protection orders, emergency relief, hearings, injunctive relief, custody determinations and other rights and services.

**Marital Rape** Case law; see 1986  
"Part One"

Marital rape exemption abolished under *Merton v. State*, 500 So. 2d 1301 (Ala. App.).

**Sexual Assault Definition** Code of AL, 1977  
Sec. 13A-6-61 to 13A-6-67

Separates rape into degrees by force and other factors.

**Child Videotaped Testimony/Competency** Code of AL, 1985  
Sec. 15-25-1 to 15-25-6

Allows videotaped deposition (with defense and prosecution present) of children under sixteen years of age to be admitted as evidence or testimony. Also establishes that, notwithstanding any rule, a child sexual assault victim is considered competent to testify.

**Child Funding**                      **Code of AL,**                      **1983**  
    **Sec. 26-16-30 to 26-16-33 Amend. 1985**

Separate fund created to encourage the direct provision of services to prevent child abuse and neglect. The funds provide the following: Educational and public informational seminars; encourage public groups and professionals to recognize the problem and learn to deal with it; make information available to child abuse organizations; encourage development of community prevention programs.

**Missing Persons Center**                      **Code of AL,**                      **1985**  
    **Sec. 26-19-2**

Creates a statewide information center to receive reports and enter information on the National Crime Information Center computer.

**Child Statute of Limitations**                      **Code of AL,**                      **1984**  
    **Sec. 15-3-1 to 15-3-5**

There is no limitation of time within which a prosecution must be commenced for any sex offense involving a victim under sixteen years of age, regardless of whether it involves force or serious injury or death.

**Child Protection/Background Check**                      **Code of AL,**                      **1985**  
    **Sec. 26-1-4**

Requires a background check for felonies on adoptive parents through the National Crime Information Center computer.

**Child Protection/Background Check**                      **Code of AL,**                      **1985**  
    **Secs. 26-20-1, & 26-16-53**

Requires employers who have supervisory responsibility over children to check with the Department of Public Safety for history of sex crimes of prospective employees. Mandates that no one may be hired by a licensed child care facility if they have been convicted of murder, rape, assault or child abuse.

**Child/Hearsay**                      **Code of AL,**                      **1987**  
    **Sec. 12-15-65**

Provides that in civil cases, an out-of-court statement made by a child under the age of twelve describing sexual acts performed on or with the child by another person shall be admissible in dependency hearings.

**Child Privacy Protection**                      **Code of AL,**                      **1985**  
    **Sec. 15-1-2**

States that the court records of a victim of child abuse under the age of eighteen years shall not be open to the public. Also limits the number of interviews for children under the age of twelve.

**Child Services**                      **Code of AL,**                      **1985**  
    **Sec. 26-16-50 to 26-16-51**

Establishes multi-disciplinary child protection teams composed of medical, state agencies, prosecutors and law enforcement personnel.

**Child Abuse Reporting**                      **Code of AL,**                      **1984**  
    **Secs. 26-14-3(a), 26-14-9, & 26-14-13**

Professional health and child care workers must report suspected cases of child abuse. Penalty for failure to report is a misdemeanor and six months or \$500 fine. Reporters are immune from liability.

**Notoriety for Profit**                      **Code of AL,**                      **1983**  
    **Sec. 41-9-80 to 41-9-84**

Prohibits offenders from benefiting from profits gained from notoriety due to crime. Profits may be seized by governor and held in trust for use and benefit of crime victims for five years.

**Counselor Confidentiality**                      **Code of AL,**                      **1987**  
    **Sec. 15-23-40 to 15-23-46**

Provides for confidential communications for victim counselors in cases of domestic violence or sexual assault.

**Hate Violence**                      **Code of AL,**                      **1982**  
    **Sec. 13A-11-12**

Any person who intentionally desecrates any public monument or structure or place of worship is guilty of a misdemeanor.

## ALASKA

## Enacted:

Compensation	AK Stats., Sec. 18.67.010 to 18.67.180	1971, Amend. 1974, 1977, 1978, 1979
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Maximum Award: \$25,000 (\$40,000 for death claim); Emergency Award: \$1,500; Source: general revenue, restitution, & supplemental appropriation.

Compensation	AK Stats., Sec. 18.67.101 to 18.67.130	1984
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Amends compensation law to specify that applicants for awards must cooperate with law enforcement and prosecutorial agents to further the prosecution and to avoid further injury or harm. Extends compensation coverage to include victims of drunk drivers of cars, boats, and planes and extends benefits to victims related to or living with offender.

Victim Service Funding/Domestic Violence	AK Stats., Sec. 18.66.010 to 18.66.900 Yearly Appropriation	1981, Amend. 1985
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Funds basic shelter and other domestic violence services with \$4.2 million state appropriation. Also exempts shelter from multiple dwelling licenses. Creates Domestic Violence Council. Amended in 1985 to extend program authorization until 1989.

Service Funding/ Domestic Violence, Child Sexual Assault	Yearly Appropriation	1985
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Makes appropriations to the Department of Public Safety Council on Domestic Violence and Sexual Assault, for a training center for the prevention of sexual abuse of minors. Not for direct services.

Victim Bill of Rights	AK Rules of Crim. Proc., Sec. 12.61.010	1984
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Establishes the following rights and services for crime victims: (1) Victim impact statement in pre-sentence investigations; (2) Information by the appropriate law enforcement agency or the prosecuting attorney of the date of trial and date of sentencing of the case in which the victim is involved; (3) Notification that a sentencing hearing or court proceeding to which a victim has been subpoenaed will not occur as scheduled; (4) Protection from intimidation, and information as to the protection available; (5) Information about compensation procedures; (6) Employer intercession; (7) Immediate medical assistance; (8) Notification and written comment (upon request) on parole decisions, work furloughs, and other post conviction discretionary release decisions; and (9) Notoriety for profit law strengthened to absolutely preclude offender's profiting.

Victim Impact Statement	AK Code of Crim. Proc., Sec. 12.55.025(A)(5)	1984
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In felony cases, a victim may provide information on the financial, emotional, and medical effects the crime had on them, and the need for restitution.

Parole VIS/ Notification of Parole	AK Stats., Sec. 33.16.120	1985
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Victim to comment in writing on parole of prisoner. Also, notification to victim of scheduled parole hearings, and the release of a prisoner on parole.

Restitution/ Condition of Probation	AK Stats., Sec. 33.05.010	1960
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Conditioning probation or suspended sentence upon reparation or restitution may be based on the offender's ability to pay.

Restitution	AK Stats., Sec. 12.55.045	1980
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Permits courts to make restitution orders a part of sentencing.

Restitution	AK Stats., Sec. 43.23.065	1985
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Allows for attachment of "permanent fund dividends" on defendant for purposes of restitution.

Notification/ Felony Release	AK Stats., Sec. 33.16.120	1985
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Victim to be notified of the release of offender. Must keep a current address on file.

Domestic Violence	AK Stats., Sec. 18.67.080(A)(4)	1984
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Expands definition of domestic abuser to blood-related parents and grandparents, as well as adoptive relationships. Redefines victim for purposes of issuing restraining orders.

Domestic Violence Protection Orders	AK Stats., Sec. 25.35.010	1980, Amend. 1982
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Victims of domestic violence may petition court for injunctive relief restraining further violence against the petitioner by the respondent.

Warrantless Arrest Domestic Violence	AK Stats., Sec. 12.25.030(3)(b)	1982
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A peace officer without a warrant may arrest a person when the peace officer has reasonable cause for believing the person has committed certain crimes, (including misdemeanors).

Sexual Assault Definition	AK Stats., Secs. 11.81.900, & 11.41.410 et seq.	1978
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Non-gender specific. Rape with an object. Tiered into degrees of sexual assault.

Marital Rape/ Domestic Violence	AK Stats., Sec. 11.41.443	1985
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Provides that a spousal relationship is not a defense against a charge of sexual assault. Expands circumstances under which police can make unwarranted arrests.

# AK

**Child Videotaping**      **AK Stats.,**      **1982**  
**Sec. 12.45.047**

Permits the state to videotape the testimony of a child sixteen years of age or younger who is the alleged victim of sexual assault.

**Child/Competency**      **AK Rules of Evidence,**      **1979**  
**#601**

All persons are competent to testify unless otherwise provided.

**Child Protection/**      **AK Stats.,**      **1984,**  
**Statute of Limitation/**      **Sec. 47.17.050**      **Amend. 1985**  
**Child Abuse Reporting/**  
**Background Check**

Omnibus legislation for the protection of children and dependant adults. (1) Extends statute of limitations for prosecution for child victims to five years after commission of crime; (2) Restricts introduction of evidence of prior sexual conduct for minors; (3) Expands list of persons who must report suspected child abuse to medical, educational and state agency child care workers; and (4) Allows state to order injunctions against allowing previous sexual offenders to be employed in professions where contact with children may occur.

**Child Protection/**      **AK Stats.,**      **1983**  
**Records Check**      **Sec. 12.62.030(a)**  
                                  **to 12.62.035, et seq.**

Provides for criminal record checks for persons who would be employed in supervisory or disciplinary positions over minors.

**Child Hearsay**      **AK Stats.,**      **1985**  
**Sec. 12.40.110**

Allows admission of hearsay evidence in cases involving children under ten years of age in certain instances.

**Child/Privacy**      **AK Stats.,**      **1984**  
**Protection**      **Sec. 47.10.090**

Court records concerning sexually or physically abused children are to be kept confidential.

**Child/Court**      **AK Stats.,**      **1982**  
**Attendant**      **Secs. 12.45.048(7)**

In the discretion of the court, an adult for whom the child has developed a significant emotional attachment who can provide emotional support for the child while the child testifies.

**Child Abuse**      **AK Stats.,**      **1984**  
**Reporting**      **Secs. 47.17.010, & 47.17.068**      **& 1985**

Reporters are immune from liability. Failure to report if mandated, is a class B misdemeanor. Expansion of mandated reporters to include school personnel, and healing arts practitioners.

**Notoriety**      **AK Stats.,**      **1984**  
**for Profit**      **Sec. 12.61.020**

Profits must be held in escrow for victims of convicted offenders who obtain a civil judgment within five years.

**Elder Abuse**      **AK Stats.,**      **1983,**  
**Sec. 47.24.010**      **Amend. 1984**  
**to 47.24.100**

Provides specific elder abuse protection (sixty-five or older).

**Guilty/**      **AK Stats.,**      **1982**  
**Mentally III**      **Sec. 12.47.030**

Defendant who lacked as a result of mental disease the capacity to appreciate his or her actions not relieved of responsibility.

**Police**      **AK Stats.,**      **1986**  
**Training**      **Sec. 47.17.022**

Employees of the state who are required to report child abuse (includes peace officers AK Stats., Sec. 47.17.020(4)) shall receive training on the recognition and reporting of child abuse and neglect.

## ARIZONA

## Enacted:

**Compensation/  
Service Funding**      **ARS,**      **1985**  
Secs. 13-812, 41-2407 to 41-2408,  
& 41-2401.01 to 41-2401.01  
AZ Criminal Justice Commission  
Rules Sec. R10-4-101 to R10-4-111

Creates programs for victim compensation and services. Maximum award: \$10,000. Emergency award: \$500. Establishes a \$100 penalty assessment on individual felonies and a \$500 penalty assessment on corporate felonies to fund the compensation program. Establishes a \$30 per month fee on all probation and parole participants to support victim service programs. Specifics on program to be determined by the Arizona Criminal Justice Commission. Note that many activities normally described as "victim rights" are listed in the service funding sections of the statute but they are not mandatory, and even if all service programs honored such "rights", there is no certainty that such programs would offer statewide coverage.

**Service Funding/  
Domestic Violence/  
Child**      **ARS,**      **1982,**  
Secs. 36-3001      **Amend. 1984,**  
to 36-3007, 12-284,      **& 1986**  
& 25-311.01

Establishes a \$10 surcharge on marriage licenses, eighty percent going to the domestic violence shelter fund and twenty percent to the child abuse prevention and treatment fund. Also, a \$12 divorce surcharge, two-thirds goes to the Department of Health Services to fund the domestic violence shelter fund, and the Department of Economic Security for child abuse prevention and treatment.

**Property  
Return**      **ARS,**      **1973,**  
Sec. 13-3941      **Amend. 1977**

States that embezzled or stolen property shall be returned to the owner.

**Witness  
Fees**      **ARS,**      **1977**  
Sec. 13-4077

Allowance of expenses for indigent witnesses to be ordered by the court and paid by the county treasurer.

**Victim Participation/  
Notification**      **ARS,**      **1982**  
Sec. 12-253

Requires victim impact statements in pre-sentence investigations for felony victims and provides for notification of sentencing proceedings, victim's right to appear.

**Oral Statement/  
Sentencing**      **ARS,**      **1982,**  
Sec. 13-702      **Amend. 1983**

The victim of any felony or the immediate family of the victim may appear personally or by counsel or submit a victim impact statement at any proceeding to present evidence or express opinions concerning the crime, the defendant, or the need for restitution.

**Restitution**      **ARS,**      **1983**  
Sec. 31-334

Court may require that work furlough earnings can be used to pay court ordered restitution.

**Restitution**      **ARS,**      **1984,**  
Sec. 13-804 to 13-810      **Amend. 1986**

Court may order fines to be imposed as restitution to be supervised by the clerk of court and paid by the defendant to any person who has suffered an economic loss. Provides for restitution lien. Civil actions may be taken. May be ordered as a condition of probation. Notification if fines are not paid. Nonpayment of fines is cause for a summons to be issued or a warrant for arrest, with possible incarceration.

**Restitution/  
Probation**      **ARS**      **1984**  
Sec. 13-901

Establishes mandatory restitution as a condition of probation.

**Restitution/  
Parole**      **ARS,**      **1984**  
Sec. 31-412

Establishes mandatory restitution as a condition of parole.

**Restitution**      **ARS,**      **1986**  
Sec. 13-603

Establishes that the court may require restitution to be paid to victims of crime.

**Restitution**      **ARS,**      **1986**  
Sec. 13-803

Establishes that court may order a fine to be allocated as restitution for offenses causing death or physical injury.

**Victim Notification/  
Participation**      **ARS,**      **1982**  
Sec. 31-411

Requires notification of parole hearing and provides for right of victim to submit written report of opinion on release of prisoner.

**Notification  
Parole/Discharge**      **ARS,**      **1987**  
Secs. 31-412(E), & 31-414(B)

The parole board shall notify the victim at least thirty days before parole or general release.

**Notification  
Release**      **ARS,**      **1987**  
Sec. 31-351      **Amend. 1988**

The State Department of Corrections shall notify the victim or the family within thirty days of the offender's release, escape, or parole.

**Protection from  
Intimidation**      **ARS,**      **1977**  
Sec. 13-2602

Threatening or intimidating a witness is a class five felony.

**Domestic Violence Protection Orders** ARS, 1980  
Sec. 13-3602

Sets forth process whereby a domestic violence victim may file a civil restraining order for protection from abuse.

**Domestic Violence/Protection Orders V/W Information/Warrantless Arrest** ARS, 1984  
Sec. 13-3601

The peace officer responding to a domestic violence call shall inform the alleged or potential victim of available resources. The officer may arrest a person, without a warrant, if the officer believes there is probable cause that a domestic violence misdemeanor or felony was committed.

**Marital Rape** ARS, 1988  
Sec. 13-1406.01

No marital exemption exists. Classified as a class 6 felony.

**Rape Exam Payment** ARS, 1978  
Sec. 13-1414

Any medical expenses for evidence in a sexual assault case shall be paid by the county in which the assault occurred.

**Sexual Assault Definition** ARS, 1985  
Sec. 13-1401

Sexual assault includes penetration with any object. The code is non-gender specific.

**Child Videotaping** ARS, 1985  
Sec. 13-4252 to 13-4253

The video recording of an oral statement of a minor is admissible evidence. The testimony of a minor may be taken in a room other than the courtroom to be televised by closed circuit equipment.

**Child Funding** ARS, 1982, Amend. 1983  
Sec. 8-550.01

Establishes the child abuse prevention fund.

**Child Funding** ARS, 1983, Amend. 1985  
Sec. 43-613

Contribution of portion of income tax refund to child abuse prevention and treatment fund.

**Child Competency** ARS, 1985  
Sec. 13-4061

In any criminal trial every person is competent to be a witness.

**Employee Background Check** ARS, 1985  
Secs. 15-1330, & 8-203.01

Personnel employed in schools and juvenile probation officers shall be fingerprinted as a condition of employment.

**Employee Background Check** ARS, 1986  
Secs. 41-1964, & 36-883.02

Child care personnel shall register and be fingerprinted in order to work in a certified day care home.

**Employee Background Check** ARS, 1985  
Sec. 46-321

Sponsors except military bases and federally recognized Indian tribes receiving federal child care food program monies from the department of education shall register with the department of education in order to receive monies. Sponsors shall require all child care personnel to be fingerprinted.

**Child Protection/Hearsay** ARS, 1984  
Secs. 8-238, & 13-1416

Provides that otherwise inadmissible statements by a minor younger than ten years of age would be admitted as evidence in a sexual crime case if: (1) the judge decided in a closed hearing that the statements are reliable, and (2) if the minor testified in person, or (3) if there was corroborative evidence.

**Child Speedy Trial** ARS, 1985  
Sec. 13-123

Any dangerous crime involving a child victim shall be accorded a speedy trial.

**Child Abuse Reporting** ARS, 1984  
Sec. 13-3620

Requires that doctors, social workers, and other professionals who have contact with children report cases of child abuse that become apparent in examinations or that are otherwise disclosed.

**Child Protection** ARS, 1986  
Sec. 25-332

In cases with evidence of spouse abuse, the court may order visitation that is in the best interest of protecting the child.

**Notoriety for Profit** ARS, 1978  
Sec. 13-4202

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

**Elderly Victims** ARS, 1984  
Sec. 13-702(d)(12)

For the purposes of sentencing, if the victim is sixty five years of age or older the crime shall be considered as aggravated.

**Elderly Abuse** ARS, 1980, Amend. 1984 & 1988  
Sec. 46-451 to 46-454

Establishes adult protective services with a duty to report abuse by medical or elderly care workers. Those who fail to report commit a class 1 misdemeanor.

**Hate  
Violence****ARS,  
Secs. 13-1504, & 13-1604****1985**

Any person who intentionally or recklessly defaces property including a place of worship is guilty of the felony of aggravated criminal damage.





# ARKANSAS

## Enacted:

**Compensation  
Reparations** ACA, 1987  
Sec. 16-90-701  
to 16-90-718

Provides method for compensating and assisting victims of crime. Provides reparations up to \$10,000. Not yet codified.

**Victim Bill of Rights/  
Service Funding** ACA, 1983  
Sec. 16-21-106

Establishes the following rights and services: (1) Notification of subpoenaed schedule changes; (2) Protection from intimidation; (3) Victim assistance in applying for financial aid, witness fees, and other social services; (4) Secure waiting areas; (5) Expeditious property return; (6) Employer intercession; and (7) Establishes funding mechanism for victim services whereby Quorum Courts can levy up to a \$5.00 court cost/fine to pay for a crime victim case coordinator. Grants prosecutors authority to establish victim/witness programs.

**Victim/Witness  
Coordinator/  
Clearinghouse** ACA, 1985  
Sec. 16-21-107

Provides position to coordinate technical assistance and support to all victims of crimes, and their families. Establishes a state clearinghouse, within the Prosecutor Coordinator's Office, to operate as an independent agency to provide direct victim services for prosecutors offices without victim/witness programs, and to coordinate and encourage the development of victim services on a statewide basis.

**Property  
Return** AR Rules of Crim. Proc., 1975  
#15.1 to 15.5;  
ACA, Sec. 5-5-101

Victim may petition for return of any items seized in an investigation.

**VIS/Drunk  
Driving** ACA, 1983  
Sec. 5-65-109

Pre-sentence reports in drunk driving cases shall include a victim impact statement.

**Court  
Attendance** AR Rules of Evid., 1986  
Rule 616

The victim and the guardian of a minor victim shall have the right to be present during any hearing, deposition, or trial of the offense, notwithstanding any provision to the contrary.

**Parole Hearings  
Notification  
Allocation/VIS** ACA, 1985  
Sec. 16-93-702 to 16-93-703

Responsibility of the prosecuting attorney to let the Board of Pardons and Parole know of the victim's interest in being notified of hearings. Victims must keep their address current with the board. If the offender was convicted of a capital murder, a class Y, class A,

or class B felony, the board shall notify the victim of right to present a written or oral recommendation to the board. Hearing must be held in other than a prison facility.

**Restitution/  
Work Release** ACA, 1968  
Sec. 12-30-406(3)

Restitution may be ordered for inmates on work release.

**Restitution/  
Probation** ACA, 1975  
Sec. 5-4-303

Provides that restitution may be a condition of probation.

**Restitution** ACA, 1975  
Sec. 5-4-104

Provides general authority to courts to order restitution.

**Restitution** ACA, 1981  
Sec. 16-90-303 & 1988

If the defendant pleads or is found guilty, the court shall order restitution in addition to a sentence and impose a mandatory judgment against a defendant.

**Restitution** ACA, 1983  
Sec. 16-90-307

Authorizes restitutionary dispositions in criminal cases, and establishes judicial authority to establish restitution funds.

**Escape  
Notification** ACA, 1985  
Sec. 12-29-114

Requires prosecutors to ask victims of violent crime, who provide a current address, if they want to be notified of offenders' escape.

**Protection from  
Intimidation** ACA, 1975  
Secs. 5-53-109, & 5-53-112

Makes intimidation of, and retaliation against, a victim or witness a felony.

**Warrantless  
Arrest** ACA, 1983  
Sec. 16-81-106 Amend. 1987

A police officer may arrest a person for a misdemeanor without a warrant if the officer has probable cause to believe that the person has committed battery in a domestic violence situation.

**Marital Rape  
Sexual Assault  
Definition** ACA, 1975  
Sec. 5-14-101 to 5-14-109

Rape includes committing forcible intercourse with any other person (including married persons). Non-gender specific. Rape with an object is included. Tiered to degrees of sexual assault.

**Rape Exam  
Payment** ACA, 1979,  
Sec. 12-12-404 Amend. 1983

Medical facilities may be reimbursed for sexual assault victim examinations. Sets forth definitions and required services regarding emergency medical assistance to such victims.

<b>Rape Shield</b>	ACA, Sec. 16-42-101	1977	<b>Child Court Attendant</b>	ACA, Sec. 16-42-102	1985
A victim's prior sexual conduct is not admissible as evidence unless the evidence would directly pertain to the act upon which the prosecution has based its case, or if the court decides it is necessary.			Permits, upon motion of the prosecutor, a parent or victim advocate to accompany children in the courtroom.		
<b>Rape Services Availability</b>	ACA, Sec. 20-9-303	1985	<b>Court Attendance/ Child</b>	Rules of AR, #616	1985
All public medical facilities must provide services to any rape victim.			Grants victim, including minor victim and guardian, right to be present at the hearing, disposition, and trial unless sequestered.		
<b>Child Protection/ Videotaped Deposition</b>	ACA, Sec. 16-44-203	1981, Amend. 1983 & 1988	<b>Child Abuse Reporting</b>	ACA, Sec. 12-12-502	1977
Permits videotaping of depositions of victims under age of seventeen years, in Judge's chambers.			Health care workers, social workers, school personnel, police, or anyone else is mandated to report suspected cases of child abuse, subject to a \$100 fine and/or 5 days in jail, and civil liability.		
<b>Child Funding</b>	ACA, Sec. 90-30-101 to 90-30-109	1987	<b>Notoriety for Profit</b>	ACA, Sec. 16-90-308	1985
Surcharge on birth certificates maintained in a pool. Grants are made to child abuse and neglect prevention programs.			Proceeds from sale of rights arising from criminal act to be deposited in an escrow account for benefit of victim.		
<b>Child Competency</b>	AR Rules of Evid. #601	1985	<b>Elderly/ Vulnerable Adult Abuse</b>	ACA, Secs. 5-28-101 to 5-28-106, 5-28-203 to 5-28-205, & 5-28-301 to 5-28-305	1977
All persons are competent to testify unless otherwise provided.			Provides protection for incapacitated endangered persons eighteen years and older. Addresses penalties, reporting, protective custody, investigation procedures, and the establishment of a central registry and hotline.		
<b>Missing Children Clearinghouse</b>	ACA, Sec. 12-12-205	1985	<b>Hate Violence</b>	ACA, Secs. 5-71-207, & 5-71-215	1977
Provides assistance to families of missing children and coordinates statewide efforts to locate missing children.			Prohibits unlawful disturbing of assembly and the desecration of religious symbols. The crime is a misdemeanor.		
<b>Child Statute of Limitations</b>	ACA, Sec. 5-1-109	1987			
A prosecution may be commenced in cases of child abuse if the violation has not previously been reported to a law enforcement agency and the period for limitations has not expired since the victim has reached the age of eighteen. (Not yet codified.)					
<b>Sex Offender Registration</b>	ACA, Sec. 12-12-901 to 12-12-909	1987			
Habitual child sex offenders must register their whereabouts with a state authority.					
<b>Child Hearsay</b>	AR Rules of Evid., Rule 803, Sec. (1)(25)(A)	1985			
Creates new exception to hearsay rule for statements made by child victims under ten years of age if such statements are determined to be "trustworthy."					
<b>Child Protection/ Speedy Trial</b>	ACA, Sec. 16-10-130	1985			
Expedites trials with victims under fourteen years by requiring that these cases take precedence over all other criminal trials.					

# CALIFORNIA

## Enacted:

**Compensation** CA Govt. Code Ann., 1965,  
Sec. 13959 to 13974 Amend. 1974,  
1978-79,  
1981, 1983

Maximum Award: \$46,000s; Emergency Award: \$1,000; Source: penalty assessment, restitution fines; Family member maximum: \$10,000. Removes "serious financial hardship" provision of state compensation. Sets period for filing compensation claims for financial assistance covering the costs of psychological treatment.

**Compensation/  
Restitution** CA Govt. Code, 1987  
Secs. 13965.1, & 13969.2

Requires the state Board of Control to process claims within an average of ninety days, and if not must provide to the legislature the average time. Increases penalty assessment to \$7.00 for every \$10.00 of fine imposed, requires the additional \$2.00 be sent directly to the Restitution Fund.

**Compensation** CA Penal Code, 1987  
Sec. 13838

Peer counseling services provided by rape crisis centers as an allowable expense covered under state compensation.

**Service Funding/  
Compensation  
Sexual Assault  
General** CA Penal Code, 1980,  
Sec. 1464 Amend. 1982,  
1983, 1984,  
& 1986

Consolidates different penalty assessments into one assessment. Fund as revenue for victim services and compensation, plus several others. Increases size of assessment fund. Provides for a percentage of every fine on criminal offenses to go into the fund. The Office of Criminal Justice Planning allocates 73% of the funding to victim assistance centers and 27% to rape crisis centers.

**Service  
Funding** CA Penal Code, 1977  
Sec. 13835 to 13835.7

Spells out the kinds of service to be provided by victim assistance centers. Note that many activities normally described as "victim rights" are listed in the service funding sections of the statute but they are not mandatory, and even if all service programs honored such "rights", there is no certainty that such programs would offer statewide coverage.

**Service Funding/  
Domestic Violence** CA Govt. Code, 1983  
Secs. 26840.7 to 26840.8,  
& 26841

Funds basic shelter and other services with \$19 marriage surcharge. Counties may authorize additional \$5 fee for abuser in protection order action. Funds are administered by county.

**Service Funding/  
Domestic Violence** CA Penal Code, 1985  
Sec. 13823.4

Establishes a family and domestic violence prevention program in

the Office of Criminal Justice Planning.

**Service Funding/  
Sexual Assault** CA Penal Code, 1980  
Sec. 13837

Provides funding mechanism to support sexual assault programs.

**Service Funding/  
Drunk Driving** CA Penal Code, 1983  
Sec. 1463.16

Requires that a \$50.00 deposit be made from each fine for drunk driving or reckless driving for alcohol programs and services for the "general population."

**Victim Bill of Rights** CA Penal Code Secs. 25,667, 1982  
(Prop. 8) 1191.1, 3043, 1767, Amend., 1988  
1192.7, 1732.5, 6331, & 679  
Repeals Sec. 12 of  
Art. I of the CA Constitution;  
Sec. 28 of Art. I;

Victim related initiative provides: (1) Mandatory Restitution - shall be ordered in all cases where loss is incurred unless extraordinary circumstances occur; (2) Public Safety Bail - public safety to be the primary consideration in all cases where bail is considered; (3) Notification of sentencing; (4) Victim impact statement/victim statement of opinion, allocation: rights of victims to attend all sentencing hearings; (5) Parole - VIS/VSO allocation right of victims to be notified of and to attend parole hearings, upon request; (6) Safe schools; (7) "Truth in evidence"; (8) Use of prior convictions at sentencing; (9) Limitations on plea bargaining; (10) Abolishment of insanity defense; and (11) Re-sentencing of mentally disordered sex offenders. This Bill of Rights was passed through a citizen initiative. In cases where a violent offender has threatened a victim or witness, such person must be notified by the probation department of the right to receive notice from the Corrections Department or the Board of Prison Terms of the release date of the offender before such prisoner can be released. The D.A. in whose jurisdiction the offender will be released must also be notified.

**Victim/Witness  
Information** CA Penal Code, 1983  
Sec. 1203

Requires that probation officers provide victims with information concerning the victim's rights to civil recovery against the defendant and also information about the opportunity to be compensated from the Restitution Fund.

**Victim/Witness  
Information** CA Penal Code, 1986  
Sec. 1191.2;  
CA W & I Code,  
Sec. 656.2

Requires law enforcement to distribute brochures prepared by the Victim's Legal Resource Center to victims and their families.

**Victim/Witness  
Info/Sexual Assault  
by Psychotherapist** CA Business & Prof. Code, 1987  
Secs. 337, & 728  
CA Civil Code,  
Sec. 43.93

Requires the Department of Consumer Affairs to prepare and disseminate a brochure for victims of psychotherapist-patient sexual contact. Provides for a specific cause of action for sexual contact by a psychotherapist.

<b>Property Return</b>	<b>CA Penal Code, Sec. 1413</b>	<b>1986</b>	<b>Restitution/ Child Sexual Abuse</b>	<b>CA Penal Code, Sec. 1203.1g to 1203.1h</b>	<b>1985</b>
Property being used for evidentiary purposes is to be photographed and promptly returned.			States that the court may order restitution as a condition of probation for offenders convicted of sexual assault against a minor to cover the cost of medical and psychological treatment incurred by the victim.		
<b>Speedy Trial</b>	<b>CA Penal Code, Sec. 679.02</b>	<b>1985</b>	<b>Drunk Driving Restitution</b>	<b>CA Veh. Code, Sec. 23196 to 23197</b>	<b>1986</b>
Courts are to take expeditious action for the victims of a crime.			Provides for an order for payment of restitution as a condition of probation for persons convicted of certain alcohol related offenses.		
<b>Court Attendance</b>	<b>CA Penal Code, Sec. 1102.6</b>	<b>1986</b>	<b>Restitution</b>	<b>CA Penal Code, Sec. 1214(b)</b>	<b>1987 Amend., 1988</b>
The victim of the offense and at least two family members are allowed to attend the trial. If the court decides that the victim's presence would affect the outcome, then it may hear arguments.			Fines as a condition of probation may be recovered the same as a money judgment. Willful non-payment is a violation of probation. Upon request by the victim, the court is required to furnish the victim with a certified copy of the restitution order. An order to pay restitution constitutes a civil judgment.		
<b>Privacy Protection/ Victims and Witnesses</b>	<b>CA Penal Code, Sec. 1102.7</b>	<b>1984</b>	<b>Restitution</b>	<b>CA Penal Code, Sec. 1203.1k</b>	<b>1987</b>
Prosecutors may be required to furnish to defense counsel, but not the defendant, the victim's address and phone number.			Allows the court to order the specific amount of restitution and the manner of repayment thus taking the sole discretion from the probation officer.		
<b>Ball Considerations</b>	<b>CA Penal Code, Sec. 1269b, &amp; 1275</b>	<b>1987</b>	<b>Restitution/ Parole</b>	<b>CA W &amp; I Code, Secs. 1752.82, &amp; 1766.1</b>	<b>1987</b>
Judges are to consider alleged injury to victim, threats to victim or witnesses, and the use of weapon or controlled substances by the defendant.			Requires restitution, if ordered by the court, as a condition of California Youth Authority parole. As a condition of parole if ordered by the court.		
<b>Restitution Fine</b>	<b>CA Govt. Code, Sec. 13967</b>	<b>1983</b>	<b>Notification/ Schedule Changes</b>	<b>CA Penal Code, Sec. 679.02(1)</b>	<b>1986</b>
Increases fines in criminal cases and establishes new ones. Changes "Indemnity Fund" to "Restitution Fund."			The victim is to be notified as soon as feasible that a court proceeding to which he or she has been subpoenaed as a witness will not proceed as scheduled.		
<b>Restitution</b>	<b>CA Penal Code, Sec. 1203.04</b>	<b>1983</b>	<b>Notification/ Sentence</b>	<b>CA Penal Code, Sec. 1191.3</b>	<b>1987</b>
Repeals provisions of existing law. Enacts provisions requiring courts to impose restitution judgments on persons convicted of a crime for payment to victims, or if no victim is involved to make payments to the Restitution Fund.			Requires the probation officer to provide a general estimate of the credits to which the defendant may be entitled and to inform the victim.		
<b>Restitution</b>	<b>CA Govt. Code, Sec. 13967.5</b>	<b>1983</b>	<b>Notification/ Final Disposition</b>	<b>CA Penal Code, Secs. 11116.10, &amp; 679.02(2)</b>	<b>1986</b>
Spells out procedures for non-payment of restitution fine.			Upon request of the victim the prosecuting attorney shall within sixty days notify the victim or witness of the final disposition of a case.		
<b>Restitution</b>	<b>CA Penal Code, Sec. 1203.1</b>	<b>1983, Amend. 1987</b>	<b>Notification/ Escape</b>	<b>CA Penal Code, Sec. 11155</b>	<b>1983</b>
Requires that restitution payments received by Probation Department be sent to victim in prescribed period of time.			Requires Department of Corrections to notify specific law enforcement officials and victims upon request when any inmate is placed on work furlough, escapes, or is subsequently recaptured.		
<b>Restitution/ Juvenile Offenders</b>	<b>CA W &amp; I, Sec. 728 to 731</b>	<b>1983</b>			
Revises provisions relative to restitution by a minor as a condition of probation.					

<b>Protection from Intimidation</b>	CA Govt. Code, Sec. 25360	1983	<b>Date Rape</b>	CA Assembly Conc. Res. 46, Chpt. 105	1987
Authorizes jurisdictions to establish and maintain a facility to provide security for victims and witnesses subjected to (or who may be subjected to) threats or intimidation.			Resolution to address the problem of date rape on the campuses of California colleges.		
<b>Domestic Violence/ Protective Orders</b>	CA Civil Code, Sec. 5102	1983	<b>Sexual Assault Victim Detention</b>	CA Code of Civil Proc., Sec. 1219	1984
Expands court authority to issue protective orders in cases that exclude a party from the family dwelling (or another dwelling), in instances where physical or emotional harm would otherwise result.			Prohibits the imprisonment of a victim of sexual assault for contempt when the contempt charge is a result of refusal to testify concerning the assault.		
<b>Domestic Violence Protection Orders</b>	CA Penal Code, Sec. 13710	1986, Amend. 1987	<b>AIDS Testing</b>	CA Penal Code, Sec. 1524.1; CA Health & Safety Code, Sec. 26	1988
Requires law enforcement to keep records of protective orders in domestic violence cases.			Allows the victim of a charged sex crime upon a motion to request a court order for a search warrant to obtain blood from the alleged offender if the court finds probable cause to believe bodily fluids were exchanged. Prosecutor must assist victim; prosecutor is immune from liability. Effective January 1, 1989.		
<b>Domestic Violence Protection Orders</b>	CA Civil Code, Sec. 4458; CA Code of Crim. Proc., Sec. 548	1987	<b>Child Protection/ Videotaped Testimony</b>	CA Penal Code, Sec. 1346	1982 & 1984
Allows restraining orders to have up to three years' duration.			Victims under age of fifteen may be videotaped for preliminary hearing proceedings. Makes videotaped testimony of victims of sexual crimes subject to protective orders. Statements made by children under seven years of age concerning sexual or physical abuse are not inadmissible by the hearsay rule. Requires immediate reporting of child abuse and permits videotaping of preliminary hearing. Requires that suspected cases of child abuse be reported to the district attorney.		
<b>Domestic Violence Protection Orders</b>	CA Code of Crim. Proc., Sec. 546	1987	<b>Child Protection/ Closed Circuit/ Videotape</b>	CA Penal Code, Secs. 1346, & 1347	1985, & 1986
Superior judge to designate someone who will be available to orally issue by telephone emergency protective orders in domestic violence cases. Effective 7/1/88			Allows court, upon motion of the judge in criminal proceedings, to order testimony of a minor ten years of age or younger in sex cases to be taken contemporaneously in another place and communicated by closed circuit television. Extends current videotaping law to include victims over fifteen years of age if developmentally disabled as a result of mental retardation.		
<b>Warrantless Arrest</b>	CA Penal Code, Sec. 273.5	1984	<b>Child Funding</b>	CA Penal Code, Sec. 266k	1987
A police officer may arrest without a warrant if there exists any minor or serious injury, including misdemeanor offenses.			Any person convicted of committing a lewd act with a child under the age of sixteen years of age may be fined up to \$5,000 to be deposited in the Victim/Witness Assistance Fund to be made available to child sexual assault counseling centers.		
<b>Domestic Violence</b>	CA Penal Code Sec. 273.7	1988	<b>Service Funding/ Child Abuse</b>	CA Penal Code, Sec. 18953.5	1984
Any person who discloses the location of a shelter without authorization is guilty of a misdemeanor.			Extends grants to child abuse and sexual exploitation prevention programs and for some victim counseling services.		
<b>Marital Rape</b>	CA Penal Code, Sec. 262	1980	Non-gender specific except in cases of forced sexual intercourse with a female under eighteen. Includes rape with an object		
Establishes a separate crime of spousal rape if sexual intercourse occurs against the will of the spouse by: (1) force; (2) fear of bodily injury; (3) future threat of retaliation. Must report within ninety days.					
<b>Rape Exam Payment</b>	CA Penal Code, Sec. 13823.95	1975			
Evidentiary rape exams are to be handled and paid for by the county or city in which the rape occurred.					
<b>Sexual Assault Definition</b>	CA Penal Code, Secs. 261, & 289	1980			

<b>Service Funding/ Child Abuse Prevention</b>	<b>CA Stats., Chpt. 1638</b>	<b>1984</b>	<b>Child/V/W Protection Act</b>	<b>CA Penal Code, Sec. 14150</b>	<b>1986</b>
Enacts Child Abuse Prevention and Training Act. Requires Office of Child Abuse Prevention to fund two prevention training centers and to contract for and fund primary prevention training programs in each county. Appropriates \$11.2 million to the Office of Child Abuse Prevention.			Establishes the child victim witness judicial advisory committee to study child victims and witnesses, including establishment of a court project. Appropriates money for staff. Sets the committee at twenty members.		
<b>Child Competency</b>	<b>CA Evid. Code, Sec. 700</b>	<b>1986</b>	<b>Child/Elderly Speedy Trial</b>	<b>CA Penal Code, Sec. 1048</b>	<b>1985</b>
Gives special consideration for child witnesses. Also, because a child performs differently than an adult due to his or her cognitive development, that in itself does not mean the child is any more or less credible as a witness.			Minor victims, those over seventy years of age, and sexual assault victims. Trials must begin within thirty days after arraignment unless good cause is shown.		
<b>Missing Children/ Reporting</b>	<b>CA Penal Code, Secs. 1114, &amp; 13519.1</b>	<b>1985, &amp; 1986 Amend. 1987</b>	<b>Child Sexual Assault/ Privacy Protection</b>	<b>CA Govt. Code, Sec. 6254</b>	<b>1985</b>
Requires police to accept missing children reports for those under eighteen regardless of legal residence. Requires posting of missing children information in public schools, public areas, and state owned and leased buildings. Requires department of justice to compile a missing children registry and publish a quarterly bulletin, and offer rewards. Requires a statewide toll-free hotline. Local police and sheriffs' departments to give priority to missing person reports. Provides for training.			Permits the name of the victim of a sexual assault crime to be withheld at the request of the victim or a upon request of the parent or guardian if the victim is a minor.		
<b>Statute of Limitations</b>	<b>CA Civil Code, Sec. 340.1</b>	<b>1986</b>	<b>Child Court Attendant</b>	<b>CA Penal Code, Secs. 868.5, &amp; 1348.5</b>	<b>1986</b>
Extends the time for commencement for a civil action for injury or illness resulting from incestuous relationship to three years.			A representative is to be appointed for children under fourteen years of age, to protect their interests, where child abuse or molestation by an immediate family member is alleged.		
<b>Child Protection/ Records Check</b>	<b>CA Penal Code, Sec. 11105.3</b>	<b>1981</b>	<b>Child Abuse Reporting</b>	<b>CA Penal Code, Sec. 11166.5</b>	<b>1986 Amend. 1987</b>
Provides for criminal record checks for individuals who seek work in supervisory or disciplinary position with minors.			Professional child care workers are obligated to report suspected cases of child abuse. "In person" reports are not required by County Welfare.		
<b>Child/ Background Check</b>	<b>CA Penal Code, Sec. 11112</b>	<b>1986</b>	<b>Child Protection/ and Custody</b>	<b>CA Civil Code, Sec. 7020</b>	<b>1984</b>
Requires a licensed community and residential care facilities for children or the elderly to submit fingerprints no later than four days following employment.			In concert with the Uniform Percentage Act and the Domestic Violence Prevention Act, and where physical and/or emotional harm is anticipated, court is authorized to determine temporary custody of any minor child.		
<b>Child Protection/ Evidence of Sex Abuse</b>	<b>CA Evid. Code, Sec. 240</b>	<b>1984 Amend., 1988</b>	<b>Statute of Limitations</b>	<b>CA Penal Code, Sec. 799 et seq. 800, 801, &amp; 802</b>	<b>1984</b>
Revises laws concerning methods of, and limitations on, the introduction of evidence in proceedings (civil and criminal). Based on the unavailability of the child: (1) Testimony of child victims of sexual abuse; (2) Definitions of unavailability of a witness; (3) Corroboration rules; (4) Competency to testify; and (5) Admission of hearsay in certain instances. In cases where the witness is unavailable due to trauma, such unavailability shall not be deemed procurement by the prosecutor in the absence of proof to the contrary.			Provides that the statute of limitations for felonies is to be based on the severity of the crime and eliminates the statute of limitations for crimes where the punishment is life imprisonment. Crimes that are punishable by more than eight years, the limitation runs six years from date of offense. Limitation for offenses against children is increased accordingly.		
<b>Child Protection/ Evidence of Sex Abuse</b>	<b>CA Evid. Code, Sec. 240</b>	<b>1984 Amend., 1988</b>	<b>Child Abuse Training/Judiciary</b>	<b>CA Penal Code, Sec. 13828</b>	<b>1986</b>
Revises laws concerning methods of, and limitations on, the introduction of evidence in proceedings (civil and criminal). Based on the unavailability of the child: (1) Testimony of child victims of sexual abuse; (2) Definitions of unavailability of a witness; (3) Corroboration rules; (4) Competency to testify; and (5) Admission of hearsay in certain instances. In cases where the witness is unavailable due to trauma, such unavailability shall not be deemed procurement by the prosecutor in the absence of proof to the contrary.			Ongoing training to be commenced to provide training for the judicial branch in the handling of child sexual abuse cases.		
<b>Child Protection/ Evidence of Sex Abuse</b>	<b>CA Evid. Code, Sec. 240</b>	<b>1984 Amend., 1988</b>	<b>Training/Child Abuse/School Employees</b>	<b>CA Penal Code, Secs. 11165.5, 11166, &amp; 11167</b>	<b>1986</b>
Revises laws concerning methods of, and limitations on, the introduction of evidence in proceedings (civil and criminal). Based on the unavailability of the child: (1) Testimony of child victims of sexual abuse; (2) Definitions of unavailability of a witness; (3) Corroboration rules; (4) Competency to testify; and (5) Admission of hearsay in certain instances. In cases where the witness is unavailable due to trauma, such unavailability shall not be deemed procurement by the prosecutor in the absence of proof to the contrary.			Training of each employee to include child abuse identification		

**Notoriety for Profit/  
Felony Cases**      **CA Civil Code,  
Sec. 2224.1**      **1983**

Provides that the proceeds from the preparation or sale by a convicted felon of the crime story of the felony are subject to an involuntary trust to benefit victims injured by the crime.

**Domestic Violence  
Counselor  
Confidentiality**      **CA Evid. Code,  
Sec. 1037 to 1037.7**      **1986**

Counselor -- domestic violence victim communications are privileged.

**Sexual Assault/  
Counselor  
Confidentiality**      **CA Evid. Code,  
Sec. 1035.4-8**      **1983**

Establishes that a victim of sexual assault has the privilege of confidentiality from anyone to whom they have confided, except as to relevant evidence of the alleged sexual assault.

**Sexual Offenses/  
Closed Hearings**      **CA Penal Code,  
Sec. 868 to 868.8**      **1983**

Permits magistrates to close preliminary examinations as specified and upon the motion of the prosecution when the witness giving testimony is the complaining witness of a sexual offense. Attendance of family members is permitted.

**Elder  
Abuse Reporting**      **CA Welfare and Inst.  
Code Ann.,  
Sec. 15600 to 15650**      **1982,  
Amend. 1985,  
1986, & 1987**

Addresses reporting and information collection procedures for the elderly and dependant adults.

**Speedy Trial/  
Elderly**      **CA Penal Code,  
Sec. 1048**      **1986**

Victim seventy or older or dependant adults are to be given precedence in order of trial.

**Adult  
Abuse**      **CA Govt. Code,  
Sec. 12528**      **1987**

Within the Attorney General's Office, the Bureau of Medi-Cal Fraud shall review, investigate, and prosecute complaints of abuse and neglect of patients in health care facilities. Also changes the reporting requirement of physical abuse of dependants from 36 hours to two working days.

**Adult  
Protection**      **CA W & I Code,  
Secs. 5328.5, 15753.5,  
& 15754**      **1987**

Adds the use of multidisciplinary team in order to obtain information or records necessary for adult protective services. Authorizes the disclosure of information in communication relating to prevention, investigation, or treatment of elder abuse.

**Elder  
Abuse**      **CA Penal Code,  
Secs. 1203.1j, & 13823.2**      **1987**

First degree burglary is included in the enhancement section for

crimes committed against those over sixty-five years of age. Authorizes restitution for the specified treatment as a condition of probation for assault, battery, or assault with a deadly weapon of the elderly. Provides legislative intent that victim services, crime prevention, and criminal justice training programs shall respond to the specific needs of the elderly.

**Police Training  
Domestic Violence**      **CA Penal Code  
Sec. 13519(c)**      **1986**

Requires 8 hours of training on domestic violence issues.

**Guilty/  
Mentally Ill**      **CA Penal Code,  
Sec. 1026**      **1984**

May be found not guilty by reason of insanity, but once treated for mental illness, may subsequently be found guilty and serve remainder of term.

**Hate  
Violence**      **CA Penal Code,  
Secs. 11411, 11412,  
& 11410**      **1985**

Prohibits the desecration of religious symbols, or to cause others to refrain from exercising their religion. Also protects from intimidation any person regardless of race, color, creed, religion, or national origin. No specific sanctions set forth, but legislative intent that such acts should be subjected to criminal and civil actions.

**Hate  
Violence**      **CA Civil Code,  
Sec. 51.7**      **1985**

Affirms the right of all persons in the state to be free from violence, or intimidation by threat of violence, because of race, religion, color, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute.

**Hate  
Violence**      **CA Civil Code,  
Sec. 52.1;  
CA Penal Code,  
Title 11.6, Sec. 422.6**      **1987**

Felonies or attempted felonies based on the victims' race, color, religion, nationality, ancestry, sexual orientation, or country of origin is an aggravated circumstance.

**Victim Services  
Training**      **CA Penal Code,  
Sec. 13835.10**      **1986**

Establishes and funds a statewide victim assistance training program to provide comprehensive, standardized training to service providers funded under victim witness or sexual assault programs.





## COLORADO

### Enacted:

**Compensation** CRS, 1981,  
Sec. 17-24-4.1-102 Amend. 1985

Maximum Award: \$10,000; Emergency Award: \$500; Source: fines, restitution; Special: \$250 award for windows, doors and locks. Amended in 1985 to comply with VOCA requirements.

**Compensation** CRS, 1986  
Sec. 24-4.1-119(1)(a)

Increases fines from \$75 to \$100 on felonies resulting in convictions to be paid into compensation fund.

**Compensation/  
Rape Exam Payment** CRS, 1981  
Sec. 24-4.1-109

Outpatient care is a compensable loss and includes rape exams.

**Compensation/  
Service Funding** CRS, 1984  
Sec. 24-4.2 et seq.

Creates a Victim and Witness Assistance Law Enforcement Board. Surcharges levied on criminal actions and traffic offenses. Fund to be allocated in the form of grants.

**Service Funding/  
Domestic Violence** CRS, 1983  
Sec. 26-7.5-105

Establishes funding for domestic abuse programs through a voluntary donation check-off on state individual income tax returns. Funds from \$1-\$10 voluntary income tax donations go to domestic violence fund for shelter, counseling, advocacy, and education services. Sets forth program eligibility requirements.

**Victim Bill of Rights/  
Funding** CRS, 1984,  
Sec. 24-4.1-303; Amend. 1985,  
& 24-4.2-105 1988

Establishes these rights and services: (1) Victim impact statement as part of pre-sentence investigation, victim statement of opinion, allocation; (2) Notoriety for Profit; (3) Information and notification throughout proceedings including community services, victim assistance and legal resources, mental health services, medical and rehabilitative services, schedule changes, bail, plea agreements, pre-trial release, dangerous prisoner release, financial and social services, witness fees, sentencing, final disposition, and compensation; (4) Protection from intimidation; (5) Property return; (6) Employer and creditor intercession; (7) Speedy trial; (8) Restitution; (9) Secure waiting areas; (10) Right to be present at sentencing and provide a written impact statement; (11) Family member rights; and (12) Victim Assistance and Law Enforcement fund, an advisory board in each judicial district, funding for training, services, and staff. Source of fund: 37% surcharge on all fines levied on criminal activities. Children's rights: Provides counselor to act as friend of court to advise judge on child's ability to understand court proceedings, to advise DA on the effect of such proceedings on the child, and to assist the child and family throughout proceedings. Amended in 1985 to establish penalty assessments to supplement fund for victim services. Sunset removed in 1988. Victims and Witnesses Advisory Board given authority to contract for service.

**Speedy Property  
Return** CRS, 1985  
Sec. 13-25-130

Permits photographs or videotapes of property to be substituted for evidence to expedite property return.

**Restitution/  
Elderly** CRS, 1979,  
Secs. 18-4-304(4), Amend. 1980  
18-4-401, 18-4-405,  
& 18-3-209(4)

States that an offender who is convicted of robbery of an elderly person or theft of an elderly person's belongings may be ordered to make restitution. Arrest of parolee, followed by revocation proceedings. Stricter sentences for crimes against the elderly.

**Restitution/  
Probation** CRS, 1985  
Sec. 16-11-204.5,  
& 16-11-502(1)(d)

Expands definition of victim to include those who have suffered from contractual loss in order to allow them to qualify for restitution. Restitution must be ordered as a condition of probation.

**Parole  
Notification** CRS, 1985  
Sec. 17-2-214

Upon written request parole board must notify victim of parole proceedings. Requires parole board to establish notification system.

**Victim Participation/  
Protection from  
Intimidation** CRS, 1984  
Sec. 18-8-704 to 18-8-708

Provides that victims (or their relatives if the victim has died) have the right to attend all sentencing proceedings resulting from a conviction in their case. Victims also have the right to attend parole hearings, and in both instances victims are allowed to participate by providing statements to the sentencing court or parole board. The law also prohibits intimidating, tampering, or retaliating against a crime victim and provides appropriate sanctions.

**Domestic Violence  
Protection Orders** CRS, 1982  
Sec. 14-4-102 to 14-4-103

The county and district court shall have authority to issue restraining orders to prevent domestic abuse.

**Warrantless  
Arrest** CRS, 1972  
Sec. 16-3-105

If police officer has probable cause to believe that a crime has occurred, he or she may arrest without a warrant. Pertains to domestic violence cases.

**Domestic  
Violence** CRS, 1988  
Sec. 18-6-801

A person commits domestic violence if he inflicts or threatens to inflict on a person with whom the actor has been involved in an ongoing intimate relationship any bodily injury or the destruction of property or threat thereof as a method of coercion, control, revenge, or punishment. The crime is a class 1 misdemeanor. Creates a board, a treatment program with specific standards of treatment.

<b>Marital Rape</b>	CRS, Sec. 18-3-409	1975 Amend. 1988	<b>Child/Background Check</b>	CRS, Sec. 26-6-107	1983, Amend. 1986
No marital exemption, except in cases of statutory rape.			The department with local authority shall investigate any new application or renewal before granting a license to operate a family care home, residential child care facility, child placement agency, or child care center.		
<b>Rape Exam Payment</b>	CRS, Sec. 24-4.1-109(1)(c)	1981	<b>Child Protection/Hearsay</b>	CRS, Sec. 19-1-107(2.5) & 13-25-129	1985
Lists outpatient care as a compensable loss.			Expands definition of hearsay exception allowed for statements made by children in sexual abuse or neglect cases.		
<b>Sexual Assault Definition</b>	CRS, Sec. 18-3-401 to 18-3-403	1976	<b>Child Protection/Speedy Proceedings</b>	CRS, Sec. 19-1-102	1985
Includes degrees of sexual assault. Intrusion with an object. Non-gender specific.			Establishes time frame for child neglect and dependency proceedings.		
<b>Psychotherapist/Sexual Abuse</b>	CRS, Sec. 18-3-405.5	1988	<b>Child/Privacy Protection</b>	CRS, Sec. 19-10-115	1975
Any psychotherapist who subjects a client to any sexual contact commits sexual assault. Aggravated sexual assault on a client is a class 4 felony.			Reports of child abuse or neglect and the name and address of any child shall be confidential.		
<b>AIDS Testing</b>	CRS, Sec. 18-3-415	1988	<b>Child Protection/Abuse Prevention</b>	CRS, Sec. 22-32-109	1984
Any person who is bound over for trial for any sexual offense involving sexual penetration, shall be ordered to submit to a blood test for AIDS.			Requires that teachers be provided with information on child abuse and neglect.		
<b>Child/Bill of Rights</b>	CRS, Sec. 24-4.1-304	1984	<b>Child Abuse Reporting</b>	CRS, Sec. 19-10-104	1984
Provides for a person to protect child victims and witnesses: (1) to explain court proceedings; (2) to act as a court attendant; (3) to assist in the emotional impact; (4) to advise the court of the child's ability to cope.			Professionals shall report suspected cases of child abuse to the county department or local law enforcement agency. Violators commit a class 3 misdemeanor.		
<b>Child Hearsay/Videotaping</b>	CRS, Secs. 18-3-413, 13-25-129, & 19-1-107	1983, Amend. 1985	<b>Child/Protective Orders</b>	CRS, Sec. 19-10-116	1984
Allows out-of-court statements of child describing sexual contact, intrusion, penetration.			If there is reasonable cause to believe a child is in danger or has been the victim of an unlawful sexual offense, the court may issue a restraining order.		
<b>Missing Children</b>	CRS, Sec. 24-33.5 to 24-415.1	1985	<b>Adult Protection</b>	CRS, Sec. 26-3.1-101 to 3.1-105	1983
Central depository for missing children reports.			Provides for protective services and reporting procedures.		
<b>Child Protection</b>	CRS, Sec. 18-6-401	1985	<b>Elderly Abuse</b>	CRS, Sec. 18-3-209(4)	1984
Provides extension of statute of limitation in child cases. Also, hearsay, videotaping, and speedy trial.			Enhanced penalties for assault and abuse of the elderly. Third degree assault is a felony instead of misdemeanor if victim over sixty-five years old.		
<b>Child Statute of Limitations</b>	CRS, Sec. 18-3-403(e)	1972	<b>Hate Violence</b>	CRS, Sec. 18-9-113	1973
Establishes statute of limitations of seven years for children under fifteen years of age from occurrence of the crime.			Any person who knowingly desecrates any public monument or place of worship or burial is guilty of a misdemeanor.		

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<b>Hate Violence</b>	<b>CRS, Sec. 18-9-121</b>	<b>1988</b>
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A person commits ethnic intimidation if that person intentionally intimidates or harasses another because of that person's race, color, religion, ancestry, or national origin. Class 1 misdemeanor.

<b>Tort Action</b>	<b>CRS, Sec. 13-21-102.5</b>	<b>1986</b>
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Civil actions for noneconomic losses are placed with a monetary limitation of two hundred and fifty thousand dollars.

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## CONNECTICUT

## Enacted:

**Compensation/** **CT Gen. Stats.,** **1979,**  
**Notoriety for Profit** **Sec. 54-201 to 54-224** **Amend. 1980,**  
**1987**

Maximum Award: \$25,000 for homicide victims and \$15,000 for all other victims of crimes committed after 10/1/87; Emergency Award: \$500; Source: penalty assessments of \$20.00 (felony) and \$15.00 (misdemeanor) for convictions. Requires that notoriety for profit monies go to victim.

**Compensation** **CT Gen. Stats.,** **1980**  
**Sec. 54-208a**

Expanded eligibility to include estate of any victim/survivor for expenses incurred as result of death.

**Compensation** **CT Gen. Stats.,** **1981,**  
**Sec. 54-211** **Amend. 1986**

Provides reciprocity for claimants from other states. Meets VOCA criteria. Allows for compensation in domestic cases if victim and offender have separated. Increases the maximum award from \$10,000 to \$15,000. Increases witness fees. Provides funds for the training of criminal justice personnel in the rights of victims and witnesses.

**Compensation** **CT Gen. Stats.,** **1985**  
**Sec. 54-216**

Allows the Board to contract to any agency for services; provides compensation to child abuse victims and their families.

**Compensation** **CT Gen. Stats.,** **1986**  
**Amendment** **Sec. 54-203(g)**

Compensation applicants must be notified in writing of rights and services available for assistance.

**Compensation** **CT Gen. Stats.,** **1987**  
**Amendment** **Sec. 54-210(a)**

Includes pecuniary loss to dependants of deceased victims and extends compensation to any other loss resulting from injury or death of the victim which the board determines reasonable.

**Compensation/** **CT Gen. Stats.,** **1980**  
**Service Funding** **Secs. 54-202 to 54-203,**  
**& 54-215**

Provides for appointments, compensation, hearing officers, and the personnel of the State Compensation Board. Gives the powers and duties of the Board. Establishes compensation account and payments.

**Service** **CT Gen. Stats.,** **1985**  
**Funding** **Sec. 54-203**

Creates a statewide victim assistance program to be operated by the Criminal Injuries Compensation Board.

**Service Funding/** **CT Gen. Stats.,** **1982**  
**Domestic Violence** **Sec. 17-31K**

State appropriation for domestic violence shelter services. Shelter records are confidential.

**Service Funding/** **Yearly** **1988**  
**Sexual Assault** **Appropriation**

Line item in the Governor's budget; \$257,000 appropriated for rape crisis centers in 1987.

**Victims/Bill** **CT Gen. Stats.,** **1980,**  
**of Rights** **Sec. 54-203** **Amend. 1987**

Establishes a commission on victim services and provides a pamphlet that spells out victims' rights, which include the following: (1) Victim/witness information; (2) Notification of status of the case and court scheduling; (3) Employer intercession; (4) Victims of child abuse of child sexual assault may have their testimony videotaped; (4) Victim impact statement/allocation; (5) Notification of release of the inmate; (6) Notification of parole hearings, parole, VIS/allocation; (7) Sexual assault/Domestic Violence counselor confidentiality; (8) Rape shield; (9) Privacy/address protection sexual assault; (10) Right to domestic violence restraining orders; (11) Right to compensation; (12) Speedy return of property; (13) Notoriety for profit; (14) Victims' rights clearinghouse; (15) Information hotline; (16) Also provides protections for victims in tort cases; (17) Plea participation. A statutory bill of rights for victims is in formulation.

**Victim/Witness Info.** **CT Gen. Stats.,** **1986**  
**Domestic Violence** **Sec. 46B-38a to 46B-38f(4)**

Police must give information to domestic violence victims.

**Return of** **CT Gen. Stats.,** **1978**  
**Property** **Sec. 54-36a(c)**

At final disposition, property is to be returned within six months.

**Employer** **CT Gen. Stats.,** **1981**  
**Intercession** **Sec. 54-85B**

Intercession with employers for victims and witnesses at the time of trial.

**Victim Involvement/** **CT Gen. Stats. Ann.,** **1978,**  
**Sentencing** **Sec. 54-91 (a to d)** **Amend. 1981,**  
**1985**

Office of probation shall notify any class A, B, C felony victim or victim of sexual assault or their family of their right to make an oral or written statement.

**Sexual Assault/** **CT Gen. Stats.,** **1985**  
**Allocation** **Sec. 54-91c**

Enables victims of sexual assault to speak at sentencing hearings.

**Parole VIS/** **CT Gen. Stats.,** **1983,**  
**Allocation** **Sec. 54-126a** **Amend. 1985**

At victim request, he or she may attend and give opinion in writing or orally at parole hearings.

**Restitution** CT Gen. Stats., 1969  
Sec. 53a-30

Judges may order restitution as a condition of probation.

**Restitution/  
Mediation** CT Gen. Stats., 1982  
Secs. 54-56m, & 18-100e 1983

Experimental program in five towns where defendants, victims, and mediators work out restitution and/or community service arrangements.

**Notification** CT Gen. Stats., 1973,  
Sec. 54-56c Amend. 1985

Victim to be notified of an application for accelerated rehabilitation.

**Information/  
Notification** CT Gen. Stats., 1981,  
Secs. 54-142c, & 1983  
54-91a

Provides the following: (1) Victim information about case dismissal (even if records erased); (2) Notification of sentencing in A, B, and C felony cases and (3) Prosecutor must notify family members, in the event that the victim died, of the time and place of arraignment, and provide other information regarding the case.

**Notification  
Release/Parole** CT Gen. Stats., 1985  
Sec. 18-81e

Extends notification requirements to include release from prison and notification of parole hearings.

**Domestic Violence  
Funding/Police  
Training Mandatory  
Warrantless Arrest** CT Gen. Stats., 1986  
Secs. 46b-38 (a to f),  
17-38a, & 46b-15

Comprehensive bill contains the following: Mandatory arrest; court hearings requiring day-after assault advocates for victims; warrantless arrest in misdemeanor domestic violence cases; family violence intervention units; limited liability of arresting officer; special training in domestic violence for judges, prosecutors, and law enforcement; \$2.7 million for training, social services, and shelters. Also protection for children from abuse and relief from physical abuse by family members.

**Marital  
Rape** CT Gen. Stats., 1981  
Sec. 53A-67(b)

The marital exemption applies in all rape cases except first degree rape.

**Sexual Assault  
Definition** CT Gen. Stats., 1975  
Secs. 53a-70, & 53a-65(2)

Tiered into degrees of sexual assault. Non-gender specific in most cases. Includes rape with an object.

**Child/Closed Circuit/  
Videotaped  
Testimony/Competency** CT Gen. Stats., 1985  
Sec. 54-86g to 54-86h

Allows children aged twelve and under to give televised testimony and prohibits the court from automatically ruling a child as incompetent to testify solely because of his or her age.

petent to testify solely because of his or her age.

**Missing Children  
Clearinghouse** CT Gen. Stats., 1985  
Sec. 29-1e to 29-1f

Establishes a Missing Children Information Clearinghouse within the Department of Public Safety to aid in locating missing persons. Requires all state, county and municipal law enforcement agencies to provide information.

**Child Statute  
of Limitations** CT Gen. Stats., 1969,  
Sec. 53a-69 Amend. 1987

For children under sixteen years of age, or incompetent adults, the statute of limitations runs out in five years after the child tells a parent, guardian, or other competent person.

**Child Statute  
of Limitations** CT Gen. Stats., 1986  
Sec. 52-577d

Action to recover damages for personal injury to a minor including emotional distress, sexual exploitation or sexual assault must be brought within two years of reaching majority, or seven years from the date of the act.

**Child Abuse  
Reporting** CT Gen. Stats., 1981,  
Sec. 17-38a to 17-38f Amend. 1987

Health care workers, counselors, school personnel, and child care workers, or anyone who suspects child abuse, are mandated to report such cases. No liability for reporters. Penalty for not reporting up to \$500.

**Juvenile Offender  
Identities  
Victim Info** CT Gen. Stats., 1983  
Sec. 46 B-124,  
Sub Sec. A

Upon the application to the Juvenile Court indicating an intent to sue a juvenile offender, victims have the right to obtain the identity of the juvenile and information about the case disposition.

**Counselor  
Confidentiality** CT Gen. Stats., 1983,  
Sec. 52-146k Amend. 1985

Establishes that communications between victims and victim service counselors are confidential in domestic violence and sexual assault cases.

**Privacy Protection/  
Sexual Assault** CT Gen. Stats., 1982,  
Sec. 54-86d to 54-86e Amend. 1983

Victims of sexual assault have a right to privacy regarding: disclosure of their past sexual history not pertinent to the case, and privacy of their name and address during court proceedings.

**Notoriety  
for Profit** CT Gen. Stats., 1982  
Sec. 54-218

Requires profits from notoriety due to crime to be held in escrow for civil judgments awarded within five years. Remaining monies go to compensation fund.

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<b>Elderly Abuse</b>	<b>CT Gen. Stats., Secs. 53a-59a, 53a-60, 53a-61a, 53a-60c, 46a-24, 46a-14 et seq., &amp; 46-20 et seq.</b>	<b>1978, Amend. 1980 &amp; 1986</b>
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Assault of a person sixty years or older is a class B felony. Second degree assault is a class D felony. In the third degree is a class A misdemeanor. Criminal penalties set up for abuse, neglect, or exploitation of the elderly. Those who suspect such abuse are to report. Protective services are set up to deal with the problems.

<b>Hate Violence</b>	<b>CT Gen. Stats. Ann., Secs. 46a-58, &amp; 53-37a</b>	<b>1985</b>
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Unlawful to deprive a person of constitutional rights because of his or her religion, national origin, color, or race. Also a crime to desecrate a place of worship. Felony if damages are over \$1,000 or if violator wears a mask or hood to conceal identity.

<b>Hate Violence</b>	<b>CT Gen. Stats. Ann., Secs. 46a-82 to 46a-96, &amp; 52-2516</b>	<b>1985</b>
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Establishes civil complaint procedures for discriminating practices. Persons receiving through hate motivated violence may receive costs and attorney's fees in addition to damages in a civil action.

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## DELAWARE

## Enacted:

**Compensation** DE Code Ann., 1975,  
Title 11, Amend. 1982,  
Sec. 9001-9017 1984

Maximum Award: \$20,000; Emergency Award: \$3,000; Source: penalty assessment; Amended in 1984 to raise maximum award from \$10,000 to \$20,000. Raises assessment from 10% to 15% of fines.

**Compensation** DE Code Ann., 1982  
Title 11, Chpt. 41

Courts may hold an operator's license as security for payment of fines, costs & restitution.

**Victim Bill of Rights** House Joint Resolution 26 1983

Establishes the following rights: (1) Information on final disposition, sentencing, release, financial assistance, social services including how to apply, witness fees, and the protection available; (2) Notification of schedule changes; (3) Protection from intimidation; (4) Secure waiting areas; (5) Property return; (6) Employer intercession; (7) Speedy disposition; and (8) Notoriety-for-profit funds go to victims.

**Victim Involvement/ Sentencing** DE Code Ann., 1984  
Title 11, Part II, Chpt. 43

Victim impact statement must be prepared with or without a pre-sentence investigation in felony cases or a misdemeanor case in which there was serious physical injury or death to the victim.

**Victim Participation/ Parole** DE Code Ann., 1953  
Chpt. 11-4350

Provides right of allocation to immediate family members of victims of 1st degree murder.

**Mandatory Restitution** DE Code Ann., 1982  
Title 11, Sec. 4101-4106

Police required to prepare "loss statement" for sentencing judge, who must order restitution or, if not, explain reasons on record. Payments received by court first pay offenders penalty assessment, then restitution, then any court costs and fines.

**Notification/ Parole hearing** DE Code, 1953  
Title 11, Sec. 4347

Whenever feasible the Department of Parole shall notify the victim of the date and location of the parole hearing.

**Notification/ Work Release** DE Code Ann., 1983  
Title 11, Sec. 6541(b)

Requires that victims of "crimes against the person" be notified prior to work release or supervised custody.

**Protection from Intimidation** DE Code Ann., 1982  
Title 11, Sec. 3531 to 3537

Expands definition of witnesses and acts of intimidation. Defines penalties. Allows judges to issue protective orders and to make compliance a part of pre-trial release and bail.

**Witness Protection** DE Code Ann., 1981  
Title 11, Sec. 1263

Makes physical injury, property damage, and deception with intent to affect testimony or availability of a witness a felony.

**Domestic Violence Warrantless Arrest** DE Code Ann., 1981,  
Title 11, Amend. 1983,  
Sec. 1904(a)(4) 1984

Peace officers may arrest without warrant irrespective of his or her presence for any misdemeanor involving physical injury or threat thereof or for any misdemeanor involving illegal sexual conduct or attempted sexual misconduct.

**Marital Rape** DE Code Ann., 1974  
Title 11, Sec. 763 to 764

Spousal exemption deleted from first and second degree rape. Makes it a class B felony.

**Sexual Assault Definition** DE Code, 1986  
Title 11, Sec. 761 to 775

Makes definition non gender-specific. Expands the definition to include rape with an object. Tiered in degrees of assault.

**Child Bill of Rights** DE Code Ann., 1985  
Title 11, Sec. 5131 to 5134

Provides child with the following rights and protections: (1) Prompt trial; (2) Avoidance of delays and continuances, as possible; (3) Explanation of legal proceedings in language a child can understand; (4) Court attendant; (5) information and referral to social services for child and family.

**Child Protection/ Videotaped Testimony** DE Code, 1985  
Title 11, Sec. 3511

Allows videotaped testimony of child under twelve years of age to be used in trials. Applies to all child victims and witnesses upon motion of Attorney General's Office.

**Child Funding** DE Code Ann., 1984  
Title 31, Sec. 401 to 408

Establishes a Children's Trust Fund to encourage abuse and neglect prevention programs, improve coordination among state agencies providing prevention services. Fund can award grants to individual programs. Source of funds: Designation of all or part of individual's tax refund; gifts, donations.

<b>Child Competency</b>	<b>DE Code Ann., Title 10, Sec. 4302</b>	<b>1985</b>	five years of age or older, and who has previously been convicted of a crime of physical injury within five years, shall have a minimum mandatory sentence of one year imprisonment.
Child witnesses under ten years of age cannot be excluded only because of age. Judge to decide child's credibility.			
<b>Missing Children</b>	<b>DE Code Ann., Title 11, Sec. 8541 to 8544</b>	<b>1985</b>	
Creates the missing children clearinghouse as a central repository of information regarding missing children. Requires immediate police investigation and use of the National Crime Information Center computer for all missing children reports.			
<b>Missing Persons</b>	<b>DE Code Ann., Title 11, Sec. 8531 to 8538</b>	<b>1985</b>	
Requires immediate dissemination and gives high priority status to missing person complaints in certain circumstances.			
<b>Child Protection/ Background Check</b>	<b>DE Code, Title 21, Sec. 2708</b>	<b>1985</b>	
Mandates criminal background checks for school bus drivers.			
<b>Child Abuse Reporting</b>	<b>DE Code, Title 16, Chpt. 9</b>	<b>1983</b>	
Medical and child care personnel shall report suspected cases of child abuse to the Division of Child Protective Services. Anyone who suspects such abuse shall report. Penalty for not reporting is not more than \$100 or 15 days.			
<b>Child Services</b>	<b>DE Code Ann., Title 11, Sec. 8526</b>	<b>1983</b>	
Provides for volunteers, trained by State Police to conduct voluntary fingerprinting of eligible children.			
<b>Child Protection/ Intimidation</b>	<b>DE Code Ann., Title 11, Sec. 1263A</b>	<b>1985</b>	
Creates a special felony offense for interfering with a child witness testifying in a criminal matter.			
<b>Notoriety for Profit</b>	<b>DE Code Ann., Title 11, Part 6, Chpt. 91</b>	<b>1983</b>	
Requires the establishment of escrow accounts in the name of the victim for profits from notoriety due to crime.			
<b>Adult Protection</b>	<b>DE Code, Title 31, Chpt. 39 et seq.</b>	<b>1982, Amend. 1983, 1984</b>	
Establishes a protective services system. Provides for emergency orders of protection.			
<b>Elderly Offenses</b>	<b>DE Code, Title 11, Sec. 831</b>	<b>1983</b>	
Persons convicted of second degree robbery against a person sixty-			
			<b>Patient Abuse</b>
			<b>DE Code, Title 16, Sec. 1131 to 1140</b>
			<b>1986</b>
Regulatory provisions against abuse, neglect, or mistreatment of patients or residents. Requires employees of facilities to report suspected cases of abuse or neglect.			
			<b>Hate Violence</b>
			<b>DE Code Ann., Title 11, Sec. 1331</b>
			<b>1979</b>
A person is guilty of a misdemeanor for defacing a place of worship or burial.			
			<b>Guilty/ Mentally Ill</b>
			<b>DE Code, Title 11, Sec. 401</b>
			<b>1982</b>
Guilty but mentally ill may be used as a defense if the defendant suffered from a psychiatric disorder which left the person with insufficient will power to choose to refrain from committing the crime.			

## DISTRICT OF COLUMBIA

Hate  
ViolenceDC Code Ann.,  
Sec. 22-3112.2 to 22-3112.4

1985

## Enacted:

<b>Compensation</b>	<b>DC Code, Sec. 3-401-415</b>	<b>1982, Amend.1985</b>
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Maximum Award: \$25,000; Emergency Award: \$1,000; Source: penalty assessment. Amends compensation statute to comply with VOCA criteria. Eliminates \$5.00 filing fee and extends benefits to victims of drunk driving offenses.

<b>Victim Rights</b>	<b>The Omnibus Victims Protection Act of 1982 Public Law 97-291</b>	<b>1982</b>
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The Washington, D.C. Corporation Counsel represents the District of Columbia in civil, juvenile, family, and petty offense cases for which the U.S. Attorney is the prosecutor of local misdemeanors and felonies. Thus, it appears that victims and witnesses in such local cases are due the following "fair standards" listed in the Federal Victim and Witness Protection Act and associated guidelines: (1) Basic services including information on compensation; (2) Notification of availability of protection; (3) Notification of scheduling changes; (4) Notification of proceedings concerning the case in which they are involved; (5) Consultation with the victim; (6) A secure waiting area; (7) Property return; (8) Employer intercession; (9) General victim assistance. Under the Attorney General's guidelines, responsible officials should ensure that the following services are provided and that personal contact is initiated with victims and witnesses whenever possible. Refer to the Attorney General's guidelines in the model statute section of the legislative directory.

<b>Victim Impact Statement</b>	<b>DC Code, Sec. 23-103</b>	<b>1988</b>
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A victim if he elects may provide a written statement of the financial, physical, and emotional impact the crime had on them.

<b>Marital Rape</b>	<b>R.S.D.C., Sec. 22-2801</b>	<b>1967</b>
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The marital exemption is totally abolished.

<b>Adult Abuse</b>	<b>DC Code, Sec. 6-2501 to 6-2513</b>	<b>1985</b>
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Provides protective services to vulnerable adults. Covers reporting, investigations, protective services, funding, and penalties.

<b>Hate Violence</b>	<b>DC Code Ann., Secs. 22-1114, &amp; 22-3114</b>	<b>1981</b>
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Unlawful to disturb congregations engaged in religious exercises. Unlawful to desecrate a tomb or the enclosure of a cemetery. Maximum fine of \$100 for both.

<b>Hate Violence</b>	<b>DC Code Ann., Sec. 1-2501 to 1-2557</b>	<b>1981, Amend.1985</b>
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Unlawful to discriminate for any reason other than individual merit.

Prohibits vandalism of religious symbols or deprivation of a citizen's constitutional rights. Also prohibits concealing one's identity while engaged in such conduct.



## FLORIDA

### Enacted:

**Compensation**      **FL Stats.,**      **1978,**  
                                  **Sec. 960.01 to 960.28**      **Amend. 1982**

Maximum Award \$10,000; Emergency Award: \$500; Source: fines & penalty assessment. Additional penalty assessments extended to include convicted criminal traffic offenders.

**Compensation**      **FL Stats.,**      **1985**  
                                  **Secs. 960.03 to 960.04,**  
                                  **& 960.20**

Penalty assessment: \$15.00 to \$20.00. Compensation benefits to include victims of drunk driving and limits family exclusion such that the statute allows compensation to abused children. In addition, statute complies with VOCA requirements.

**Service Funding/**      **FL Stats.,**      **1982**  
**Witness Coordinator**      **Chpt. 43.35**

Requires court administrator to establish a witness coordinating office in each county within his/her judicial circuit. As of June 1985, fifty-five out of sixty-two counties are participating.

**Service**      **FL Stats.,**      **1985**  
**Funding**      **Sec. 27.3455**

Establishes an additional court fee against offenders to be used for local victim service programs. Mandates that counties which have comprehensive victim services are eligible for state reimbursement of up to 50% of local costs.

**Service Funding/**      **FL Stats. Ann.,**      **1983**  
**Domestic Violence**      **Sec. 741.01**

Funds shelters up to 75% with state appropriation. \$20 surcharge on marriage license, fines may be imposed on abuser in protection order action.

**Fair Treatment**      **FL Stats.,**      **1984**  
**Victim/Witness**      **Chpt. 960.001**  
**Guidelines**

Establishes the following rights: (1) Information on compensation, victim services and the criminal justice process; (2) Notification of schedule changes; (3) Protection from intimidation; (4) Notification of arrest, pre-trial release, and all phases of case (including final disposition, work release, and parole); (5) Consultation on release, plea agreements, and pre-trial release; (6) Victim impact statement/allocation at sentencing (includes sentencing as a result of plea agreements); (7) Employer and creditor intervention; (8) Property return; (9) Secure waiting area; (10) Mandatory restitution (includes incarcerated offender payments); (11) Parole restrictions; (12) Special consultation for child victims and homicide survivors; and (13) Victim services -- through establishment of Witness Coordination offices. These offices shall ensure that victims are provided with all pertinent information on compensation and victim rights and services. Also included are bail conditions, and witness tampering and retaliation sanctions, plus mandatory police training in victim/witness services.

**Witness Fees/**      **FL Stats.,**      **1984**  
**Travel Expenses**      **Chpt. 92.142**

Extends travel expenses and provides for full reimbursement of actual travel costs.

**Victim/Pretrial**      **FL Stats.,**      **1984**  
**Participation**      **Sec. 903.047**

Provides for the victim to be notified in advance of a proceeding and to be present and heard regarding any modifications to the pretrial release conditions.

**Victim Involvement/**      **FL Stats.,**      **1984**  
**Sentencing**      **Sec. 921.143**

Right to appear before sentencing court and to submit a sworn statement.

**Parole**      **FL Stats.,**      **1985**  
**Allocution**      **Sec. 947.06**

The public shall have the right to be present at parole hearings, and may participate in deliberations concerning the granting of parole.

**Restitution**      **FL Stats.,**      **1982**  
                                  **Secs. 947.181, & 775.089**

Parole and Probation Commission may require restitution as condition of parole.

**Notification**      **FL Stats.,**      **1984**  
**Release**      **Secs. 944.605, & 947.177**

Notice of inmate release given to victim by the Department of Corrections and Parole and Probation Commission.

**Protection from**      **FL Stats.,**      **1984**  
**Intimidation**      **Sec. 914.22 to 914.24**

Provides a mechanism by which the court can issue restraining orders to prevent harassment of a victim or witness.

**Domestic**      **FL Stats.,**      **1978,**  
**Violence**      **Sec. 415.605 to 415.608**      **Amend. 1986**

Expands scope of domestic violence protections and duties of the Department of Health and Rehabilitative Services. Includes victim notification, information and referral services.

**Warrantless**      **FL Stats.,**      **1985**  
**Arrest**      **Sec. 901.15**

An officer may arrest a person without a warrant if he or she has probable cause to believe that a person knowingly committed an act of domestic violence, or finds evidence of bodily harm or if the danger of violence exists.

**Marital**      **FL Stats., Ann.**      **1979**  
**Rape**      **Sec. 794.011**

Marital rape exemption abolished. Spouses can be charged for rape the same as strangers.

<b>Rape Exam Payment</b>	<b>FL Stats., Chpt. 960.28</b>	<b>1982</b>	<b>Child Protection/ Adult Attendant</b>	<b>FL Stats., Chpt. 415.508</b>	<b>1983</b>
Evidentiary rape exams are to be paid through the compensation trust fund up to \$150.			Child witness may have a parent, attorney, or other adult present during a trial.		
<b>Sexual Assault Definition</b>	<b>FL Stats., Sec. 794.011</b>	<b>1974</b>	<b>Child Protection</b>	<b>FL Stats., Sec. 918.16</b>	<b>1985</b>
Sexual battery expands definition to include penetration with an object. Non-gender specific. Tiered into degrees of sexual assault.			Courtroom must be cleared when a child under the age of sixteen is testifying concerning any sex offense. Exceptions include the child's immediate family or guardian, necessary and legal personnel, and newspaper reporters or broadcasters.		
<b>Child Videotaping/ Closed Circuit</b>	<b>FL Stats., Sec. 92.53 to 92.55</b>	<b>1985</b>	<b>Child Abuse Reporting/Protection</b>	<b>FL Stats., Sec. 415.501 to 415.514</b>	<b>1985</b>
Allows videotaping of testimony of victims or witnesses under the age of sixteen. Also, use of closed circuit TV in proceedings involving sexual offenses against victims under the age of sixteen.			Mandatory reporting of child abuse cases by professionals, establishment of child protective services, appointment of guardian ad litem, confidentiality of records in such cases.		
<b>Child Funding</b>	<b>FL Stats., Sec. 943.26</b>	<b>1985</b>	<b>Child/Limit on Interviews</b>	<b>FL Stats., Sec. 914.16</b>	<b>1985</b>
Crimes Against Children Criminal Profiling Trust Fund created for investigative, intelligence, research, and training activities related to crimes against children.			Child victims under the age of sixteen shall be limited to the extent possible from repeated interrogation.		
<b>Child Competency</b>	<b>FL Stats., Secs. 90.601, &amp; 90.605</b>	<b>1983</b>	<b>Counselor Confidentiality/ Domestic Violence</b>	<b>FL Stats., Sec. 415.608</b>	<b>1985</b>
All persons are competent to be witnesses unless otherwise provided. Child can testify without taking oath if court finds he or she understands duty to tell the truth or not to lie.			Information received by the department or domestic violence center is considered confidential.		
<b>Child Protection/ Missing Children's Act</b>	<b>FL Stats., Sec. 937.021 to 937.031</b>	<b>1983</b>	<b>Counselor Confidentiality/ Sexual Assault</b>	<b>FL Stats., Sec. 90.5035</b>	<b>1983</b>
Mandates certain actions by Division of Criminal Justice Information Systems to identify and locate missing children.			Allows privileged communication for victims and sexual assault counselors.		
<b>Child Statute of Limitations</b>	<b>FL Stats., Sec. 775.15(7)</b>	<b>1985</b>	<b>Privacy Protection/ Sexual Assault</b>	<b>FL Stats., Sec. 794.03</b>	<b>1975</b>
The time limitation for applications in certain crimes committed against children under sixteen does not begin until the child reaches the age of sixteen, or the violation is reported to a law enforcement agency or other governmental agency, whichever occurs earlier.			Unlawful to publish or broadcast information identifying sexual offense victims.		
<b>Child Background Check</b>	<b>FL Stats., Sec. 409.175(5)(a-z)</b>	<b>1985</b>	<b>Notoriety for Profit</b>	<b>FL Stats., Sec. 944.512</b>	<b>1982</b>
Ensuring personnel at child care facilities have not been found guilty to any of a number of felonies.			Places lien on proceeds from literary or other type of account of crime for which imprisoned.		
<b>Child Hearsay</b>	<b>FL Stats., Sec. 90.803(23)</b>	<b>1985</b>	<b>Elderly Protection</b>	<b>FL Stats., Sec. 415.101 to 415.113</b>	<b>1985</b>
Out of court statements of child victims of sexual abuse under eleven years of age can be considered.			Mandatory reporting of elderly abuse and neglect, protective services, confidentiality of reports and records.		
<b>Child/ Speedy Trial</b>	<b>FL Stats., Sec. 918.0155</b>	<b>1985</b>	<b>Hate Violence</b>	<b>FL Stats. Ann., Sec. 871.01</b>	<b>1976</b>
Criminal cases committed against children under the age of sixteen shall be heard and disposed as expeditiously as possible.			Unlawful to willfully interrupt an assembly, especially for religious purposes. Penalty: second degree misdemeanor.		

**Hate  
Violence****FL Stats. Ann., 1976,  
Secs. 876.17 to 876.21, Amend. 1985  
876.12 to 876.15, & 876.11**

Prohibits a person from wearing a mask while committing certain crimes. Makes it a misdemeanor to burn a cross on a person's property without permission or to publish or distribute literature which exposes religious groups to hatred or ridicule unless the name and address of the company or individual is on the material.

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# GEORGIA

## Enacted:

**Compensation** OCGA, 1988  
Sec. 17-15-1  
to 17-15-13

Creates the Georgia Crime Victim Emergency Fund with an effective date of July 1, 1989. Maximum award: \$1,000.

**Service Funding/  
Domestic Violence** OCGA, 1982,  
Sec. 19-13-20 to 19-13-22 Amend. 1983

Funds all domestic violence services up to 75%. Legislation without appropriation.

**Service Funding/  
Sexual Assault** Yearly Appropriation 1984

Funding is divided among seven rape crisis programs to provide services and education.

**Resolution** SR 138 1987  
**Bill of Rights**

Victims of crime are to be treated with dignity and respect and should be afforded the following rights: (1) To be safe from harm; (2) To have their safety considered when bail is set; (3) To receive information about procedures in the criminal investigations; (4) To receive information about procedures in the courts and the criminal justice system; (5) To be able to provide a victim impact statement to courts, probation and parole officials; (6) Prompt return of property; (7) To be informed of victim services; (8) To be present at all public court proceedings related to the offense.

**Employer** OCGA, 1987  
**Intercession** Sec. 34-1-3

Makes it unlawful for any employer to penalize an employee for attending a judicial proceeding.

**Court** OCGA, 1985  
**Attendance** Sec. 24-9-61.1

Grants presiding judge the authority to allow the victim or guardian/family to be present in courtroom during trial proceedings.

**Victim** OCGA, 1985  
**Involvement** Sec. 17-10-1.1 to 17-10-1.2

Judge may consider written or oral VIS in determining appropriate sentence or restitution. Allows for VIS at parole if the VIS was not included in the pre-sentence investigation.

**VIS/  
Notification Release** OCGA, 1985  
Sec. 17-10-1.1

Victim impact statement by victim is to be considered by the court. Victim must keep his or her address on file. Must be contacted upon imminent release. Victim statement is optional.

**Restitution** OCGA, 1980  
Title 17, Chpt. 14,  
Art. 1 to 16

Court permitted to order restitution as additional remedy.

**Restitution** OCGA, 1984  
Sec. 42.8.35 to 42.8.36

Charges probation supervisors with the duty of enforcing restitution orders as a condition of probation, and reporting unpaid monies owed.

**Parole** OCGA, 1985  
**Notification** Sec. 42-9-47

Requires notification to the victim that the offender is coming up for parole within 72 hours after Board of Pardons and Parole makes a decision to parole an inmate.

**Domestic Violence/  
Protection Orders** OCGA, 1984  
Sec. 19-13-4 to 19-13-6

A copy of any order for prevention of family violence shall be given to all those in petition as being in danger of violence, or for other purposes. The breaking of a superior court order to prevent domestic violence is a misdemeanor. The victim of domestic violence may seek a criminal remedy.

**Warrantless** OCGA, 1981  
**Arrest** Sec. 17-4-20

Police officer has discretion to arrest without a warrant in cases of domestic violence.

**Marital** OCGA, 1968  
**Rape** Sec. 16-6-1

No express exemption for husbands. Georgia Supreme Court held 1985.

**Child** OCGA 1985  
**Videotape** Sec. 17-8-54 to 17-8-57

Authorizes videotaping of child witnesses under 14 if there is a likelihood such child would suffer severe emotional or mental distress.

**Child** Yearly Appropriations 1985  
**Funding**

Funds two programs in the prevention of sexual child abuse.

**Missing** OCGA, 1986  
**Children** Sec. 35-3-80 to 35-3-85

Creates a missing children information center. Describes duties of local law enforcement agencies with respect to missing children.

**Child** OCGA, 1986  
**Background Check** Title 49,  
Chpt. 5, Art. 4

Authorizes criminal record check for persons who supervise children.

**Child Statute of Limitations**      **OCGA**      **1987**  
**Sec. 17-3-1(c)**

Prosecutions for offenses in which the victim is under the age of 14 must be commenced within 7 years of the offense.

**Child Hearsay**      **OCGA,**      **1986**  
**Sec. 24-3-16**

Relates to child under 14 describing acts of sexual conduct or physical abuse. Hearsay statement admissible if child is available to testify.

**Child Abuse Reporting**      **OCGA,**      **1985**  
**Sec. 19-7-5(b) & (e)**

The following must report suspected cases of child abuse: health care workers, law enforcement, and child care workers. Failure to report constitutes a misdemeanor.

**Child Protection/ Molestation Sanctions**      **OCGA,**      **1984**  
**Sec. 16-6-4 to 16-6-5**

Child molestation resulting in physical injury, or including an act of sodomy shall constitute "aggravated child molestation." Other related charges in sanctions are provided.

**Privacy Protection**      **OCGA,**      **1968**  
**Sec. 16-6-23**

Misdemeanor for news media or private person to publish the name of a sexual assault victim. Can publish if taken from official court records (Cox Broadcasting v. Cohn 1975).

**Notoriety for Profit**      **OCGA,**      **1982**  
**Title 17,**  
**Chpt. 14, Art. 30**

Prohibits criminal from benefiting from crime. Profits are held in escrow for five years for victim with civil judgment. After five years monies may be returned to offender.

**Ombudsman Long-Term Care**      **OCGA,**      **1979**  
**Sec. 31-8-50 to 31-8-63**

Establishes and delineates the duties of a state ombudsman program for residents in long-term care facilities.

**Abuse Reporting**      **OCGA,**      **1980**  
**Sec. 31-8-80 to 31-8-88**

Provides for reporting and investigation of abuse or exploitation of residents in long-term care facilities.

**Adult Abuse/ Reporting**      **OCGA,**      **1984**  
**Sec. 30-5-1 to 30-5-8**

Describes adult abuse, mandates reporting, and provides for protective services.

**Guilty/ Mentally Ill**      **OCGA,**      **1982**  
**Sec. 17-7-131**

Provides for the plea of guilty but mentally ill.

## Introduced:

**Compensation**      **Amendment #3**      **1988**

A constitutional amendment will be on the ballot in Georgia in November of 1988 to create a comprehensive compensation for the state.

## HAWAII

## Enacted:

<b>Compensation</b>	<b>HI Rev. Stats., Chpt. 351</b>	<b>1967, Amend. 1978, 1979, 1980, 1983, 1984 1986, 1987</b>
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Maximum Award \$10,000; Emergency Award: none; Source: general revenue. Makes appropriations for compensation of crime victims, establishes award procedures for certain victims and their dependents, compensates private citizens for personal injury or damage suffered in crime prevention or assistance with apprehension. Compensates certain victims and providers of services to victims and provides appropriations to replenish the fund. Appropriated \$557,809 in 1988.

<b>General Service Funding</b>	<b>HI Rev. Stats., Sec. 28-111</b>	<b>1986</b>
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Establishes victim/witness programs in the attorney general's office. The attorney general allocates appropriated funds to counties' victim/witness assistance units; establishes policies and criteria in conjunction with county prosecutors with a 25% match from the counties.

<b>Rights of Victims and Witnesses</b>	<b>Session Laws of HI, Act 261</b>	<b>1988</b>
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The "Basic bill of rights for victims and witnesses" includes: (Upon written request) (1) To be informed by the police and prosecuting attorney of the final disposition of the case; (2) Notified of major developments in the case and whenever the defendant or perpetrator is released from custody; (3) Consulted and advised about plea bargaining; (4) Notified if a court proceeding for which they were subpoenaed will not proceed as scheduled; (5) Receive protection from threats or harm; (6) Informed of financial assistance and other social services; (7) Secure waiting area; (8) Expeditious property return. These rights extend to victims of juvenile crime. Each county is responsible for the enforcement of these rights. The courts shall fashion all decisions and orders to enhance the recognition of these rights to the extent they will not conflict with the constitutional rights of the defendant. (Not yet codified).

<b>Intimidation Protection</b>	<b>HI Rev. Stats., Chpt. 604</b>	<b>1986</b>
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Creates the authority to enjoin and temporarily restrain harassment.

<b>Restitution</b>	<b>HI Rev. Stats., Sec. 706-605</b>	<b>1972, Amend. 1975, 1978, 1980, 1986</b>
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General restitution is to be provided to victims of crime in the discretion of the court.

<b>Restitution/ Juvenile</b>	<b>HI Rev. Stats., Sec. 571-31.4</b>	<b>1980, Amend. 1986</b>
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Obtaining appropriate victim satisfaction, through community-based programs and a method of payment by the parents of the child.

<b>Mandatory Restitution</b>	<b>HI Rev. Stats., Sec. 353-22.6</b>	<b>1987</b>
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The Director of Social Services shall enforce victim restitution orders against moneys earned by the prisoner while incarcerated.

<b>Notification</b>	<b>HI Rev. Stats. Sec. 706-624.5</b>	<b>1983</b>
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Requires written notification of victims of personal crimes prior to parole, probation, suspension of sentence, placement in half-way house or final unconditional release.

<b>Notification</b>	<b>HI Rev. Stats., Sec. 353-22</b>	<b>1985</b>
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Amends notification statute to require thirty-day advance notification of probation, final disposition, parole, work furlough or any conditional release.

<b>Notification</b>	<b>HI Rev. Stats., Sec. 706-670.5</b>	<b>1985</b>
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Amends notification statute to require notification of surviving family within ten days of prisoner release or parole.

<b>Notification Juvenile Disposition</b>	<b>HI Rev. Stats., Sec. 571-84</b>	<b>1987</b>
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For all violations other than traffic, the court may disclose to a victim if requested, the final disposition of the case.

<b>Domestic Violence/ Protection Orders</b>	<b>HI Rev. Stats., Sec. 586-5</b>	<b>1983, Amend. 1987</b>
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Temporary restraining order to be granted not more than thirty days before a hearing to determine if orders should continue.

<b>Domestic Violence/ Protection Orders</b>	<b>HI Rev. Stats., Sec. 586-3</b>	<b>1985, Amend. 1987</b>
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Household or family member can apply for protection order on behalf of a minor or incapacitated person.

<b>Domestic Violence/ Protection Orders Warrantless Arrest</b>	<b>HI Rev. Stats., Sec. 709-906</b>	<b>1985, Amend. 1987</b>
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Strengthens protection for all family and household members. Allows police to order immediate evacuation for twelve hours. Mandatory counseling or jail required for violation of order.

<b>Domestic Violence/ Protection Orders</b>	<b>HI Rev. Stats., Sec. 586-3</b>	<b>1987</b>
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The "orders for protection" definition may include situations where there exists extreme psychological abuse or where malicious property damage is imminent.

<b>Sexual Assault Definition/ Marital Rape</b>	<b>HI Rev. Stats., Sec. 707-730 to 707-734</b>	<b>1986</b>
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# HI

Non-gender specific. Includes rape with an object. Tiered into degrees of sexual assault. Marital exclusion does not apply in first, second, or third degree sexual assault.

**Child Protection/  
Videotaped Testimony** **HI Rev. Stats.,** **1985**  
**Sec. 587-43**

Allows videotaped or closed circuit testimony, under certain circumstances, for child abuse victims under the age of sixteen.

**Child  
Funding** **HI Rev. Stats.,** **1986**  
**Sec. 588-1 to 588-6**

Appropriations for the children's advocacy program to provide services for child sexual assault.

**Child  
Competency** **HI Rules of Evid.,** **1980**  
**Rule 601, & 603.1**

Every person is competent to be a witness, unless they cannot understand the proceedings. Child must prove competency, which case law says is decided upon degree of understanding.

**Central  
Registry** **HI Rev. Stats.,** **1976**  
**Sec. 350-2**

A central registry is created to take reports of abused children.

**Child/Statute  
of Limitations** **HI Rev. Stats.,** **1986**  
**Sec. 657-23**

Time of pending criminal action shall not be taken as any part of time limited for commencement of civil action.

**Child Protection/  
Guardian** **HI Rev. Stats.,** **1985**  
**Sec. 621-28**

All child victims under fourteen have a right to be accompanied by parent or guardian or other adult at all judicial proceedings.

**Child Abuse  
Reporting** **HI Rev. Stats.,** **1987**  
**Secs. 350-1.1 (a to e),  
350-3, & 350-7**

Professionals who knowingly prevent persons from reporting, or fail to report suspected cases of child abuse are guilty of a petty misdemeanor. Reporters are immune from liability.

**Notoriety  
for Profit** **HI Rev. Stats.,** **1986**  
**Sec. 351-81 to 351-87**

Deposit of funds received pursuant to the commercial exploitation of a crime into a collection account.

**Age  
Enhancement** **HI Rev. Stats.,** **1988**  
**Chpt. 706**

A person committing a felony against a person sixty years or older, eight years or younger, or a handicapped person, shall be subjected to a longer term of imprisonment.

**Elderly  
Abuse** **HI Rev. Stats.,** **1981,**  
**Sec. 349C-1 to 349C-8** **Amend. 1982,  
& 1986**

Provides protection to persons who are at least sixty-five years of age. Focuses on reporting requirements and procedures.

**Hate  
Violence** **HI Rev. Stats.,** **1976**  
**Sec. 711-1107**

It is a misdemeanor to mistreat a place of worship or burial.

## IDAHO

## Enacted:

**Compensation** ID Code, 1986  
Chpt. 10, Title 72,  
Sec. 72-1001 to 72-1026

To provide compensation for injuries suffered as a direct result of the criminal acts of other persons. Maximum award: \$25,000. Emergency Award: No limit. Source: Fines and restitution.

**Service Funding/  
Domestic Violence** ID Code, 1982  
Sec. 39-5201 to 39-5213

Funds basic shelter and additional domestic violence services with \$15 marriage surcharge. Requires 25% local funding. Shelter records are confidential.

**Bill of Rights/  
Restitution** ID Code, 1985  
Sec. 19-5306

Mandates that restitution must be ordered for all crimes resulting in economic loss. Court must enter an order of explanation if restitution is not ordered. Establishes the following rights for felony victims and families of homicide victims: (1) Speedy property return; (2) Victim impact statement in pre-sentence investigation; (3) Consultation during pre-sentence investigation; (4) Allocution at sentencing; (5) Information about disposition of the case including appeal; (6) Notification of parole and commutation hearings, of court status, and of work release in felony cases; (7) Participation (oral or written) at parole hearing; (8) Notification of release or escape; (9) Address protection; and (10) Victim/witness information..

**Protection from  
Intimidation** ID Code, 1985  
Sec. 18-2604

Establishes that the intimidation, obstruction or prevention of witness testimony in a criminal proceeding is a felony and a misdemeanor in a civil proceeding.

**Witness  
Fees** ID Code, 1985  
Sec. 19-3008

Provides for fees to reimburse subpoenaed witnesses to be paid by the county treasurer.

**Conditional  
Restitution** ID Code, 1980,  
Sec. 20-223(d) Amend. 1985,  
& 1986

Restitution may be ordered by the court as a condition of probation or parole.

**Restitution** ID Code, 1984  
Sec. 19-5302

Requires district courts and magistrates to order restitution and to see that victim is paid in full before any government restitution is exacted.

**Restitution/  
Juvenile** ID Code, 1985  
Sec. 16-1814(b)

The court shall order restitution to any victim who suffers an economic loss as a result of a child's conduct.

**Restitution** ID Code, 1986  
Secs. 19-5302, & 19-5304

The court may order defendant to make payment for probation and parole supervision, jail expenses, and dependant support before any restitution to victims. Includes uncompensated health care providers who treat victims in definition of victim as eligible for court-ordered restitution.

**Domestic Violence  
Protection Orders** ID Code, 1988  
Sec. 39-6301  
to 39-6317

Victims of domestic violence may apply to the magistrate for a protective order. May include restraint from premises and from acts of domestic violence.

**Warrantless  
Arrest** ID Code, 1979  
Sec. 19-603

Warrantless arrest based on physical evidence or statements in the presence of another officer in domestic violence cases immediately following the report of a misdemeanor assault or battery at the scene.

**Marital  
Rape** ID Code, 1977  
Sec. 18-6107

Marital exemption ends if the spouse has filed for separation or divorce or if parties have been living apart at least 180 days.

**Rape Exam  
Payment** ID Code, 1984  
Sec. 19-5303 & 1985

Provides for expenses for evidentiary medical exams including rape exams to be paid by law enforcement agencies in all instances where victims have been directed or authorized to take the exam.

**Sexual Assault  
Definition** ID Code, 1972  
Secs. 18-6608., & 1983  
& 18-907.

Non-gender specific. Includes rape with an object.

**Child  
Funding** ID Code, 1985  
Sec. 39-6001 to 39-6008

Establishes statewide trust fund for programs designed to prevent or alleviate child abuse and neglect. Not for direct treatment programs.

**Child Protection/  
Competency** ID Code, 1985  
Sec. 9-202

Establishes procedures for determining the competency of child witnesses under ten years of age in order to protect them from intimidation. Child must prove competency.

## ID

Missing Children	ID Code, Sec. 31-2202(14)	1985	Guilty/ Mentally Ill	ID Code, Sec. 18-207	1982
Requires prompt investigation of missing children reports.			Mental condition shall not be a defense to any charge of criminal conduct.		
Child Protection/ Statute of Limitations	ID Code, Sec. 19-402	1985			
Provides that prosecution for any felony committed upon or against a minor child must be commenced within five years after the commission of the offense.					
Child/ Hearsay	ID Code, Sec. 19-3024	1986			
Statements made by a child under ten years of age are admissible as evidence.					
Child Protection/ Counsel	ID Code, Sec. 16-1618	1985			
Provides that the court shall appoint a separate counsel or guardian to assist child victim/witnesses at each phase of the court proceeding.					
Child Protection/ Abuse Reporting	ID Code, Sec. 16-1619 to 16-1620	1985			
Establishes that failure to report child abuse is a misdemeanor. Grants immunity to those reporting suspected cases.					
Notoriety for Profit	ID Code, Secs. 19-5301, & 72-1004(2)(e)	1979, Amend., 1986			
Provides that proceeds from any rendition relating to crime go to escrow account for benefit of victims or survivors, upon conviction of perpetrator, to offset any victim compensation claim. Amounts remaining in escrow revert to the victim compensation account.					
Elderly Abuse	ID Code, Sec. 39-5201 et seq.	1982			
Creates the Elderly Abuse, Exploitation, Neglect, and Abandonment Reporting Act. Any person having reasonable cause to suspect that an elderly person is being abused shall report it within twenty four hours. Immunity to reporters. Enforcement authority is given to the director.					
Hate Violence	ID Code, Sec. 18-6201	1979			
It is a misdemeanor to willfully disturb a religious assembly.					
Hate Violence	ID Code, Sec. 18-7901 et seq.	1983, Amend. 1985			
Every person has the right to be secure from intimidation or harassment. Unlawful acts by anyone against another for the purpose of inciting and provoking damage of injury is not constitutionally protected and poses a threat to public order and safety, and should be subject to criminal sanctions. Defacing of religious symbols is prohibited.					

## ILLINOIS

## Enacted:

**Compensation** IL Stats. Ann., 1973  
Chpt. 70, Amend., 1979,  
Sec. 71-90 1980, 1983,  
1984, & 1985

Maximum Award: \$25,000; Emergency Award: none; Source: general revenue & supplemental appropriations. Funeral expenses, maximum: \$3,000.

**Service Funding/  
Crime Victims  
Assistance Act** IL Stats. Ann., 1983  
Chpt. 70,  
Sec. 501 to 511

Funds existing victim/witness service programs, and establishes new victim/witness centers. Establishes an Advisory Commission. Requires the Attorney General to disseminate information and coordinate grants for programs. Centers must provide assistance to victims and families regarding services and financial aid, meet special needs of elderly and domestic violence victims, provide transportation, hot-line, counseling, public education and training. Funding: Penalties ranging from \$3 to \$25 to be deposited in the violent crime victims' assistance fund.

**Victim/Witness  
Bill of Rights** IL Stats. Ann., 1984,  
Chpt. 38, Amend. 1985  
Sec. 1401 to 1408

Establishes the following rights: (1) Notification of case status, any cancellation of court proceedings, indictment, bail, pre-trial release, hearings, disposition, probation or other conditional discharges and final discharge; (2) Secure waiting areas; (3) Property return; (4) Translator services; (5) Information on how to apply for social services and financial assistance; (6) Employer intercession. Furthermore, expands definition of victim to include survivors of homicide victims. Expands notification requirements to include work furlough, escape, plea agreements, court scheduling, felony release (at victim's request), parole hearing and parole. Provides for victim impact statement and allocution at parole hearing. Also, plea participation.

**Employer  
Intercession** IL Stats. Ann., 1980  
Chpt. 38,  
Sec. 1404(12)

States that no employee should lose a job if required to participate as a witness. However, explicitly states that employers do not have to pay workers for days lost in court.

**Victim Involvement/  
Sentencing** IL Stats. Ann., 1978  
Chpt. 38,  
Sec. 1005-4-1(6)

Requires victim impact statement or allocution.

**Notification/  
Participation/  
Restitution** IL Stats. Ann., 1985  
Chpt. 38,  
Sec. 1406

Includes right to make statement at sentencing, notice of parole hearings, and instructs courts to consider restitution.

**Conditional  
Restitution** IL Stats., 1984  
Chpt. 38,  
Sec. 1005-5-6

Offenders may be sentenced to make restitution which shall be determined by the court. Court may order restitution as a condition of probation or parole.

**Protection from  
Intimidation** IL Stats. Ann., 1973  
Chpt. 38,  
Sec. 32-4

Intimidation of jurors and witnesses is a class 4 felony.

**Domestic Violence/  
Protection Orders** IL Stats., 1984  
Chpt. 40,  
Sec. 2312-14

Finding of abuse by a family or household member shall be cause for the court to issue an order of protection.

**Warrantless  
Arrest** IL Stats., 1985  
Chpt. 40,  
Sec. 2303-1

Police officers are to take any precaution to protect in cases where danger is imminent, including arrest without a warrant.

**Marital  
Rape** IL Rev. Stats., 1984  
Chpt. 38,  
Sec. 12-18(c)

Exemption for husbands abolished in aggravated criminal sexual assault if the assault is reported in thirty days unless the court finds good cause for the delay.

**Rape Exam  
Payment** IL Rev. Stats., 1976  
Chpt. 111 1/2  
Sec. 87-1 to 87-9

Requires hospitals to render emergency hospital service to rape victims who request treatment and provides for reimbursement of costs by the State in certain cases.

**Sexual Assault  
Definition** IL Stats., 1984  
Chpt. 38,  
Sec. 12-12

Expands the definition aggravated for younger ages. Is non-gender specific. Includes rape with an object.

**Child Video  
Closed-Circuit  
Testimony** IL Stats., 1987  
Chpt. 38, Sec. 106 14(1-4)

In cases of aggravated criminal sexual assault on children 12 and under, provides for videotaped deposition and testimony by closed-circuit television.



<b>Child Funding</b>	<b>IL Stats., Chpt. 23, Sec. 5004(a &amp; b)</b>	<b>1984, Amend. 1986</b>	<b>Counselor Confidentiality/ Sexual Assault</b>	<b>IL Stats., Chpt. 110, Sec. 8-802.1</b>	<b>1984</b>
Income tax check-off up to \$10. Allow private donations channeled to Department of Children and Family Services for child abuse and neglect prevention programs.			Protection for rape victims from disclosure of statements made in confidence to counselors of organizations set up to help them.		
<b>Child Competency</b>	<b>IL Stats. Ann., Chpt. 37, Sec. 704-6</b>	<b>1982</b>	<b>Address Protection</b>	<b>IL Stats., Chpt. 40, Sec. 2312-3</b>	<b>1984</b>
Establishes a rebuttable presumption that a child is competent to testify.			If revealing of the domestic violence victim's address would risk abuse, it may be omitted from all documents filed with the court.		
<b>Missing Children</b>	<b>IL Stats. Ann., Chpt. 23, Secs. 2057.14, 2057.15, 2057.17, 2057.18, &amp; 2057.7</b>	<b>1985</b>	<b>Notoriety for Profit</b>	<b>IL Stats., Chpt. 70, Sec. 401 to 414</b>	<b>1981, Amend. 1985</b>
Establishes a central registry for missing children reports.			Creates escrow account for victims of crime, procedures for claims, and civil judgment requirements. Funds can be released if no victims make claim within two years of establishment of the account. Escrow account to include persons who have been found not guilty by reasons of insanity or guilty but mentally ill.		
<b>Child Statute of Limitations</b>	<b>IL Stats., Chpt. 38, Sec. 3-6</b>	<b>1986</b>	<b>Elderly Services</b>	<b>IL Stats., Chpt. 23</b>	<b>1973, 1984, 1985, &amp; 1986</b>
Extends the statute of limitations for any sexual offense involving sexual conduct between family members to one year after the victim's eighteenth birthday.			Provides a comprehensive and coordinated system for persons fifty-five and older. Creates the department of aging.		
<b>Child Background check</b>	<b>IL Stats., Chpt. 23, Secs. 2061.1, &amp; 2214 to 2214.4</b>	<b>1985</b>	<b>Long-Term Care Abuse</b>	<b>IL Stats. Ann., Chpt. 111 1/2, Sec. 4161 to 4176</b>	<b>1982, Amend. 1985</b>
Details access to records to provide information concerning the criminal background of child care facility applicant or employee.			Provides for the protection from abuse and neglect of residents in long-term care facilities. Includes: reporting, referral, protective services, central register, hearings, and continued education and training.		
<b>Child Hearsay</b>	<b>IL Stats., Chpt. 38, Sec. 115-10</b>	<b>1984</b>	<b>Elder Abuse Reporting</b>	<b>IL Stats. Ann., Chpt. 23, Secs. 6304, &amp; 6503</b>	<b>1984, Amend. 1985</b>
Outside of the court testimony by a child under thirteen years of age who is the victim of a sexual act may be admissible as evidence.			Requires reporting of suspected cases of elder abuse by medical personnel, social workers, nursing homes, and employees of the state in direct contact with suspected subjects of abuse. Amended in 1985 to extend responsibility for reporting to "para-professionals working with elders". Also establishes an elder abuse demonstration program.		
<b>Child Abuse/Sex Offenses</b>	<b>IL Stats. Ann., Chpt. 38, Sec. 12-15</b>	<b>1984</b>	<b>Hate Violence</b>	<b>IL Stats. Ann., Chpt. 38, Secs. 10-2, 12-2, &amp; 12-4</b>	<b>1979, Amend. 1985</b>
Defines sexual abuse offenses and sanctions.			Wearing a mask during certain crimes makes it an aggravated circumstance.		
<b>Child Abuse Reporting</b>	<b>IL Stats. Ann., Chpt. 23, Sec. 2054</b>	<b>1986</b>	<b>Hate Violence</b>	<b>IL Stats., Chpt. 127, Sec. 55a(16)</b>	<b>1985</b>
Professional child care workers and health care workers are obligated to report suspected cases of child abuse.			Assists victims and witnesses in gang crime prosecutions through the administration of funds appropriated from Gang Violence Victims and Witnesses Fund to the Department.		
<b>Domestic Violence Counselor Confidentiality</b>	<b>IL Stats., Chpt. 40, Sec. 2312-27</b>	<b>1984</b>			

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<b>Hate Violence</b>	<b>IL Stats Ann., Chpt. 38, Sec. 21-1.2</b>	<b>1985</b>
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Unlawful to damage any building used for religious worship on the basis of race, color, creed, religion, or national origin. Persons who have suffered such damage may bring a civil suit.

<b>Hate Violence</b>	<b>IL Stats. Ann., Chpt. 38, Sec. 12-7.1</b>	<b>1985</b>
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Prohibits ethnic intimidation on grounds of race, color, creed, religion, or national origin. Persons who have been so intimidated may seek compensation through the courts.

<b>Hate Violence</b>	<b>IL Stats. Ann., Chpt. 38, Sec. 1005-5-3.2</b>	<b>1985</b>
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Allows court to impose stiff penalties for offenses occurring in a place of worship.

<b>GUILTY/ MENTALLY III</b>	<b>IL Stats., Chpt. 38, Sec. 115-2</b>	<b>1981</b>
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Allows for the defense of guilty but mentally ill.

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## INDIANA

## Enacted:

**Compensation/  
Rape Exam Payment** IN Code Ann., 1977,  
Sec. 16-7-3.6 Amend. 1985  
to 16-10-1.5-7

Maximum Award \$10,000; Emergency Award: \$500; Source: penalty assessment. Meets VOCA criteria, provides funding for child care or mental health counseling expenses and compensation for the cost of sexual assault exams. \$15 of prosecuting attorney's fee to go to the violent crime victims' compensation fund. \$2 goes to the sex crime victim services fund.

**Service Funding/  
Domestic Violence** IN Code Ann., 1982,  
Sec. 4-23-17.5 Amend. 1984  
to 4-23-17.9

Establishes standards and funds shelter and other domestic violence services with \$10 divorce surcharge. State provides up to 75% of costs.

**VIS/Protection from  
Intimidation/  
Employer  
Intercession/Rape  
Exam/Service funding** IN Code, 1985  
Secs. 11-13-3-3,  
& 16-10-1.5

Provides for notification of victims of any felony release. Grants victim a right to make oral or written statements at sentencing. Makes it a Class B misdemeanor to interfere with employee's subpoena. Transfers administration of rape victim services fund to Violent Crime Compensation Board and prohibits hospitals from charging rape victims for services. Creates \$1.00 court fee designated for rape victim services fund (see Compensation).

**Speedy  
Property Return** IN Code, 1985  
Secs. 35-33-5-5(b)  
& 35-43-4-4(h)

If the property has been properly photographed, the victim may get his property returned before the trial, if there are no objections from the prosecuting attorney.

**Employer  
Intercession** IN Code, 1985  
Sec. 35-44-3-11.1

If a person knowingly or intentionally dismisses an employee, deprives or threatens an employee because the employee has received or responded to a subpoena in a criminal proceeding, it is a Class "B" misdemeanor.

**Plea  
Bargaining** IN Code, 1981  
Sec. 35-35-3-2 to 35-35-3-5

Victim or survivor must be notified of pending plea arrangements and permitted to comment.

**VIS/VSO/Allocation/  
Sentencing** IN Code Ann., 1981,  
Secs. 35-38-1-2(2) Amend. 1983,  
35-38-1-8(b), 35-38-1-7(5) 1985  
35-38-1-9, & 35-38-1-12

Requires victim impact statements in pre-sentence investigations. May be oral or written including recommendation on what sentence the offender should get. Pre-sentence report may be entered for a felony case. In misdemeanor cases, a sentence can be passed without a pre-sentence investigation, therefore the victim must be present at that time to present statement. The prosecutor must certify that he or she has notified the victim of a felony of their right to present their opinion at sentencing.

**Victim Participation/  
Notification  
Pardon/Parole  
Allocation** IN Code, 1985,  
Secs. 11-9-2.2, Amend. 1987  
& 11-13-3-3

Permits victim to make a statement to the court concerning any plea agreements. Requires parole board to notify victim or next of kin before submitting recommendations to the governor for pardon. Not affecting fixed-term sentences only those cases with a minimum of ten year sentences, an indeterminate sentence, or life. Allows any interested person to appear and present information regarding the application.

**Restitution/  
Probation** IN Code, 1984  
Sec. 35-38-2-2

Offenders must make restitution as a condition of probation.

**Restitution** IN Code, 1985  
Sec. 35-50-5-3

Court may order the defendant to make restitution to the victim of the crime. This does not bar a civil action by the victim to recover for damages suffered.

**Notification  
Sentencing** IN Code, 1983,  
Sec. 35-38-1-2 Amend. 1985

Requires court to set a sentencing date on conviction and inform the victim of their rights.

**Protection/  
Intimidation** IN Code, 1985  
Sec. 35-45-2-1 to 35-45-2-2

Victims have the right to be free from the defendant or any of the defendant's family or friends intimidating or harassing them.

**Domestic Violence  
Protective Orders** IN Code, 1983  
Sec. 34-4-5.1-1  
to 34-4-5.1-6

Allows temporary protective orders in domestic violence cases.

**Marital  
Rape** IN Code, 1983  
Sec. 35-42-4-1(b)

Marital exemption ends if parties are living apart and one spouse has filed a petition for annulment, divorce, separation or separate maintenance, or if a petition for a protective order has been filed.

**Sexual Assault Definition** IN Code, 1984  
Sec. 35-42-4-1

The act of rape is not gender specific. Expanded into classes of force and sexual assault. Includes rape with an object. If with force, Class B felony, if with deadly force; class A felony.

**Child Protection/ Videotaped Testimony** IN Code, 1985  
Secs. 35-37-4-6, & 35-37-4-8

Adds rape and criminal deviate conduct to list of crimes for which out-of-court statements or videotapes made by children may be admitted as evidence.

**Child/ Background Check** IN Code, 1986  
Sec. 12-3-2-18

Persons operating child care centers or boarding homes must submit a certified statement stating their sexual offense arrest record.

**Child Hearsay** IN Code, 1984  
Sec. 35-37-4-6

The court may admit out of court testimony in the prosecution of crimes to children under ten years of age who are victims of molestation, kidnapping, confinement, or battery.

**Child Abuse Reporting** IN Code, 1971 & 1978  
Secs. 12-3-4.1-2, & 31-6-11-3

Anyone who suspects that child abuse is occurring must report it. Penalty for not reporting is a class B misdemeanor.

**Child Exploitation** IN Code, 1984  
Secs. 35-41-1-9, 35-42-4-2, & 35-42-4-5

Expands definition of "deviate sexual conduct" making certain crimes felonies, with and without adult participation.

**Counselor Confidentiality** IN Code, 1987  
Sec. 35-37-6 et seq.

Provides for confidential communications for victim services providers including domestic violence and sexual assault counselors.

**Privacy Protection** IN Code, 1985  
Sec. 11-13-3-3

The defendant/prisoner shall not have access to the name or address of a victim making a notification request.

**Notoriety for Profit** IN Code Ann., 1979  
Sec. 16-7-3.7-1 to 16-7-3.7-4

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

**Adult Abuse** IN Code, 1985  
Secs. 4-27-1-5.5, & 35-46-1-13

Establishes an adult abuse protection agency to provide services to

seriously endangered adults and makes it a Class C infraction to fail to report adult abuse.

**Hate Violence** IN Code Ann., 1985  
Sec. 35-43-1-2

It is a misdemeanor to knowingly, recklessly, or intentionally damage a religious structure or cemetery.

**Guilty/ Mentally Ill** IN Code, 1981,  
Sec. 35-36-2-5 Amend. 1983

Defense of guilty but mentally ill. Treatment to be prescribed by court.

## IOWA

## Enacted:

**Compensation** Code of Iowa, 1982,  
Chpt. 912.4 to 912.11. Amend. 1984,  
1985

Maximum Award: \$21,000; Emergency Award: \$500; Source: penalty assessments on drunk drivers. 1984 amendments expanded benefits including raising the maximum for medical benefits from \$2,000 to \$10,000.

**Compensation/  
Domestic Violence** Code of Iowa, 1985  
Chpt. 912.6

Redefines eligible recipients to include residents of same household and relatives of offender under the following terms: victims can obtain compensation for medical and counseling expenses if the offender agrees to seek counseling after first offense or if the victim files charges after the second offense. Third offenses and beyond requires a conviction for the victim to qualify for compensation.

**Compensation/  
Children** Code of Iowa, 1985  
Chpt. 912.4

Child victims qualify for immediate compensation for counseling or medical expenses regardless of parental notification of application.

**Service Funding/  
Dispute Resolution** Code of Iowa, 1985  
Chpt. 679.4

Establishes grants for local dispute resolution centers to provide training and education.

**Victim and  
Witness Rights** Code of Iowa, 1986  
Chpt. 910A

States that victims, their families, and witnesses should have the following rights: (1) to make a written impact statement/victim statement of opinion; (2) to receive notification of their rights and of offender's release or escape, the possible assistance of crime victim reparations, restitution, court scheduling, pre-trial release, bail, final disposition, parole, parole hearings, work release; (3) authorizes civil restraining orders to protect victims and witnesses from intimidation; (4) prohibits retributive actions by employers against employees who serve as witnesses; (5) victims records are confidential; (6) parole VIS/allocation.

**Property  
Return** Code of Iowa, 1985,  
Chpt. 809.5 Amend. 1986

Requires speedy property return without hearing.

**Victim Participation/  
Victim Impact  
Statement** Code of Iowa, 1986  
Chpt. 910A, Sec. 5A

States that if a pre-sentence investigation is ordered the investigator shall promptly inquire into the harm to the victim, the victim's immediate family, and the community. Implies VIS is required if PSI is ordered.

**Restitution** Code of Iowa, 1982  
Chpt. 910

Requires restitution in all felony cases. Restitution plans are required as part of parole, probation, or work release.

**Restitution** Code of Iowa, 1984  
Chpt. 910.3

Relates to the time by which a court shall set out the amount of restitution in a criminal case.

**Juvenile  
Restitution** Code of Iowa, 1984  
Chpt. 232(A)

Reforms juvenile restitution program, provides funding based on juvenile populations and on implementation strategy.

**Drunk  
Driving/  
Restitution** Code of Iowa, 1984,  
Chpt. 321J, Sec. .17 Amend. 1986

Includes drunk driving sanctions, offender evaluation, and license revocation. Establishes a \$100 fine on all drunk driving offenses to go to the crime victims' reparations fund. Restitution is required by persons convicted of DWI for any damage caused.

**Domestic Violence  
Protection Orders** Code of Iowa, 1981  
Chpt. 236.6

If potential for abuse exists, protective orders can be instituted by the court. A new hearing must be held within seventy-two hours.

**Mandatory Arrest  
Domestic Violence** Code of Iowa, 1986  
Chpt. 236.12(2)

If after inquiry the officer has reasonable cause to believe that domestic violence abuse has occurred, he or she shall arrest the abuser. There must be physical injury or abuser must have displayed weapons.

**Domestic Violence/  
Protection Orders  
Warrantless Arrest** Code of Iowa, 1987  
Chpt. 236.2, Sub. 1, Par. b

The court may order temporary or permanent protective orders in a criminal prosecution arising from a domestic abuse assault. Peace officers may arrest without a warrant if there is reasonable cause to believe abuse has occurred. Records are confidential.

**Marital  
Rape** Code of Iowa Ann., 1978  
Chpt. 709.2 to 709.4

Marital exemption ends when parties are living apart.

**Rape Exam  
Payment** Code of Iowa, 1978  
Chpt. 709.10

Iowa Department of Health to pay for rape exam evidence.

**Sexual Assault  
Definition** Code of Iowa, 1984  
Chpt. 709.1

A sexual act that is done by force or against the will of the other. Provides that if a participant is drugged or intoxicated during the sex

act it falls within the definition of sexual abuse. Non-gender specific. Includes rape with an object. Tiered into degrees of sexual assault.

**Children Protection/ Bill of Rights**      **Code of Iowa, Chpt. 910A**      **1985**

Establishes the following rights and protections for children: (1) Prohibits disclosure of child's identity; (2) Lengthens statute of limitations by one year for prosecution of child offenses; (3) Allows videotaping of pre-trial interview depositions and closed circuit testimony for children under fourteen; (4) Requires speedy trial for child offenses; (5) Prohibits requirement of corroboration of any child victim's testimony; (6) Establishes that children are presumed to be competent witnesses; (7) Mandates that children under ten years of age cannot be forced to appear before a grand jury; (8) Grants child victims and witnesses the right to have a guardian ad litem to act as a representative; and (9) Compensation: extends date of reporting time for child victims to 180 days after discovery of crime and allows children to qualify for immediate medical or counseling services regardless of parental notification of application.

**Service Funding/ Missing Children**      **Code of Iowa, Chpt. 144.13A, 694.1 to 694.10**      **1985**

Establishes a \$10 fee on birth certificates for child abuse prevention programs. Also establishes a statewide missing persons' clearing-house.

**Child/ Funding**      **Code of Iowa Sec. 144.13A**      **1985**

Birth certificate fee of \$10 to be used for child abuse prevention programs.

**Child/ Background Check**      **Code of Iowa, Chpt. 237A.5**      **1983**

Applicants to own or operate a group home or child care facility who are licensed, must have a criminal background check.

**Child Abuse Reporting**      **Code of Iowa, Chpt. 232.69**      **1985**

Health practitioners and child care workers shall make a report within twenty-four hours. Reporters are immune from liability. Those failing to report are guilty of a simple misdemeanor.

**Child Protection/ Sexual Exploitation**      **Code of Iowa, Chpt. 232**      **1984**

Amends definitions of child abuse for reporting investigation and rehabilitation purposes. Includes permitting child engaging in prostitution and pornography, as a part of abuse definition. Provides immunity from liability resulting from assistance in an investigation of child abuse.

**Child Testimony**      **Code of Iowa, Sec. 910A.14(4)**      **1986**

Amends the Victim and Witness Protection Act, to limit duration of court testimony of a child in accordance with developmental maturity of a child.

**Counselor Confidentiality Privacy Protection/ Sexual Assault Funding**      **Code of Iowa, Chpts. 236A, 602.8105, & 236.12**      **1985**

Provides that sexual assault and domestic violence counselors shall not be examined or required to provide evidence concerning client unless the client waives right to confidentiality or the court determines that it is an exceptional circumstance. Also requires strict confidentiality of counselor's identity and shelter location and stipulates that victim counselors are not subject to the rules of exclusion from court. In addition, broadens the ability of law enforcement to make warrantless arrests, establishes a domestic abuse registry, and adds a \$15 fee on divorce orders to fund domestic violence and sexual assault programs.

**Notoriety for Profit**      **Code of Iowa, Chpt. 910.15**      **1982**

Allows victims to file judgments against escrow accounts established for profits from notoriety. After five years funds may be used by offender for legal fees or appeal costs.

**Elder Abuse**      **Code of Iowa, Chpt. 235B, Sec. 1**      **1984, Amend. 1985, & 1987**

Defines adult abuse and the means for recourse including reporting and services. Multidisciplinary teams are established to ensure compliance.

## KANSAS

## Enacted:

**Compensation** KSA, 1976,  
Chpts. 74-7301 to 74-7318, Amend.  
& 75-5211 1978, 1980,  
& 1986

Maximum Award: \$10,000. Emergency Award: none; Source: penalty assessment.

**Service Funding/  
Domestic Violence** KSA, 1982,  
Chpts. 23-108, 1984  
23-109, & 23-110

Amendments to marriage license fee surcharges. Adds an additional \$8.00 surcharge on marriage licenses (total of \$25.00 fee) to fund domestic violence services.

**Property  
Return** KSA, 1981  
Chpt. 60-472

Permits use of photographs as evidence when possible to expedite return of property.

**Victim Involvement/  
Sentencing** KSA, 1981,  
Chpt. 21-4604(2) Amend. 1985

Court may order pre-sentence investigation for misdemeanor, and must order PSI for felony. Victim impact statements are required in all PSIs.

**Conditional  
Restitution/  
Mandatory** KSA, 1981,  
Chpt. 21-4610 1983, & 1986

Requires judges and parole boards to mandate restitution unless reasons are stated otherwise. Establishes restitution program requirements as part of probation plan and as condition of suspended sentences. This is mandatory unless situation is otherwise compelling. Restitution as a condition of parole or conditional release.

**Notification  
Parole** KSA, 1985  
Chpts. 22-3717(m),  
& 45-4-12

Notification of parole is to be provided to the victim of the crime.

**Parole  
VIS** KS Rules & Regs., 1979,  
Sec. 45-4-12 Amend., 1982

Victims of A, B, or C, felonies are allowed to give a victim impact statement to the parole board.

**Protection from  
Intimidation** KSA, 1983, &  
Chpts. 21-3831, & 21-3832 1986

Intimidation of witnesses and victims' prohibited in civil and criminal actions. Provides procedures and court orders to prevent intimidation. Defines intimidation & provides punishment for violation of court orders. Defines certain acts as felonies.

**Domestic Violence/  
Protection Orders** KSA, 1979,  
Chpt. 60-3101 to 60-3111 Amend. 1987

The court shall be empowered to approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children or grant orders which will cease such abuse. Orders can be sought pro se with court forms available. (Protection from abuse act).

**Warrantless  
Arrest** KSA, 1985  
Chpt. 22-2401

An officer who has probable cause to believe harm has occurred or is imminent may arrest the alleged offender for a misdemeanor.

**Marital  
Rape** KSA, 1983  
Chpt. 21-3501 to 21-3502

Redefines rape to be based solely on non-consensual acts and creates new sex offenses.

**Rape Exam  
Payment** KSA, 1977  
Chpt. 65-448

Payment for evidentiary rape exams to be paid by county where rape occurred.

**Sexual Assault  
Definition** KSA, 1983  
Chpt. 21-3501

Expanded to include penetration with any object.

**Child Protection/  
Videotaped Testimony  
Closed Circuit** KSA, 1985,  
Chpts. 22-3433 Amend. 1986  
to 22-3434,  
& 38-1557

Permits the use of videotape film or other electronic means of recording of testimony or statement of a child under thirteen in criminal, juvenile, and civil abuse and neglect proceedings. Requires that recording be both visual and audio. Defendant may not be present in either circumstances.

**Service Funding/  
Children** KSA, 1980  
Chpt. 23-108a(b)

\$5.60 marriage surcharge for Family and Child Trust Fund to fund family violence prevention and child abuse prevention.

**Missing  
Children** KSA, 1984,  
Chpt. 22-4701 Amend. 1985,  
1986

Establishes a clearinghouse for missing children. Gives guidelines for the handling of missing children reports and requires that such reports are immediately investigated. Makes schools responsible in reporting children without proof of identity.

**Child Statute/  
Limitations** KSA, 1986  
Chpt. 21-3106(2)

Children under sixteen have five years after the commission of the crime to report for defined felonies of child sexual abuse.



**Child Protection/  
Offender Prohibition**      **KSA,**      **1984**  
   **Chpts. 65-516, & 65-519**

Prohibits child abuse offenders from maintaining a boarding home or family day care center for children.

**Child  
Hearsay**      **KSA,**      **1982**  
   **Chpt. 60-460(dd)**

If children cannot testify then their hearsay statements may be admissable.

**Child Court  
Attendant**      **KSA,**      **1985**  
   **Chpts. 38-1505a**

Permits courts to designate a court appointed special advocate for child victims in juvenile court.

**Child Abuse  
Reporting**      **KSA,**      **1985**  
   **Chpts. 38-1522,**  
   **& 38-1522a**

Provides for misdemeanor penalties for preventing or interfering with making such a report. Health care, child care, social workers and other professionals are required to report child abuse cases.

**Notoriety  
for Profit**      **KSA,**      **1986**  
   **Chpt. 74-7319 to 74-7320**

An escrow fund is to be set up by the victims reparations board in which any monies received by the re-enactment of a crime are to go to reimbursing the victim for costs incurred.

**Adult  
Protection**      **KSA,**      **1961,**  
   **Chpt. 39-923 to 39-964**      **Amend. 1983**

Provides regulatory procedures for adult care homes.

**Adult Abuse/  
Reporting**      **KSA,**      **1980,**  
   **Chpts. 39-1401 to**      **Amend. 1983,**  
   **39-1410, & 39-1421 to**      **1985**  
   **39-1429**

Provides for the reporting of abuse or neglect and protection of any client of an adult family home or care facility. Provides for adults unable to provide for themselves.

**Hate  
Violence**      **KSA,**      **1981**  
   **Sec. 21-4111**

It is a misdemeanor to mistreat a place of public worship.

## KENTUCKY

## Enacted:

**Compensation** KY Rev. Stats., 1976,  
Sec. 346.010 to 346.190 Amend. 1980,  
& 1986

Maximum Award: \$25,000; Emergency Award: \$500; Source: general revenue and penalty assessment. Extends coverage to residents of another state.

**Compensation/Service Funding** KY Rev. Stats., 1986  
Chpt. 346.185

New penalty assessment (to supplement existing compensation fund provided through general revenue). Provides funding mechanism for victim programs. \$10 additional cost on defendant who pleads or is found guilty of a crime, goes directly to the compensation fund.

**Service Funding/Domestic Violence** KY Rev. Stats., 1982,  
Chpt. 64.012 Amend. 1986

A marriage surcharge of \$10 imposed for basic and additional domestic violence services. The initial 50% state funding is reduced 5% annually until 25% state funding level is reached. Expand funding to all spouse abuse centers.

**Sexual Assault Funding** Annual Appropriation 1988

Minimum of \$100,000 to be appropriated yearly for sexual assault services. \$171,000 appropriated for 1988.

**Bill of Rights** KY Rev. Stats., 1986  
Chpts. 421.500 to 421.550,  
524.040, 524.045, & 524.055

Provides the following for victims and survivors of homicide: (1) Victim information; (2) Plea participation; (3) Property return; (4) Employer intercession; (5) Speedy disposition; (6) Victim impact statement and victim statement of opinion at sentencing; (7) Protection from intimidation, violators commit a class D felony; (8) Notification of case status, court scheduling, witness fees, plea bargaining, social services, financial assistance including how to apply, available compensation, sentencing, final disposition of trial, and when the offender is released from custody or given parole; (9) Victim to be notified and consulted on the offender's parole; (10) Secure waiting area; (11) To be treated with dignity, respect, and courtesy through the provision of basic human services; (12) In cases of child sexual assault (16 years of age or less) the attorney for the commonwealth may make a motion for a speedy trial, and shall set a hearing date on the motion within ten days. If the motion is granted, the trial shall be set for ninety days from the hearing date.

**Victim Involvement/Parole** KY Rev. Stats., 1986  
Chpt. 439.340(5-9)

Permits crime victims to present oral or written statements to parole board during release hearings. Also notification of hearings.

Restitution/  
Conditional  
Mandatory

KY Rev. Stats.,  
Sec. 533.030

1974

Mandatory restitution as a condition of probation or parole. If restitution is not made, the offender may be brought back to court to face contempt charges.

Domestic Violence/  
Protection

KY Rev. Stats.,  
Sec. 403.715 to 403.785

1984

Permits district courts to issue protective orders in domestic violence and abuse cases, and to define reporting and notification requirements.

Warrantless  
Arrest

KY Rev. Stats.,  
Chpt. 431.005

1984

If there is probable cause to believe a misdemeanor or felony has been committed, an officer may arrest without a warrant if there still exists a threat to another person.

Marital  
Rape

KY Rev. Stats.,  
Sec. 510.010(3)

1975

Marital rape exemption ends when parties are separated under a court order.

Rape Exam  
Payment

KY Rev. Stats.,  
Chpt. 216B.400(5)

1980

Payments for evidentiary rape exams are to be paid through the attorney general's office.

Child/Videotaping  
Closed Circuit

KY Rev. Stats.,  
Chpt. 421.350

1986

Allowed in sex offense cases as well as proceedings which would endanger the welfare of a minor.

Child  
Funding

KY Rev. Stats.,  
Chpts. 141.440, & 15.930

1984

A child trust fund is established, funded by income tax refund check-off, gifts and donations. Treasurer deposits into fund and distributes to non-profit organizations working for the prevention of child abuse and neglect.

Child  
Competency

KY Rev. Stats.,  
Chpt. 421.200

1952

Every person is competent to testify, unless found by the court incapable of understanding the facts.

Missing  
Children

KY Rev. Stats.,  
Chpt. 17.450

1984

Establishes a missing children's clearinghouse.

Child  
Background Check

KY Rev. Stats.,  
Chpt. 17.165

1984

Mandatory for day care and child care centers to furnish records of conviction for sex crimes. Employers may request records check on perspective employees if that person would have supervisory power over a minor.

**KY**

**KY**

## LOUISIANA

## Enacted:

**Compensation** LRS, 1982,  
Secs. 46:1801 to 46:1823, Amend. 1983,  
& 36:259 (F) 1985, & 1986

Maximum Award: \$10,000; Emergency Award: \$500; Source: fines and penalty assessments. Special award for loss of home. Moves Crime Victims Reparations Board from the State Department of Corrections to the Louisiana Commission on Law Enforcement. Records submitted as part of an application to the Crime Victim Reparations Board are to be confidential. Statute meets the VOCA criteria. Minimum loss reduced to \$100 (can be waived) and authorizes fund to receive private donations and gifts.

**Compensation** LA HCR 151 1985  
**Victim/Witness Info.**

Provides cards to law enforcement officers to give to victims for information about compensation.

**Funding for Services/** LRS Ann., 1982,  
**Domestic Violence** Sec. 46:2121 to 46:2128 Amend. 1983,  
1986

State appropriation to fund all domestic violence services. A \$12.50 marriage license surcharge is established which goes to the family violence program fund in the treasury.

**Victim** LRS, 1984  
**Services** Sec. 33:1463

Authorizes each sheriff to establish and maintain a victim services and assistance program. No funding appropriated.

**Bill** LRS, 1985  
**of Rights** Sec. 46:1841 to 46:1844

Establishes the following rights: (1) Information on case status; (2) Notification of schedule changes, final disposition, release on bond, cancellation of court proceedings to which the victim has been subpoenaed, social services, fees, and financial assistance including how to apply; (3) Secure waiting areas; (4) Expeditious property return; (5) Restitution as condition of probation, work release, or community service; (6) Notification of felony sentencing and release; (7) Victim impact statement/allocation at sentencing; (8) Right to be present at death penalty execution; (9) Notification of parole hearings and right to give an oral or written impact statement.

**Restitution** LA Crim. Code, 1984  
Art. 895.1(c)

Relates to probation and restitution; provides for defendants on supervised probation to pay monthly fees to defray costs of probation and for supervised restitution orders. Requires monetary restitution to victims or family as a condition of probation.

**Juvenile** LA Code of Juv. Proc., 1986  
**Restitution** Arts. 83(A)(8), & 83(B)

Requires the court in juvenile proceedings to order community service or restitution as a condition of probation.

**Notification/** LRS, 1985  
**Parole Hearing** Sec. 15:574.2(C)(9)

Requires the board to notify the spouse or next of kin of a deceased victim of the offender's impending parole hearing.

**Notification/** LRS, 1986  
**Pardon Hearing** Sec. 15:572.4(B)

The victim or victims family are to be given notice of hearings.

**Domestic Violence/** LRS, 1982,  
**Protection Orders** Secs. 46:2131, 46:2135(c), 1984,  
46:2133(b), 46:2132(3), & 1986  
& 46:2133(A)

A victim of family violence may petition *ex parte* at no cost for temporary restraining orders and temporary child custody. Orders can evict an abuser. Violation of order is a misdemeanor. Petitioner has right to return to residence to recover belongings. Relates to actions under the Protection from Family Violence Act to provide for venue in petitioner's home parish. Grants juvenile courts jurisdiction over domestic abuse proceedings.

**Domestic Violence** LRS, 1985  
**Protection Orders/** Sec. 46:2140 to 46:2142  
**Warrantless Arrest**

Grants domestic violence victims civil immunity from reporting abuse and strengthens arrest procedures for domestic violence infractions. Authorizes law enforcement officers to assist victims of domestic violence by using immediate and all reasonable means to prevent further abuse. Requires reporting and gives immunity for, in all felony cases. If a misdemeanor there must be an impending danger to physical safety to make warrantless arrest.

**Marital** LRS Ann., 1978,  
**Rape** Secs. 14:41, & 14:43.2 Amend. 1984

Marital rape exemption ends when parties are separated under a court order. Amended to abolish exemption in "aggravated sexual battery" only.

**Rape Exam** LRS, 1979  
**Payment** Title 40, Sec. 2109.1

Evidentiary rape exams are to be paid by the parish in which the rape occurred.

**Sexual Assault** LRS, 1978  
**Definition** Title 14, Sec. 41 to 43.5

Non-gender specific in all except in dealing with juvenile crimes. Includes rape with an object. Tiered into degrees of rape and sexual assault.

**Child Protection/** LRS, 1984  
**Videotaped Testimony** Sec. 15:440.4(A)(5)

Permits recording and use of videotaped testimony of sexually or physically abused children under fourteen years of age.

Missing Children	LRS, Secs. 14:403(B)(1), (E), (G)(1), & (H)	1985	Hate Violence	LRS, Sec. 14:225	1985
Provides for a central registry in the state for reporting cases of child abuse or neglect. Provides for immunity from liability, and for the investigation of child abuse in public or private residential facilities.			It is unlawful to damage any place of worship, cemetery, or school.		
Missing Children	LRS, Secs. 40:2601, & 46:1844(A)(12),	1986			
Requires law enforcement to investigate reports of missing children expeditiously, and to keep family members informed. Also, to notify national tracking systems and neighboring states of child's absence.					
Child Care Background Check	LRS, Secs. 15:578(E), 15:825.3, 17:15, & 46:51.2	1986			
Requires a report of the criminal history of specified employees in authority over children.					
Child Abuse Reporting	LRS, Sec. 14:403	1973			
The following are mandated to report suspected cases of child abuse: Health practitioners, social workers, school personnel, child care workers, police. Reporters are immune from liability. Teachers who don't report can be fined up to \$500.					
Notoriety for Profit	LRS, Chpt. 21-A, Sec. 1831 to 1839	1982			
Creates Criminal Victims Escrow Account for funds derived from profits gained through the depiction of their story. 75% of fund available to victim, 25% goes to compensation fund. After five years all remaining money goes to compensation fund.					
Adult Abuse	LRS, Sec. 14:403.2 to 14:403.3 Amend. 1983,	1982, 1985			
Provides protection for those eighteen years or older who cannot take care of themselves and are abused or neglected. Includes: reporting, investigating, central registry, penalties and protective services.					
Nursing Home Bill of Rights	LRS, Sec. 40:2010.1 to 40:2010.8	1985, Amend. 1986			
Establishes the function of an ombudsman to review the care of residents in nursing homes and specifies residents' rights in the form of a Bill of Rights.					
Hate Violence	LRS, Sec. 14:313	1974			
No persons are permitted to wear hoods or masks in public to conceal one's identity.					

## MAINE

## Enacted:

**Service Funding/  
Domestic Violence** ME Rev. Stats., 1979  
Title 22, Sec. 8501

Funds basic shelter and other domestic violence services.

**Service Funding/  
Sexual Assault** ME Rev. Stats., 1983  
Title 22,  
Sec. 1661 et seq.

Authorizes the Department of Human Services to fund rape crisis centers.

**Victim  
Bill of Rights** ME Rev. Stats. Ann., 1983  
Title 17-A,  
Secs. 454, 1257, 1257-A,  
1323, & 1330

Establishes the following rights: (1) Victim impact statement/victim statement of opinion/allocation at sentencing; (2) Protection from intimidation; (3) Property return; (4) Notification of sentencing hearing, pardon, work release; (5) Service programs; and (6) Mandatory restitution or explanation for failure to order restitution; 25% of work release or other pay must go to restitution.

**Allocation/  
Sentencing** ME Rev. Stats., 1983  
Title 17-A, Sec. 1257

Victims may address the sentencing justice before sentence is pronounced.

**Restitution** ME Rev. Stats., 1977,  
Title 17-A, Amend. 1983,  
Sec. 1321 to 1329 1984, & 1987

Restitution for compensable loss.

**Restitution/Condition  
Work Program** ME Rev. Stats., 1983  
Title 17-A  
Sec. 1330

Restitution specified for victims when prisoner is on a work program.

**Notification  
Plea** ME Rev. Stats., 1981  
Title 15, Sec. 812

Notification of victim of plea agreement before submitting to the court.

**Notification/  
Felony Release** ME Rev. Stats., 1985  
Title 17-A, Sec. 1257-A

Notify of inmate's release from custody, including work release.

**Protection  
Intimidation** ME Rev. Stats., 1983  
Title 17-A,  
Sec. 454

It is a crime to tamper with a witness, informant or victim.

**Domestic Violence  
Protection** ME Rev. Stats., 1979,  
Title 19, Sec. 761 et seq. Amend. 1986

Intervention services for family members who are at risk because of violence or threat of violence.

**Domestic Violence  
Protection/** ME Rev. Stats., 1979  
Title 19, Sec. 769, & 1983  
Title 15, Sec. 321

An order may be issued if there is a likelihood that the offender may injure the health or safety of the victim in the future.

**Warrantless Arrest/  
Domestic Violence** ME Rev. Stats., 1983  
Title 17-A,  
c. 15(1)(A) 1985

Provides for warrantless arrest in certain circumstances. Including if reason to believe that the person may cause injury if not immediately arrested.

**Marital  
Rape** ME Rev. Stats., 1985  
Title 17-A,  
Sec. 252

Marital exemption abolished.

**Rape Exam  
Payment** ME Rev. Stats., 1975,  
Title 30, Amend. 1977  
Sec. 507

Evidentiary payment for rape exams to be assumed by the office of the district attorney of the county in which the crime occurred.

**Sexual Assault  
Definition** ME Rev. Stats., 1976  
Title 17-A, Chpt. 11  
Sec. 251 to 255

Includes rape with an object.

**Child Protection  
Videotaping** ME Rev. Stats., 1983,  
Title 15, Sec. 1205 Amend. 1985

Gives victims of sexual abuse under fourteen the opportunity to testify in the judge's chambers. A statement may be recorded by any means approved by the court.

**Child  
Funding** ME Rev. Stats., 1985  
Title 22,  
Chpt. 1052, Sec. 3721 to 3726

A voluntary contribution by Maine taxpayers through an income tax check-off is provided to fund programs which prevent abuse, neglect, and mental illness among children.

**Child  
Competency** ME Gen. Rules of Evid., 1983  
Rule 601

All persons are competent to testify unless otherwise provided. Must be able to understand an oath. Court determines the standard that must be met.

## ME

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**Missing Children**                      **ME Rev. Stats.,**                      **1985**  
   **Title 25,**  
   **Chpt. 257, Sec. 2151**

Information to be shared with the National Crime Information Center.

**Child Statute of Limitations**                      **ME Rev. Stats.,**                      **1985**  
   **Title 14, Sec. 752-C**

Sexual assault cases involving minors under the age of majority have a limitation of six years for commencement in civil cases.

**Child Hearsay**                      **ME Rev. Stats.,**                      **1985**  
   **Title 22, Sec. 4007(2)**

The court may admit and consider oral or written evidence of out of court statements by the child.

**Child and Adult Privacy/Address Protection**                      **ME Rev. Stats.,**                      **1977,**  
   **Title 30, Sec. 508,**                      **Amend. 1979,**  
   **Title 19, Sec. 766-A,**                      **& 1985**  
   **Title 22, Sec. 4008**

Nondisclosure of the names of minor victims of sexual crimes. Court may order nondisclosure of a plaintiff's or minor child's address in cases of abuse.

**Child/Court Attendant**                      **ME Rev. Stats.,**                      **1983**  
   **Title 4, Chpt. 31**

Provides for lay, court-appointed special advocates.

**Child Abuse Reporting**                      **ME Rev. Stats.,**                      **1983**  
   **Title 22, Sec. 4011**

Professional childcare staff must report suspected cases of abuse.

**Counselor Confidentiality**                      **ME Rev. Stats.,**                      **1983**  
   **Title 16, Sec. 53-A**

Rape counselor communications are to be confidential.

**Elderly Abuse**                      **ME Rev. Stats.,**                      **1986**  
   **Title 22, Chpt. 958-A,**  
   **Sec. 3470 to 3492**

Protective services. Elderly may be wards of the state. Provides for reporting requirements of incapacitated or dependant adults.

**Hate Violence**                      **ME Rev. Stats. Ann.,**                      **1983**  
   **Title 17-A, Sec. 507**

It is unlawful to damage a place of worship or burial.

**Hate Violence**                      **ME Rev. Stats.,**                      **1987**  
   **Title 5, Sec. 4651 to 4659;**  
   **Title 17, Chpt. 93-C**

Harrassment that deters free exercise of constitutional rights of another is a class D misdemeanor.

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## MARYLAND

## Enacted:

**Compensation** MD Ann. Code, 1978,  
Art. 26A, Sec. 1-17 Amend. 1985,  
1986, 1987

Maximum Award for all awards including medical and any subsequent and supplemental awards: \$45,000; Disability claim may receive up to \$25,000; Emergency Award: \$1000; Source: general revenue. Allows for reimbursement for funeral expenses. Amended to comply with VOCA requirements.

**Compensation/  
Victim Information** MD Ann. Code, 1986  
Art. 26A, Sec. 18

Victim of violent crime shall be provided with written information on compensation to be given by law enforcement.

**Domestic Violence  
Funding** MD Ann. Code, 1978,  
Fam. Law Art., recodified  
Sec. 4-513 to 4-516 1984

Establishes a battered spouse program to provide at least one shelter in major population centers. Counseling, information, and referral.

**Service Funding/  
Domestic Violence** MD Ann. Code, 1979, &  
Art. 88A, Sec. 101-105, 1982,  
Fam. Law Art., Amend. 1986  
Sec. 2-404(b)

Funds basic shelter and other domestic violence services. Allows counties to authorize a \$15 marriage license surcharge -- seven counties have done this. Makes shelter records confidential. Enables counties to authorize a \$25 surcharge to fund domestic violence programs.

**Domestic Violence  
Funding** MD Ann. Code, 1987  
Fam. Law Art.,  
Sec. 2-404

Increases the amount a jurisdiction may levy from \$25 to \$35 on marriage license fees to support domestic violence programs.

**Sexual Assault  
Services** MD Ann. Code, 1986  
Art. 88A,  
Sec. 130(b)

Provides for specialized support services to both adult and child victims of sexual assault.

**Victim  
Coordinator** MD State Govt. Art., 1988  
Secs. 6.5-101 et seq.  
& 6.5-201 to 6.5-205

Creates victim coordinators in each jurisdiction, as well as a "Board of Victim Services."

**Victim Services/  
Task Force** MD HJR 55 1984

To establish a Governor's Task Force on Victims Services. Provides for membership, appointment, staffing, and that the task force

report to the governor and to the General Assembly.

**Victims Bill of  
Rights/Fair  
Treatment** MD Ann. Code, 1986  
Art. 27,  
Sec. 761

Provides for the following guidelines for the treatment of and assistance to crime victims and witnesses: (1) To be informed of these guidelines; (2) To be treated with dignity and respect; (3) Information on crisis intervention assistance, emergency medical treatment, creditor intercession and other social services; (4) Notification of trial court proceedings and schedule changes, and of post-sentencing proceedings; (5) Protection from intimidation; (6) Provide separate waiting area; (7) Informed of compensation and other financial assistance including how to apply; (8) Employer intercession; (9) If requested, notified of arrest, bail hearing, dismissal, non-prosecution, trial, disposition, case closing, parole/parole release hearings, escape, mandatory release, and who to contact for information of proceedings; (10) Property return; (11) Victim impact statement/statement of opinion; (12) Speedy disposition; (13) Information on restitution and how to request it.

**Employer  
Intercession** MD Ann. Code, 1986  
Courts & Jud. Proc.  
Sec. 9-205

Prohibits employer from firing an employee solely due to lost time as a result of responding to a subpoena.

**Court  
Attendance** MD Ann. Code, 1985  
Art. 27, Sec. 620

Allows the victim to remain in the courtroom after the the victim has testified. Allows a representative of the victim to be present if the victim is deceased or disabled.

**Victim Involvement/  
Sentencing** MD Ann. Code, 1982,  
Art. 41, Sec. 124(C) Amend. 1983

Requires victim impact statement in the pre-sentence report in any case resulting in serious physical injury or death to victims.

**Victim Impact  
Statement** MD Ann. Code, 1982  
Art. 41 Sec. 4-504  
& Art. 41, Sec. 4-609

Victims/family have the right to give an account of the crime and its impact on them to the judge or jury before sentencing.

**Allocution/  
Sentencing** MD Ann. Code, 1986  
Art. 27, Sec. 643D

Allows for allocution at the discretion of the judge in cases resulting in serious injuries or death.

**Notification &  
VIS/Parole** MD Ann. Code, 1985,  
Art. 41, Secs. 110-D, Amend. 1988  
4-404(d), 4-505(b)(2), & 4-506(6)

Permits victims of violent crime to request notice of parole release hearings, and present an updated victim impact statement. Parole Commission must inform the victim of its decision. Information about the victim is to be kept confidential in parole procedures. The victim may state their opinion on whether the prisoner should be released.



<b>Restitution</b>	<b>MD Ann. Code, Art. 27, Sec. 640</b>	<b>1977</b>	<b>Missing Children's Act</b>	<b>MD Ann. Code, Fam. Law Code, Sec. 9-401 to 9-403</b>	<b>1985</b>
Establishes general restitution and provides that restitution may be ordered as a sentence or as a condition of probation.			Establishes a statewide clearinghouse for missing children under the Dept. of Public Safety. Requires law enforcement to begin a prompt investigation of missing children and to utilize nationwide computer network.		
<b>Notification of Proceedings/ Post-sentence</b>	<b>MD Ann. Code, Art. 10, Sec. 40A</b>	<b>1986</b>	<b>Child/ Background check</b>	<b>MD Ann. Code, Fam. Law Art., Sec. 5-560 to 5-568</b>	<b>1986</b>
To receive notification of appeals or modification of sentence, the victim/family must keep a current address on file with the state's attorney.			Requiring criminal background checks for employees of certain child care facilities.		
<b>Domestic Violence Protection</b>	<b>MD Ann. Code, Fam. Law Art., Sec. 4-504 to 4-510</b>	<b>1980</b>	<b>Child Hearsay</b>	<b>MD Cts. &amp; Jud. Proc. Art. Sec. 9-1-3.1</b>	<b>1988</b>
Sets up procedure for obtaining civil order of protection.			Out-of-court statement of child abuse victims are admissible if made to physician, psychologist, or teacher if within the course of that person's profession.		
<b>Domestic Violence/ Warrantless Arrest</b>	<b>MD Ann. Code, Art. 27, Sec. 594(b)(d)</b>	<b>1986</b>	<b>Child Abuse Reporting</b>	<b>MD Fam. Law Code Ann., Secs. 5-903(b)(1), 5-704(a) 5-701(c)(d)(e)(h), 5-904, &amp; 5-901(d)(e)(i)</b>	<b>1984</b>
Allows for arrest without a warrant if the officer has probable cause to believe that battering has occurred. Report must be made within two hours and they must be married.			Requires health care workers, police, educators, social workers, or anyone to report suspected cases of child abuse, or they may be subject to certain sanctions.		
<b>Marital Rape</b>	<b>MD Ann. Code, Sec. 27-464D</b>	<b>1979</b>	<b>Child Protection</b>	<b>MD Ann. Code, Fam. Law Art., Secs. 5-709, &amp; 5-910</b>	<b>1984</b>
Marital rape exemption ends after court-ordered separation.			Provides that the local mental health department pay certain emergency medical treatment charges for children who are alleged victims of abuse or neglect.		
<b>Rape Exam Payment</b>	<b>MD Ann. Code, Health and Gen. Art., Sec. 15-157</b>	<b>1986</b>	<b>Child Protection</b>	<b>MD Ann. Code, Fam. Law Art., Secs. 4-501, 4-504, 4-505, 4-506, 405-8, &amp; 4-509</b>	<b>1985</b>
Services are provided free to alleged victims of sexual assault, with reimbursement by the Department of Health and Mental Hygiene.			Strengthens protection orders on behalf of child abuse victims.		
<b>Sexual Assault Definition</b>	<b>MD Ann. Code, Art. 27, Secs. 462, 463, 464, &amp; 464B</b>	<b>1985</b>	<b>Privacy Protection</b>	<b>MD Ann. Code, Courts and Jud. Proc., Sec. 9-501, Sub. Title 5</b>	<b>1985</b>
Includes rape with an object. Tiered into degrees of sexual assault. Is gender specific as to rape.			Permits judge to withhold witness addresses and telephone numbers if irrelevant to case. Denies defense attorney the right to reveal such information without approval from the witness.		
<b>Child Protection/ Closed Circuit Testimony</b>	<b>MD Ann. Code, Courts and Jud. Proc., Art. 9-102</b>	<b>1985</b>	<b>Notoriety for Profit</b>	<b>MD Ann. Code, Art. 27, Sec. 764</b>	<b>1987</b>
Permits closed circuit testimony for victims under 18 if the judge determines that testimony in the courtroom will result in serious emotional distress such that the child cannot reasonably communicate. Limits the number of people who may be in the room.			Establishes procedures to prevent criminals from profiting by telling their story.		
<b>Child Protection/ Competency</b>	<b>MD Ann. Code, Sec. 9-102</b>	<b>1985</b>			
Specifies that in a criminal trial the age of the child shall not be the reason for precluding a child from testifying.					

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<b>Elderly Abuse</b>	<b>MD Ann. Code, Sec. 19-347:152 to 19-347:155</b>	<b>1957, Amend. 1982, 1983, &amp; 1986</b>
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Prohibits abuse of residents in nursing home and related facilities. Outlines procedures for reporting.

<b>Adult Protection</b>	<b>MD Ann. Code, Title 14, Sec. 14-101 to 14-404</b>	<b>1977, Amend. 1985</b>
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Provides protection for vulnerable adults from abuse. Includes: protective services, investigations, reporting, and guardianship.

<b>Hate Violence</b>	<b>MD Crime &amp; Punish. Code Ann., 1982 Secs. 10A, 470, 7, &amp; 10</b>	<b>&amp; 1984</b>
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Felony to burn a cross without landowner's permission. Forbids disturbing a religious meeting. Felony to maliciously set fire (or attempt to set fire) to a religious structure.

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## MASSACHUSETTS

## Enacted

Compensation	MA Gen. Laws, Chpt. 258A, Secs. 1 to 9	1968, Amend. 1982, 1983, 1985, & 1986
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Maximum Award: \$25,000; Emergency Award: none; Source: general revenue. Amends compensation statute to meet VOCA criteria, raises maximum award to \$25,000, eliminates family exclusion under certain conditions. Also includes motor vehicle crime victims. Limits liability of certain good samaritans.

Domestic Violence/ Funding	MA Gen. Laws, Chpt. 40, Sec. 5	1986
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Provides funds to establish services or programs for abused women or to contract with organizations which provide such services.

Victim Bill of Rights/ Service Funding	MA Gen. Laws Ann., Chpt. 258B & Chpt. 279, Sec. 4B	1983
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Lists rights of victims, survivors and witnesses when crime has been reported within five days (with exceptions). Includes: (1) Notification of all court proceedings, schedule changes, temporary, provisional, or final release, bail, pre-trial release, and final disposition; (2) Notification (upon request) of prisoner release or escape; (3) Information on financial assistance, witness fees, and victim services; (4) Secure waiting areas; (5) Prompt property return; (6) Employer/creditor intercession; (7) Speedy disposition; (8) Child care; (9) Protection from Intimidation; (10) Prompt processing of case; (11) Victim impact statement, victim statement of opinion, allocation (DA must give notice of sentencing and right to allocation for felony cases); (12) Right to request restitution in final disposition of case; and (13) Establishes a five member Victim and Witness Assistance Board to administer newly established victim assistance fund. Source of fund: penalty assessments.

Victim Impact Statement: Sentencing/Parole	MA Gen. Laws, Chpt. 258B, Sec. 3	1986
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Victims have the right to give court a victim impact statement and to request the court to submit it to the parole board.

Parole Hearings Notification/VIS Allocation	MA Gen. Laws, Chpt. 127, Sec. 133A	1982
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Parole authority must notify DA, police, and victim of their right to appear at hearings and their right to make recommendations at least thirty days before hearing is scheduled.

Parole VIS	MA Gen. Laws, Chpt. 258B, Sec. 3(h)	1986
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Right of victim to have a victim impact transmitted to parole board.

Mandatory Arrest Domestic Violence	MA Gen. Laws, Chpt. 209A, Sec. 6(5-6)	1987
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If a police officer has probable cause to believe that domestic violence has occurred, he shall take all actions necessary to relieve the situation including arrest.

Domestic Violence Protection/ Warrantless Arrest	MA Gen. Laws, Chpt. 209A, Sec. 5& 6	1978, Amend. 1985
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Twenty-four hour emergency orders. Good for up to one year. Refrain from abuse. Vacate orders. Provided whether married or not. Also protects minors. Information to be given on how to take legal action and shelter locations. Requires arrest with probable cause.

Marital Rape	MA Gen. Laws, Chpt. 277, Sec. 39	1974, & 1981
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No exemption in rape and aggravated rape cases.

Sexual Assault Definition	MA Gen. Laws, Chpt. 265, Sec. 24(A-C), Chpt. 233, Sec. 21(B)	1974, 1977, Amend. 1980, 1983
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Non-gender specific. Includes rape with an object. Tiered into degrees of rape.

Mandatory Rape Investigators	MA Gen. Laws, Chpt. 41, Sec. 97(b)	1979
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Certified rape investigators. Minimum of one in each police department or small group of municipalities. Responsibility to evaluate victims and take evidence.

Child Funding	Acts of 1987 Chpt. 729	1987
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Establishes a Children's Trust Fund administered by an Advisory Board within the office of the Governor to fund programs to prevent child abuse and neglect.

Child Protection/ Videotaped Testimony	MA Gen. Laws, Chpt. 278 Sec. 16D	1985
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Allows children under the age of fifteen to present videotaped testimony in judge's chambers with defendant present or, if victim is unable to face the defendant, allows closed-circuit testimony.

Missing Children's Clearinghouse	MA Gen. Laws, Chpt. 22A, Sec. 7	1984, Amend. 1986
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Establishes registry for statewide information on missing children.

Statute of Limitations	MA Gen. Laws, Chpt. 277, Sec. 63	1985, Amend. 1987
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No statute of limitations for murder. Ten years for serious felonies, six years for other crime. Tolls from date of report to law enforcement or ten years from age sixteen for all sexually related crimes.

**Child Abuse Reporting**      **MA Gen. Laws, Chpt. 119, Sec. 51A**      **1983 & 1986**

Police, health care workers, and teachers are obligated to report suspected cases of child abuse. Fine for failure to report of not more than \$1,000. Immunity to reporters.

**Child Protection**      **MA Gen. Laws, Chpt. 28A, Sec. 6A, Chpt. 119, Sec. 51B & D**      **1984, Amend. 1986**

Defines child abuse, directs child service teams to determine agency responsibility, establishes a commission to study causes of, and potential remedies for, violence against children.

**Domestic Violence/Confidentiality**      **MA Gen. Laws, Chpt. 233, Sec. 20K**      **1986**

A domestic violence counselor shall not disclose confidential information without prior written consent of the victim. Exceptions in some criminal cases.

**Counselor Confidentiality/Sexual Assault**      **MA Gen. Laws, Chpt. 233, Sec. 20J**      **1984**

Sexual assault counselors shall not disclose confidential communications without the prior written consent of the victim. Includes criminal and civil proceedings.

**Privacy Protection Sexual Assault**      **MA Gen. Laws, Chpt. 265, Sec. 24C**      **1986**

Names and addresses of sexual assault victims shall be withheld from public inspection, except with the consent of the judge.

**Notoriety for Profit**      **MA Gen. Laws, Chpt. 258A, Sec. 8**      **1978**

Prohibits convicted offender from benefiting from profits gained from notoriety due to crime.

**Elder Abuse**      **MA Gen. Laws Ann., Chpt. 19A, Sec. 14 to 35**      **1980, Amend. 1982**

Establishes the Department of Elder Affairs and contains regulations for treatment and services for the elderly. Includes: reporting, protective services, and ombudsmen.

**Hate Violence**      **MA Gen. Laws, Chpt. 265, Secs. 37, & 39**      **1980 & 1985**

Forbids intimidation or oppression of others to exercise their constitutional rights. Sets a fine and prison term for persons who commit crimes because of race, color, religion, or national origin.

**Hate Violence**      **MA Gen. Laws Ann., Chpt. 266, Secs. 127A, 2, 98, & 12713**      **1980 & 1985**

Prohibits willful destruction of religious structures. Includes burning or aiding in burning of these structures. Also provides a civil cause of action for damage caused in such an incident.

**Hate Violence**      **MA Gen. Laws Ann., Chpt. 272, Secs. 38, & 98C**      **1980**

Prohibits libel of a group with the malicious intent of promoting hatred of that group because of race, color, or religion. Prohibits willful disturbance of a religious meeting.

**Hate Violence**      **MA Gen. Laws Ann., Chpt. 12, Secs. 11H, & 11I**      **1980 & 1985**

Provides the Attorney General with the power to bring a civil action if a person's constitutional rights are violated. Provides for a cause of action.

## MICHIGAN

### Enacted:

**Compensation**      **MI Comp. Laws,**      **1976**  
                                  **Sec. 18.353**

Maximum Award: \$15,000; Emergency Award: \$500; Source: general revenue & federal VOCA grants.

**Compensation**      **MI Comp. Laws,**      **1985**  
                                  **Sec. 18.351**

Amends compensation act to meet VOCA criteria and makes general changes in eligibility criteria.

**Service Funding/  
Domestic Violence**      **MI Comp. Laws,**      **1982,**  
                                  **Secs. 400.1501**      **Amend. 1984**  
                                  **to 400.1510, 551.103,**  
                                  **& 551.331 to 551.344**

Funds basic shelter and other domestic violence services with a marriage license surcharge of \$20. Programs are administered at the county level with a maximum of 40% state funding.

**Bill  
of Rights**      **MI Comp. Laws Ann.,**      **1985,**  
                                  **Sec. 780**      **Amend. 1988**

Establishes the following rights: (1) Information on victim services and compensation; (2) Notification of court proceedings, sentencing, parole, parole hearings, pardon, general release, escape, pre-trial release, bail, plea agreements, work release, and final disposition, move of inmate from any secure to non-secure setting; (3) Consultation on plea agreements; (4) Secure waiting areas; (5) Address protection; (6) Speedy trial for child abuse and criminal sexual conduct; (7) Court attendance unless sequestered; (8) Employer intercession; (9) Victim impact statement, statement of opinion, and allocution at sentencing; (10) Restitution available for physical, financial or psychological injuries; (11) Right to address parole officer, written/oral, upon request; (12) Prompt return of property; (13) Offender shall not derive any profit from the sale of his/her recollections; (14) Protection from intimidation.

**Victim/Witness  
Information**      **MI Comp. Laws,**      **1985**  
                                  **Sec. 764.15C**

Requires peace officers to advise victims of domestic violence of the availability of shelter and other community services.

**Restitution**      **MI Comp. Laws,**      **1985**  
                                  **Sec. 771.3**

Amends Code of Criminal Procedures to establish right to restitution for physical, financial or emotional injuries.

**Conditional/  
Mandatory  
Restitution**      **MI Stats. Ann.,**      **1986**  
                                  **Sec. 28.1287(766)**

Restitution may be ordered as a condition of parole. An order of restitution may be enforced by the prosecuting attorney or a victim in the same manner as a judgment in a civil action.

**Domestic Violence  
Protection Orders**      **MI Comp. Laws,**      **1983**  
                                  **Sec. 600.2950**

Victim may get an injunction in domestic violence cases, which enjoins the spouse or former spouse from the premises.

**Warrantless  
Arrest**      **MI Comp. Laws,**      **1980**  
                                  **Sec. 764.15(1)(a)**

If a police officer has reasonable cause to believe that a misdemeanor, (abuse or an assault) has occurred, and the suspect lives or has lived on the premises at one time, irrespective of the officer's presence he or she may arrest without a warrant.

**Marital  
Rape**      **MI Comp. Laws,**      **1988**  
                                  **Sec. 750.520(1)**

Legal spouses may be charged and convicted for rape.

**Sexual Assault  
Definition**      **MI Comp. Laws,**      **1974,**  
                                  **Sec. 750.520 A & B**      **Amend. 1984,**  
                                  **1985**

Tiered into degrees of sexual assault. Includes rape with an object. Non-gender specific.

**Child Videotape/  
Court Attendant**      **MI Comp. Laws,**      **1987**  
                                  **Sec. 600.2163A**

Victims of child abuse to make statements to law enforcement agencies on videotape. Permits use of anatomically correct dolls, and permits the victim to be accompanied by a support person.

**Child  
Funding**      **MI Comp. Laws,**      **1980**  
                                  **Sec. 21.171 to 21.172**

A child trust fund is set up in the Michigan Department of the Treasury. To be funded through income tax check-off, money received under the child abuse prevention act, gifts and donations. To fund child abuse prevention programs.

**Missing  
Children Act**      **MI Comp. Laws,**      **1985**  
                                  **Sec. 28.251 to 28.257**

Law enforcement agencies shall immediately enter information on any child reported missing into the law enforcement information network and the national crime information center.

**Child Statute  
of Limitations**      **MI Comp. Laws,**      **1987**  
                                  **Sec. 767.24**

Statute of limitations for criminal sexual abuse does not run out until the victims twenty first birthday or six years after the crime, whichever comes later.

**Child Abuse  
Reporting**      **MI Comp. Laws Ann.,**      **1975**  
                                  **Sec. 722.621 to 722.635**

Requires anyone involved in the care or supervision of children to report suspected abuse or neglect.

## MI

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<b>Counselor Confidentiality/ Sexual Assault, Domestic Violence</b>	<b>MI Comp. Laws, Sec. 2157a</b>	<b>1984</b>
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Establishes confidential communication between victim and counselor in sexual assault and domestic violence cases. The above information shall not be admissible in any civil or criminal proceeding without prior written consent of the victim.

<b>Notoriety for Profit</b>	<b>MI Comp. Laws, Sec. 780.766</b>	<b>1986</b>
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Limits convicted criminals from deriving profit under certain circumstances.

<b>Hate Violence</b>	<b>MI Stats. Ann., Secs. 28.366, 28.133, 28.628; MI Penal Code, Sec. 750.396</b>	<b>1931, &amp; 1981</b>
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It is a misdemeanor to willfully disturb a religious gathering. Persons who march or assemble in a public place while wearing a mask which conceals their identity are guilty of a misdemeanor.

### Introduced:

<b>Constitutional Amendment</b>	<b>House Joint Resolution P Adding Sec. 24 to Art. I</b>	<b>1988</b>
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Crime victims, as defined by law, shall have the following rights, as provided by law: (1) To be treated with fairness and respect for their dignity and privacy throughout the criminal justice process; (2) To timely disposition of the case following arrest of the accused; (3) To be reasonably protected from the accused throughout the criminal justice process; (4) To notification of court proceedings; (5) To attend trial and all other court proceedings the accused has the right to attend; (6) To confer with the prosecution; (7) To make a statement to the court at sentencing; (8) To restitution; (9) To information about the conviction, sentence, imprisonment, and release of the accused; (10) The legislature may provide for an assessment against convicted defendants to pay for crime victims' rights.

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## MINNESOTA

## Enacted:

**Compensation** MN Stats. Ann., 1974,  
Secs. 611A.51 Amend. 1987  
to 611A.68

Maximum Award: \$50,000; Emergency Award: \$5,000; Source: general revenue, restitution, assessments, surcharges, refunds, and fines. Provides for mileage and child care expenses. 1985 amendments raise maximum award to \$50,000, eliminates family and automobile exclusions and \$100 deductible and creates a \$100 minimum loss. Crime victims reparations board set up to administer program. Must include at least one victim.

**Funding for Victim Services** MN Stats. Ann., 1986  
Secs. 609.101

A minimum of \$25 and not more than \$50 for misdemeanors and felonies may be imposed for the purpose of providing services, assistance or reparations to victims of crime. If the sentence includes payment of a fine of less than \$100, a 10% surcharge may be assessed.

**Sexual Assault Domestic Violence Funding** MN Stats. Ann., 1986  
Secs. 611A.23, & 357.021

Set up initial funding for sexual assault and domestic violence programs.

**Service Funding/ Sexual Assault** MN Stats. Ann., 1983  
Sec. 611A.21

Appropriates monies to the Department of Corrections for sexual assault victims' programs.

**Victim Bill of Rights** MN Stats. Ann., 1981,  
Sec. 611A et seq. Amend. 1987

Establishes the following rights: (1) Notification of plea agreements, the charge, any plea agreement, victim services, compensation, sentencing, release (upon request), schedule changes; (2) Protection from harm and intimidation; (3) Right to request restitution; (4) Victim impact statement/victim statement of opinion in writing and right to be present at sentencing and to object to the proposed disposition in writing; (5) Use of work release pay and other earnings for restitution; (6) Right to notice of change in charges/juvenile petition; (7) Notice of schedule changes; (8) Makes it a misdemeanor to discipline or discharge victims because they were subpoenaed or requested to testify; (9) Creates a statewide ombudsman for violations of victim's rights; (10) Victim/address protection; (11) Speedy trial; (12) Separate waiting areas; (13) Plea consultation; (14) Creation of a Victims Advisory Board.

**Witness Fees** MN Stats. Ann., 1983  
Sec. 357.24

Provides fees of \$10 each day for attendance; travel fees of 24¢ per mile and expenses incurred for meals, loss of wages and child care, not to exceed \$40 per day.

**Restitution/  
Condition of  
Probation**

MN Stats.,  
Sec. 609.135

1986,  
Amend. 1987

If the court orders restitution and the defendant fails to pay prior to sixty days prior to the end of probation, a revocation hearing shall be called.

**Restitution** MN Stats. Ann., 1987  
Sec. 611A.04

Crime victims may make claims for reparations. Also reparations board may request restitution for victims.

**Restitution** MN Stats. Ann., 1987  
Chpt. 270A

Providing for collection from convicted person's tax refund of court-ordered restitution to crime victims.

**Domestic Violence Protection Orders** MN Stats., 1987  
Sec. 518B.01

Allows orders of protection in cases of assault, threat with a dangerous weapon, or placing one in fear of imminent harm.

**Domestic Violence** MN Stats., 1985  
Sec. 634.20

Evidence of similar prior conduct by the accused against a victim of domestic violence is admissible with restrictions.

**Warrantless Mandatory Arrest/ Domestic Violence/ Police Training** MN Stats. Ann., 1986  
Sec. 629.341

Mandates police arrest, if probable cause exists, persons who have assaulted (misdemeanor or felony) others with whom they reside with. Also requires police training on domestic violence.

**Domestic Abuse/ Juvenile Courts** MN Stats. Ann., 1988  
Sec. 260.111, & 518B.01

Gives juvenile courts certain authority under the Domestic Abuse Act. Permits local welfare agencies to bring actions under Act, requires "child's best interest" considerations.

**Marital Rape** MN Stats. Ann., 1986  
Sec. 609.349

Deletes marital exemption in most cases. But exemption including cohabitants still applies in statutory rape cases.

**Rape Exam Payment** MN Stats., 1986  
Sec. 609.35

Evidentiary rape exams are to be assumed by the county in which the rape occurred.

**Sexual Assault Definition** MN Crim. Code, 1975  
Sec. 609.342 to 609.345

Criminal sexual assault includes penetration with an object. Non-gender specific. Tiered into degrees of sexual assault.



<b>Sexual Exploitation by Psychotherapists</b>	MN Stats. Ann., Sec. 611A.24	1986	<b>Child Abuse Reporting/Good Samaritan</b>	MN Stats. Ann., Sec. 626.556	1988
Creates a statutory cause of action for clients who have been sexually exploited by counselors or therapists.			Requires the reporting of neglect of children by child care personnel, social services personnel, police, or clergy. Prohibits retaliation against those reporting.		
<b>Child/Videotape/ Closed Circuit Testimony/Hearsay</b>	MN Stats. Ann., Sec. 595.02, & 260.156	1987, & 1988	<b>Child Protection/ Limit Interviews</b>	MN Crim. Code, Sec. 626.561	1985
Out-of-court statements in child abuse proceedings are admissible. Children under ten years of age may testify by video, audio, or other recorded method.			Interviews of child witnesses are to be documented and are to be kept to a minimum.		
<b>Child Funding</b>	MN Stats. Ann., Sec. 299A.20 to 299A.22	1986	<b>Counselor Confidentiality/ Sexual Assault</b>	MN Stats., Sec. 609.3471	1987
Sets up a children's trust fund in the State Treasury for the prevention of child abuse.			Provides for confidentiality for rape victims. Counselors may be certified through training in order to gain confidential status.		
<b>Child Protection/ Hearsay/Competency</b>	MN Stats. Ann., Sec. 260.156	1988	<b>Privacy Protection/ Sexual Assault</b>	MN Stats. Ann., Sec. 13.82(10)	1986
Admits certain testimony provided by child victims of sexual assault under ten years of age. Testimony and evidence are presumed admissible, children competent, exceptions are listed. Sanctions provided.			Law enforcement agencies may prevent public access to data that reveal identity of a victim of sexual assault or sexual abuse.		
<b>Missing Children</b>	MN Stats. Ann., Sec. 299C.51 to 299C.53	1984	<b>Notoriety for Profit</b>	MN Stats. Ann., Sec. 611A.68	1988
Collection of better data. Recommendations for better reporting. Tie in with the National Crime Information Center.			Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.		
<b>Child Protection/ Statute of Limitations</b>	MN Stats. Ann., Sec. 628.26	1988	<b>Adult Abuse</b>	MN Stats. Ann., Sec. 626.557	1987
Charges of criminal sexual conduct may be brought within seven years. Changes to 18 years of age limits for criminal sanction.			Relates to maltreatment of "vulnerable adults." Provides definitions and eligibility requirements for services to victims, mandates reporting.		
<b>Child/ Background Check</b>	MN Stats. Ann., Sec. 241.021(b)	1986	<b>Hate Violence</b>	MN Stats. Ann., Secs. 609.28, & 609.735	1986
Commissioner of Corrections authorized to do background checks on personnel employed at facilities serving children.			It is a misdemeanor to prevent a person from performing a lawful act recommended by that person's religion, or to conceal one's identity in public for means other than amusement.		
<b>Child/ Privacy Protection</b>	MN Stats., Sec. 626.556	1988	<b>Witness Reporting</b>	MN Stats. Ann., Sec. 604.05	1986
Name of victim to be kept confidential in records and reports.			Requires assistance to people in emergencies and gives general immunity from liability.		
<b>Child Court Attendant</b>	MN Stats. Ann., Sec. 260.155 Sub. 4	1988			
A guardian ad litem may be appointed in cases of domestic child abuse or neglect, or if child is without parent or guardian or other circumstances.					

## MISSISSIPPI

## Enacted:

**Funding General Services** MS Code, 1984  
Sec. 9-11-18

Creation of a justice court clerk clearing account which monies are collected from the enforcement of judgements, victim restitution to the victims of criminal offenses, cash bonds, and fees.

**Service Funding/ Domestic Violence** MS Code Ann., 1983  
Sec. 93-21-101 et. seq.

Funds basic shelter services for the entire state. Annually authorizes \$10,000 from municipalities' treasuries. Up to 75% state funding with a \$50,000 cap per shelter. Records are confidential but abuse must be reported to the authorities. Discrimination is prohibited.

**Domestic Violence/ Funding** MS Code, 1983,  
Sec. 93-21-1 et. seq. Amend. 1985

Creates a victims of domestic violence fund whose source is marriage license fees. Establishes a program for victims of domestic violence, and establishes criteria to qualify for funding.

**Victim Coordinator/ Rights of Victims** MS Code, 1987  
Sec. 99-36-5 to 99-36-7

Provides for a victim coordinator in each district attorney's office subject to the approval of the senior circuit court judge. Also provides for the following: (1) Protection from intimidation; (2) The judge to keep the victim and family of victim in mind when setting the amount of bail; (3) Informed of court scheduling changes; (4) Informed on procedures in guilty plea negotiations and arrangements; (5) VIS/allocation; (6) Receive information regarding compensation; (7) The right to be present at all public court proceedings subject to the approval of the judge; and (8) Notification of sentencing and bail.

**Victim Participation** MS Code, 1983  
Sec. 99-15-113

Victims and law enforcement agency shall be asked to comment in writing on allowing the offender to enter pretrial intervention programs.

**Victim Impact Statement** MS Code, 1987  
Sec. 99-19-151 to 99-19-161

Victims shall have the right to provide the court with a written statement on the impact of the crime before sentencing and the court shall consider it.

**Victim Statement of Opinion** MS Code, 1987  
Sec. 99-20-9

If defendant is eligible pursuant to MS Community Service, the victim shall be asked to make written comment for recommendation.

**Restitution** MS Code Ann., 1978  
99-37-1 et. seq.

Provides restitution procedures and enforcement. Establishes Restitution Centers. Restitution may be part of sentence, condition of probation, parole, work release, or suspended sentence. Includes juvenile restitution (limited to "actual damages").

**Juvenile Restitution** MS Code, 1980  
Sec. 43-21-605

Covers actual damages or services. Restitution not in excess of actual damages to be taken out of child's assets or performance within one year.

**Conditional Restitution** MS Code, 1982  
Sec. 99-37-1 to 99-37-23

Restitution may be ordered as a condition of parole, probation or work release when done prior to incarceration.

**Notification/ Victims of Juvenile Offenses** MS Code, 1979  
Sec. 43-21-261(1), & (7)

Victims of youth offenses have a right to be informed of the disposition of the case.

**Notification/ Parole** MS Code Ann., 1985  
Sec. 47-7-17

Requires notification of victim or relative prior to parole release, if victim supplies a current address.

**Protection from Intimidation** MS Code, 1964  
Sec. 97-9-55

Prescribes penalties for threats, force, abuse, or any attempt to intimidate or influence a witness, judge, juror, prosecutor, defense attorney, or any offender.

**Domestic Violence Protection Orders** MS Code, 1981  
Secs. 93-21-1, 93-21-7, 93-21-19, & 93-21-101 to 93-21-117 & 1983

Covers temporary orders, protective orders, and the confidentiality of reports. Grants immediate relief. Establishes shelters through state and municipal funding.

**Marital Rape** MS Code Ann., 1981,  
Sec. 97-3-95 to 97-3-103, Amend. 1985 & 97-3-65

Marital exemption ends when parties are living apart (by converse reasoning or interpretation). No court order or separation agreement needed.

**Rape Exam Payment** MS Code, 1987  
Sec. 99-37-25

Evidentiary rape exam payments are to be paid by county on approval by the district attorney.

**Sexual Assault Definition** MS Code Ann., 1974, Secs. 97-3-65 to 97-3-71, Amend. 1985 & 97-3-95 to 97-3-101

Non-gender specific. Any penetration. Non-tiered, includes sexual battery as well as rape and rape of a child. Rape of a child under fourteen years of age is punishable by the death penalty.

**Child/Videotape Closed Circuit** MS Code, 1986 Sec. 13-1-401 to 13-1-415

Allows closed-circuit testimony by abused children under sixteen years old. Also, authorizes the use of out-of-court statements by a child seeking assistance or counseling in certain child abuse criminal prosecutions.

**Child Funding** MS Code, 1985 Sec. 43-17-1 to 43-17-25

Allows payment to approved persons or agencies that provide medical or foster care, or maintenance to strengthen family life through services to children.

**Child Competency** MS Code, 1942 Sec. 13-1-3

Every person shall be deemed competent to give evidence (includes children).

**Employee Background check** MS Code, 1987 Sec. 45-31-1 to 45-31-19

The sex offense criminal records of child care workers shall be made available to employers and organizations whose work includes regular work with children.

**Child Hearsay** MS Code, 1986 Secs. 13-1-403, & 13-1-409

Allows admissibility of out-of-court statements for children under twelve who are abused. Also provides for expert testimony as to the meaning of child's testimony.

**Child/Court Attendant** MS Code, 1986 Secs. 13-1-405, & 13-1-407

Allows the attendance of a service provider during court proceedings to accompany a child in certain cases.

**Child Abuse Reporting** MS Code, 1985 Sec. 43-21-353

It is the duty of child care professionals or any other persons who have cause to suspect abuse to report neglect and abuse and to follow the appropriate procedures.

**Child Protective Orders** MS Code, 1979 Sec. 43-21-617

Court may issue protective orders in cases in which the welfare of the child is in question.

**Notoriety for Profit** MS Code, 1987 Sec. 99-38-1 to 99-38-11

Provides for the establishment of an escrow account to be distributed to the victims in certain cases, from monies received from the telling of a criminal's story.

**Adult Abuse** MS Code, 1982 Sec. 43-45-1 to 43-45-31

Provides protective services for abused, neglected or exploited adults who reside in personal care homes in the state.

**Hate Violence** MS Code Ann., 1964, Sec. 97-35-17 Amend. 1972

Willfully disturbing a religious assembly is a misdemeanor.

**Hate Violence** MS Code Ann., 1973 Sec. 97-17-39

A misdemeanor to willfully deface church property.

**Guilty/Mentally Ill** MS Code Ann., 1972 Sec. 99-13-7

Stringent requirements set out for use of the insanity defense.

## MISSOURI

## Enacted:

Compensation/ Service Funding Notoriety for Profit	MO Rev. Stats., Chpt. 595.010 to 595.070	1981, Amend. 1982, 1984 1985, & 1986
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Maximum Award: \$10,000; Emergency Award: \$100; Source: penalty assessment. (\$36, of which \$35 is applied to fund.) Funding provided for direct service, emergency services, crisis intervention, counseling, and victim advocacy. Only provided for new services. Limited to \$90,000 each fiscal year. Brings statute into compliance with VOCA; covers mental health counseling expenses up to \$1,000 and \$2,000 for burial expenses; removes \$200 deductible for elderly victims; allows compensation for domestic violence victims if there is a prosecution of the offender. In addition, enacts a "Notoriety for Profit" provision whereby payment of profits will go to the fund.

Service Funding/ Domestic Violence	MO Rev Stats., Sec. 455.200 to 455.230	1983
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Funds basic shelter services up to 75% of state funds. County may adopt a \$5 marriage and \$10 divorce surcharge. Shelter records are confidential.

Victim Bill of Rights	MO Rev. Stats., Sec. 595.209(1-13)	1986
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Establishes the following rights for victims: (1) Notification of temporary, provisional, or final release, escape, parole, court scheduling, pre-trial release, case process notification, sentencing, work release, final disposition; (2) Protection from intimidation; (3) Victim statement of opinion, victim impact statement, allocution; (4) Information concerning restitution; (5) Victim/witness information; (6) Secure waiting areas; (7) Expedient property return; (8) Employer/creditor intercession; (9) Speedy trial; (10) VIS/VSO at parole; (11) information concerning witness fees; (12) Victim/witness programs established in prosecutor offices.

Plea Participation/ Notification	MO Rev. Stats., Sec. 557.041	1986
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Victim must be notified and be allowed to appear or make a statement concerning a plea agreement.

VIS/Victim Allocution	MO Rev. Stats., Sec. 595.203	1986
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States inclusively what should be in a victim impact statement.

Restitution	MO Rev. Stats., Secs. 546.630, & 546.640	1939, Amend. 1978
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Provides restitution for damages or for restoration of stolen or damaged property. Restitution may be part of final judgment. Jury trial may be held if agreement cannot be reached. Victim can file civil claim against offender's property and wages as a separate law suit. Requires that in all cases of felony conviction the convicted party shall restore stolen property or make reparations for damages.

Restitution Condition of Probation	MO Rev. Stats., Sec. 559.021-2(1)	1977, Amend. 1981, 1985, & 1986
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As a condition of probation, restitution must be made to the victim or their dependant in the amount determined by the court.

Domestic Violence Protection Orders/ Warrantless Arrest	MO Rev. Stats., Sec. 455.010 to 455.085	1980, Amend. 1986
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Victims of domestic violence may seek relief by filing a verified petition alleging such abuse by the respondent. Clarifies courts authority on conditions of harrassment and extends authority to grant restraining orders. Also, grants police officer the right to arrest without a warrant irrespective of his or her presence if he or she has probable cause to believe domestic abuse (misdemeanor or felony) has occurred.

Marital Rape	MO Rev. Ann. Stats., Sec. 566.010:2	1979
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Marital rape exemption ends when parties are separated under a court order.

Rape Exam Payment	MO Rev. Stats., Sec. 191.225	1980
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Evidentiary rape exams are to be paid by the Department of Social Services.

Sexual Assault Definition	MO Rev. Stats., Chpt. 566	1977, Amend. 1980
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Tiered into degrees of sexual assault.

Sexual Assault/ Rape Shield	MO Rev. Stats., Chpt. 491.015	1985
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Expands rape shield statute to apply to a broader number of sex offenses.

Child Protection/ Videotaped Testimony/Missing Children/Hearsay Admissibility	MO Rev. Stats., Secs. 492.304, & 491.675 to 491.693 491.075	1985
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Pertains to certain offenses against children. Provides for videotaped testimony for children under twelve years of age, cross-examination on videotape and protection for child witnesses from confrontation with offender. Also establishes a statewide clearing-house for missing children and mandates immediate response to missing children reports.

Child Funding	MO Rev. Stats., Sec. 210.170 to 210.174	1983
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Children's trust fund established through designations on income tax refunds to fund community based educational or service programs designed to alleviate child abuse and neglect.

Child Competency	MO Ann. Stats., Sec. 491.060(2)	1985, Amend. 1987	Hate Violence	S.B. 678	1988
Children under seventeen years of age are competent without prior qualification only in criminal proceedings.			Establishes penalties for vandalizing, defacing, or damaging religious structures or places of worship. Establishes crime of ethnic intimidation for crimes motivated by race, color, religion, or national origin.		
Missing Children	MO Rev. Stats., Secs. 43.400(1 & 2), 210.145(2), & 210.152	1984 & 1985			
Reports of missing persons are to be immediately entered into the Missouri Uniform Law Enforcement System (MULES), and the National Crime Information Center (NCIC).					
Child/Court Attendant	MO Rev. Stats., Sec. 210.160	1982, Amend. 1985			
In cases of child abuse or neglect, a guardian ad litem shall be appointed to represent the child. May or may not be an attorney.					
Child Abuse Reporting	MO Rev. Stats., Secs. 210.115(1), 210.135, 210.165, & 568.110	1982 & 1984			
Any child care worker or health care professional shall report suspected cases of child abuse. Failure to report constitutes a class A misdemeanor. Reporters are immune from liability.					
,Child Speedy Trial	MO Ann. Stats., Sec. 491.710	1987			
Ensures speedy trial for child victims and witnesses by establishing that the court shall give these cases priority and shall consider the impact of delays on the child's welfare.					
Elder Abuse	MO Stats. Ann., Sec. 660.250 to 660.295	1980 Amend. 1983			
Provides protection for persons sixty years of age and older. Includes: protective services, reporting, remedies, and peace officer functions.					
Facility/ Abuse	MO Stats. Ann., Sec. 198.003 to 198.105	1981, Amend. 1984			
Provides for regulations for convalescent, nursing, and boarding homes including abuse and neglect. Includes: reporting, recording, and personnel procedures.					
Hate Violence	MO Rev. Stats. Ann., Sec. 574.075	1985			
Makes it a misdemeanor to enter a place of worship while intoxicated.					
Hate Violence	MO Rev. Stats. Ann., Sec. 79.450, & 77.570	1985			
Board of Aldermen have authority to restrain and prohibit disturbances of religious assemblies.					

## MONTANA

## Enacted:

**Compensation** MT Code Ann., 1977,  
Sec. 53-9-101 to 53-9-133 Amend. 1979,  
1981, 1983,  
& 1987

Maximum Award: \$25,000; Tentative award for hardship; Source: fines, penalty assessments, and restitution.

**Service Funding/  
Domestic Violence** MT Code Ann., 1979,  
Title 53, Amend. 1981,  
Secs. 40-2-401 to 40-2-405 1983, 1987  
40-1-202, & 25-1-201

Funds basic shelter services. A \$14 marriage surcharge is deposited in general fund. Services can receive up to 80% state funding. Appropriations were \$131,871 in 1987 and \$135,700 in 1988. Part of the fine for the criminal offense of domestic abuse is used to fund the program.

**Treatment of  
Victims and  
Witnesses** MT Code Ann., 1985  
Secs. 46-24-101 to 46-24-105,  
& 46-24-201 to 46-24-206

Establishes the following rights: (1) Information on victim services and compensation; (2) Protection from intimidation; (3) Notification of schedule changes; (4) Notification in felony cases of arrest, pre-trial release, plea agreements, trial, sentencing, bail, parole hearings, pardon, work release, sentence, general release; (5) Prosecutor shall consult victim to obtain view regarding disposition, dismissal, release pending trial, pleas, pre-trial diversions and deferred sentencing; (6) Property return; (7) Employer/creditor intervention; and (8) Training in victim assistance for prosecutors and law enforcement.

**Restitution/  
Victim Impact  
Statement** MT Code Ann., 1983  
Sec. 46-18-241 to 46-18-249

Provides for restitution as a condition of parole, suspended or deferred sentence. Includes VIS in the pre-sentence investigation report and allows restitution for psychological injuries.

**Parole  
Allocation** MT Code Ann., 1955  
Sec. 46-23-204

The board shall be required to hear the oral statements from all persons desiring to be heard.

**Restitution** MT Code Ann., 1981,  
Secs. 46-18-101(3)(b), & 1983  
46-18-232, 46-18-234  
to 246-18-249, & 46-18-201

An offender may be ordered to make restitution to victims of the offense.

**Restitution** MT Code Ann., 1985  
Sec. 45-5-503 to 45-5-507

Upon conviction of incest or sexual assault without consent, court

must require payment of victim's counseling costs.

**Domestic Violence/  
Protection Orders** MT Code Ann., 1985  
Secs. 40-4-121, & 46-6-422

A temporary restraining order may be imposed against a legally separated party if the danger exists of molesting or disturbing the peace of the party or of any child.

**Marital  
Rape** MT Rev. Code Ann., 1983  
Sec. 45-5-511(2)

Abolishes the marital rape exemption for spouses living apart.

**Rape Exam  
Payment** MT Code Ann., 1977  
Sec. 46-15-411

The local law enforcement agency in which an alleged incident of sexual abuse occurs shall pay for the medical examination.

**Sexual Assault  
Definition** MT Code Ann., 1987  
Secs. 45-5-511,  
& 45-2-101

Non-gender specific. Includes rape with an object. Force, fear, or threats (not resistance) are sufficient to show lack of consent.

**Videotape/Sexual  
Assault Victims** MT Code Ann., 1977,  
Sec. 46-15-401 Amend. 1979,  
to 46-15-403 & 1983

At the request of the victim and with the concurrence of the prosecuting attorney, the testimony of a sexual assault victim may be recorded by means of videotape for presentation at trial, at which time the victim need not be present.

**Child  
Competency** MT, Rules of Evid., 1977  
Rule 601

Every person is competent to be a witness except as otherwise provided in these rules.

**Child Abuse  
Reporting** MT Code Ann., 1965,  
Secs. 41-3-201, Amend 1973,  
& 41-3-203 1979, 1981,  
1983, & 1987

The following are mandated to report suspected cases of child abuse: Health care workers, religious healers, school personnel, social workers, child care workers, police, and state institution workers. Reporters are immune from liability. If mandated reporters do not report, they are civilly liable for the damages caused. Also guilty of a misdemeanor and penalized up to \$500 or up to six months in jail or both.

**Notoriety  
for Profit** MT Code Ann., 1983,  
Sec. 53-9-104(1)(d) Amend. 1987

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

**Elder  
Protection** MT Code Ann., 1975  
Sec. 53-5-201 to 53-5-207

Ensures that aged persons or disabled adults be afforded protective

services.

**Elder Abuse**                      **MT Code Ann.,**                      **1983,**  
   **Sec. 53-5-201 to 53-5-207 Amend. 1985,**  
   **& 1987**

Montana elder abuse protection act. Cooperation among agencies to protect the elderly. Includes reporting requirements. Also provides for a protective team.

**Elder Abuse**                      **MT Code Ann.,**                      **1983,**  
   **Sec. 53-5-501 to 53-5-525 Amend. 1985**

Provides for cooperation among agencies to prevent elderly abuse, neglect, and exploitation. Includes: protective services, reporting, and penalties.

**Mandatory Police Training**                      **MT Code Ann.,**                      **1985**  
   **Sec. 46-24-102**

Montana Law Enforcement Academy shall offer education and training in victim assistance for law enforcement and prosecutors.

**Bail Reform**                      **MT Code Ann.,**                      **1985**  
   **Secs. 46-9-101, 46-9-103,**  
   **46-9-301, & 46-9-501**

Revises laws relating to bail. Requires the consideration of danger an offender poses to other persons, or the community, in setting bail.

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## NEBRASKA

## Enacted:

**Compensation\*** NE Rev. Stats., 1979,  
Art. 18, Amend. 1980,  
Secs. 81-1801 to 81-1842, 1981, 1982,  
Art. 73, & Sec. 74-7301 1985, & 1986

Maximum Award: \$10,000 (with some exceptions); Emergency Award: \$500; Source: prison industry. Amended in 1982 to transfer the administration of the fund to the Crime Commission. 1985 came into compliance with VOCA. 1986 amendment abolished the Crime Victim's Reparations Board to create the Crime Victim's Reparations Committee.

**Victim Service Funding\*** NE Rev. Stats., 1980,  
Secs. 81-1423, & 81-1847 Amend. 1981  
1985

Creates Crime Victim & Witness Assistance Fund with special appropriation fund primarily for local programs.

*\*Due to severe budgetary constraints no appropriations were made for compensation or victim service funding in the 1985 or 1986 legislative sessions; a proposal to fund both programs through an additional court cost is before the 1988 unicameral session.*

**Funding for Services/ Domestic Violence** NE Rev. Stat., 1978,  
Sec. 42-901 to 42-927 & 1982

Funds basic shelter and other domestic violence services. Shelter records are confidential.

**Victim Bill of Rights** NE Rev. Stats., 1981  
Art. 18,  
Sec. 81-1843 to 81-1848

Establishes the following rights: (1) Property return; (2) Notification of final disposition, perpetrator or defendant release (if felony), schedule changes; (3) Protection from intimidation; (4) Information on criminal justice procedures, financial aid, witness fees, and services; (5) Secure waiting areas; (6) Employer intercession; (7) Speedy disposition.

**Victim Participation/ Parole Allocation** NE Rev. Stats., 1975  
Sec. 84-1329.01

Not specific to victim, however, states that every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at public meetings.

**Victim Participation/ Notification** NE Rev. Stats., 1983  
Secs. 29-2261,  
29-120, & 23-1201

Makes victim impact statement and statement of opinion part of pre-sentence investigation. District Attorney must make good faith effort to notify and consult with victim prior to plea bargain agreement.

**Restitution** NE Rev. Stats., 1978

## Sec. 29-2262

Restitution to be ordered or such reparations as the court determines to be appropriate for the loss or damage caused thereby.

**Restitution/ Condition of Probation/Parole** NE Rev. Stats., 1986  
Sec. 29-2219,  
& 29-2280

The offender shall make restitution according to a court order. The probation or parole of a defendant may be revoked if the defendant fails to comply with the restitution order.

**Domestic Violence Protection Orders** NE Rev. Stats., 1984  
Sec. 42-924 to 42-926

Provides for temporary restraining orders in domestic violence cases.

**Domestic Violence Confidentiality** NE Rev. Stats., 1978  
Sec. 42-918

Strict confidentiality shall be observed in all contacts with domestic violence victims and their families. All records shall be confidential.

**Marital Rape** NE Rev. Stats., 1976  
Sec. 28-319 to 28-320;  
NE Rules of Evid.,  
Sec. 27-505, Rule 505

Abolishes the marital rape exemption in all cases.

**Sexual Assault Definition** NE Rev. Stats., 1978  
Sec. 28-317 to 28-321

Non-gender specific. Includes rape with an object. Tiered into degrees of sexual assault.

**Child Closed-Circuit Testimony** NE Supreme Court 1986  
*State v. Warfield*  
55 USLW (BNA) 2069

Approved and clarified use of closed-circuit television to obtain testimony of child sexual abuse victim who is removed from the physical presence of defendant while testifying.

**Child Competency** NE Rev. Stats., 1979  
Sec. 27-601

All persons are competent unless otherwise provided.

**Missing Children** NE Rev. Stats., 1987  
Sec. 43-2001 to 43-2012

"The Missing Children ID Act" creates a system for notification of agencies within the state to be alerted concerning missing persons.

**Central Registry** NE Rev. Stats., 1979,  
Secs. 28-718 1985

Central registry of such reports is to be kept by the Department of Public Welfare.



**Child Abuse Reporting**                      **NE Rev. Stats.,**                      **1979,**  
   **Secs. 28-711, & 28-717**      **Amend. 1984**

Anyone, especially child care workers, have an obligation to report suspected cases of child abuse or neglect. Failure to report constitutes a class III misdemeanor.

**Notoriety for Profit**                      **NE Rev. Stats.,**                      **1978**  
   **Sec. 81-1836**

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

**Adult Services**                      **NE Rev. Stats.,**                      **1979**  
   **Sec. 68-1301 to 68-1306**

Defines entitlements of older persons. Creates an administrative advisory committee for older persons.

**Hate Violence**                      **NE Rev. Stats.,**                      **1983**  
   **Sec. 20-148**

Provides for a civil cause of action if a person is denied their constitutional rights.

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## NEVADA

## Enacted:

**Compensation** NV Rev. Stats., 1981,  
Chpt. 217.010 Amend. 1983,  
to 217.270 & 1987

Maximum Award: \$15,000; Emergency Award: \$400 cash and \$1,000 essential personal property; Source: fines & Notoriety for Profit. Provides for payment of medical or funeral expenses and lost wages. Increases income ceiling. Increases forfeiture and bail fund. Emergency award of up to \$400 for loss of cash to pay expenses for thirty days and \$1000 for essential personal property. Expands the group who may receive compensation to include drunk driving victims. *Note: program not eligible for VOCA grants because it does not compensate non-residents.*

**Compensation/ Notification/ Release & escape/ Counseling** NV Rev. Stats., 1985  
Chpts. 209.521,  
217.050, & 217.480

Redefines personal injury under compensation to include sexual abuse and sexually-abused minors. Liberalizes emergency awards benefits. Mandates, upon request of the victim, notification of prisoner escape or release. Requires each county to provide counseling for sexual abuse victims and relatives (if not offender) living with them. No funding attached.

**Compensation/ Funding** NV Rev. Stats., 1983  
Chpts. 200.760, 178.518,  
& 179.118 to 179.121

Provides for forfeiture of personal property of offenders in certain cases. Up to \$350,000 of such funds go to compensation program.

**Service Funding/ Domestic Violence/ Sexual Assault** NV Rev. Stats., 1981,  
Chpts. 217.400 Amend. 1983,  
to 217.470, & 122.060 1985, & 1987

Funds shelter and other domestic violence services. Marriage license surcharge administered by counties. State funding up to 85% of costs. Additional 15% to rape crisis centers in counties larger than 250,000. Authorizes County Commissioners to establish a Domestic Violence Advisory Board to distribute funds.

**Sexual Assault Funding/ Rape Exam Payment** NV Rev. Stats., 1975  
Chpts. 217.280 to 217.350,  
& 449.244

Covers rape exams and counseling for victims of sexual assault or attempted sexual assault and spouses to be paid by county in which crime occurred. \$1,000 allocated for counseling and medical care.

**Victim Bill of Rights** NV Rev. Stats., 1983  
Chpt. 178.569

Establishes the following rights: (1) Protection from intimidation; (2) Notification of schedule changes; (3) Secure waiting areas; (4) Property return, or information on impounded property; (5) Information on witness fees; (6) Notification/information (upon request)

of pre-trial release, bail, final disposition, and felony release; and (7) Employer intercession.

**Speedy Trial** NV Rev. Stats., 1982  
Chpt. 174.511

Grants prosecutor the right to request a trial within sixty days of arraignment based on emotional problems of victim.

**Victim Involvement/ Sentencing** NV Rev. Stats., 1981  
Chpt. 176.145

Allows victim impact statement to be considered at sentencing.

**Parole VIS/Allocution** NV Rev. Stats., 1983  
Chpt. 213.130

Meetings for the purpose of considering applications for parole must be open to the public. The board may deliberate in private after a public meeting to consider an application for parole. The victim of any parole application may submit documents to the board and may testify at meetings. No application for parole may be considered until the board has notified the victim of these rights.

**Restitution/ Conditional** NV Rev. Stats., Amend.  
Chpt. 176.189 1981, & 1983

Failure to make restitution to be considered a violation of probation. If recipient of restitution is not located within three years, monies collected will be deposited in Violent Crime Compensation Fund. Court must order restitution as a condition of probation or suspended sentence.

**Restitution/ Mandatory** NV Rev. Stats., 1981,  
Chpt. 209.4821 -4843 Amend. 1983

Permits offenders to be assigned to community work release centers to pay restitution, funds may be deducted from wages. Broadens definition of damages to include indirect damages. Requires court to order restitution or state reasons for failing to do so. Restitution may include monies for psychological counseling.

**Restitution** NV Rev. Stats., 1983  
Chpt. 213.126

Permits court to order restitution as a condition of parole. Makes failure to comply with restitution order a violation of parole.

**Clemency Notification/ Involvement** NV Rev. Stats., 1983  
Chpts. 213.095, & 213.040

Requires advance notification to victim upon written request in cases of application for pardon, commutation of sentence, or for fines to be remitted.

**Notification/ Juvenile Disposition** NV Rev. Stats., 1987  
Sec. 62.193

The District Attorney may notify the victim of disposition of juvenile cases. The victim cannot disclose information to anyone else.

<b>Protection from Intimidation</b>	NV Rev. Stats., Chpt. 178.569 et seq.	1983	<b>Child/Statute of Limitations</b>	NV Rev. Stats., Chpt. 171.095	1985
Provides criminal penalties for intimidation of victims and witnesses.			In sexual abuse cases, an indictment may be found at any time until the victim is eighteen years of age.		
<b>Domestic Violence Protection Orders</b>	NV Rev. Stats., Chpt. 4.370	1985	<b>Child Protection/ Background Check</b>	NV Rev. Stats., Chpt. 432A, Sec. 179A	1985, Amend. 1987
Provides for temporary restraining orders in domestic violence situations.			Requires investigation of criminal record of every resident or employee over eighteen years of age in child care facilities. Authorizes the release to employers of information regarding sexual offenses against children.		
<b>Mandatory/ Warrantless Arrest</b>	NV Rev. Stats., Chpt. 171.137	1985	<b>Child Hearsay</b>	NV Rev. Stats., Chpt. 51.385	1985
If there is an indication of injury or that violence has occurred, irrespective of the officer's presence, he or she must arrest the suspected offender or show good cause for not arresting. Can arrest without a warrant.			Out-of-court statements made by children under ten years of age describing sexual contact are admissible in a criminal proceeding if the court finds substantial guarantees of trustworthiness and if the child is unavailable or unable to testify.		
<b>Marital Rape</b>	NV Rev. Stats., Sec. 200.373	1987	<b>Child Protection/ Reporting</b>	NV Rev. Stats., Chpt. 432B.220	1985
Removes the marital exemption in cases of sexual assault if assault is committed by force or threat of force.			Extends responsibility for reporting child abuse. Establishes court procedures, notification requirements, parents rights in court proceedings, and defines services to be provided to child victims.		
<b>Sexual Assault Definition</b>	NV Rev. Stats., Chpt. 200.366	1977	<b>Court Attendant</b>	NV Rev. Stats., Chpts. 178.571, & 171.204	1983
Non-gender specific. Includes rape with an object. Stronger sentences for using force.			Provides for attendant of victim's choice to remain with the victim in the courtroom in certain sexual abuse cases. Attendant cannot be excluded at defendant's request unless good cause is shown. If motion granted, attendant may have a replacement.		
<b>Sexual Abuse &amp; Children/ Videotaped Testimony</b>	NV Rev. Stats., Sec. 174.227	1985	<b>Privacy Protection</b>	NV Rev. Stats., Chpt. 48.071	1977
Authorizes videotaping depositions of victims of sexual abuse or prospective witnesses in criminal prosecutions if less than fourteen years of age. Under certain circumstances the court may allow use of videotape in any proceeding in lieu of testimony.			The District Attorney may exclude any sexual assault victim's address and phone number in any prosecution.		
<b>Child Funding</b>	NV Rev. Stats., Chpt. 432.131 et seq.	1985	<b>Elder Abuse</b>	NV Rev. Stats., Chpt. 200.5091 to 200.5099	1981, Amend. 1983, & 1985
Creates a child trust account and a seven member board for the protection of children to aid in the prevention of child abuse and neglect. Establishes a \$2 fee on birth and death certificates to fund program.			Protects persons aged sixty and older from abuse, neglect, and exploitation. Includes reporting and penalties.		
<b>Child Competency</b>	NV Rev. Stats., Chpt. 50.015	1971	<b>Hate Violence</b>	NV Rev. Stats., Sec. 201.270	1979
Every person is competent to be a witness. In practice, child victims of sexual assault must prove to a degree that they are competent.			It is a misdemeanor to disrupt religious congregations or prevent passage to such assembly by threat or assault.		
<b>Missing Children</b>	NV Rev. Stats., Chpt. 432.150 to 432.220	1985			
Establishes programs in the attorney general's office to coordinate information and activities regarding missing children and to assist schools in establishing information programs regarding missing children. Also, addresses the responsibilities of law enforcement and the necessity of immediate action.					

## NEW HAMPSHIRE

## Enacted

**Funding for Services/ Domestic Violence/ Confidentiality** NH Rev. Stats., 1979, Chpts. 173-B & C Amend. 1981, 1982, 1983, 1985, 1986

Funds basic shelter and other domestic violence services with a \$13 marriage license surcharge. State funding up to 50% of costs. Communications between domestic violence and sexual assault victims and counselors are confidential. Shelter records are confidential. Provides for a guardian ad litem. Temporary relief through protective orders may be issued. Coordinator and compensation for the program are also set up.

**Funding for Services/ General** NH Rev. Stats. 1988 Chpt. 196-1-4 & 6

Establishes funding for victim assistance based on penalty assessments of \$2 or 10% of fine for each criminal offense except ones involving a motor vehicle. Allows Attorney General to make victim assistance grants from fund.

**Victim/Witness Coordinator** NH Rev. Stats. Ann., 1987 Sec. 21-M:8-6

Establishes the office of victim/witness assistance, the position of victim/witness coordinator, and appropriates money therefor.

**Victim/Witness Information** NH Rev. Stats., 1987 Sec. 21-M:8-6

Establishes an Office of Victim Assistance within the department of justice that shall provide victims with information about the availability of social and medical services; and provide information and coordination for county offices of victim/witness assistance and criminal justice agencies.

**Court Attendance** 2 NH Court Rules 1985 Rule 615

Exclusion of a victim from the courtroom is not allowed.

**Victim Involvement/ Sentencing** NH Rev. Stats. Ann., 1983 Sec. 651:4-a

Allocution allowed at sentencing. Victims or their families may appear personally or by counsel to express their views before sentencing in felony cases.

**Parole Allocation** NH Rev. Stats. Ann., 1983 Sec. 651-A:11-a

Victims or their families may speak at a parole hearing to express views concerning the offense and the person responsible.

**Conditional Restitution P/P/WR** NH Rev. Stats., 1981 Sec. 651:62 to 651:67

Any offender may be sentenced to make restitution. May be in addition to a fine, and may be as a condition of work release, probation or parole.

**Notification/ Parole Hearing** NH Rev. Stats. Ann., 1983 Sec. 651-A:11, IIa

At least fifteen days before a parole hearing and not more than thirty, the parole board shall send notice to the victim of the stating the intention of the inmate to seek parole and the date and location of the hearing.

**Warrantless Arrest** NH Rev. Stats. Ann., 1979 Sec. 594:10

A police officer may arrest when probable cause exists showing that an assault has occurred on a family member.

**Marital Rape** NH Rev. Stats. Ann., 1975, Chpt. 632-A:5 Amend. 1981

Marital exemption deleted except in statutory rape cases, or cases involving "mentally defective" victim-wives.

**Rape Exam Payment** NH Rev. Stats. Ann. 1988 Chpt. 184

Requires the state Department of Justice to reimburse hospitals and doctors for the cost of the exam, and states that the bill shall not be sent to the victim.

**Sexual Assault Definition** NH Rev. Stats., 1975, Chpt. 632-A et seq. Amend. 1979, 1981, 1985, & 1986,

Non-gender specific. Includes rape with an object. Tiered into degrees of sexual assault.

**Child Protection Act** NH Rev. Stats., 1979 Chpt. 169-C et seq.

Provides for the following: (1) Hearings in child abuse cases are not to be open to the public; (2) Records shall be confidential; (3) Central registry for child abuse and neglect reports; (4) Child care workers shall report suspected cases of child abuse. Those who are mandated to report and fail to are guilty of a misdemeanor; (5) Trust fund set up for the prevention of child abuse and neglect; (6) Limit on the number of interviews for child witnesses.

**Child Protection/ Videotaped/ Testimony/Court Attendant** NH Rev. Stats. Ann., 1985, Chpt. 517:13-a Amend., 1988

Provides that videotaped testimony of child victims 16 years and younger at the time of the offense may be used at trial. Requires videotape for child 12 and under unless court finds it in the interest of justice not to allow the videotape. Provides court attendant for children 16 and under.

**Child Competency** NH Rules of Evid., 1974 Rule 601

All persons are competent to be witnesses with exceptions. (The exceptions do not include children.)

**Child/Statute  
of Limitations**      **NH Rev. Stats.,  
Sec. 632-A:7**      **1986**

In cases where the victim is under eighteen years of age, the statute of limitations shall not begin until the victim reaches the age of eighteen.

**Child/Elderly  
Speedy Trial**      **NH Rev. Stats.,  
Sec. 632-A:9**      **1986**

For victims thirteen years of age or under or sixty five years of age or older, the court and the Department of Justice shall work for a speedy trial to reduce trauma.

**Adult  
Protection**      **NH Rev. Stats.,  
Sec. 161-D:1 to 161-D:6**      **1977,  
Amend. 1981,  
& 1983**

Provides protection to adults who are neglected, abused, and exploited. Includes: reporting, registry, guardianship, and penalties.

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## NEW JERSEY

## Enacted:

**Compensation** NJ Stats. Ann., 1971,  
Sec. 52:4B-1 to 52:4B-25 Amend. 1981  
& 1982

Maximum award: \$25,000; Emergency Award: \$1500; Source: general revenue and penalties. Requires applications be made available to victims in police stations and hospital emergency rooms. Eliminates minimum loss requirements for senior citizens and disabled. Provides funds for counseling unit within Compensation Board. Expands coverage to include relatives of offender provided victim does not live with offender at time claim is filed.

**Compensation** NJ Stats. Ann., 1982  
Sec. 2C:43-3.1

Expands penalty assessments to include crimes of disorderly persons, juveniles, and drug offenses.

**Services** Yearly Appropriations 1986  
**Funding**

The Violent Crimes Compensation Board will receive \$270,000; the Division of Criminal Justice receives \$350,000 to operate the State and County Offices of Victim-Witness Advocacy.

**Restitution** NJ Stats. Ann., 1985  
**Service Funding** Sec. 2C:43-3.1

Authorizes withholding inmates' wages to pay for victim restitution or penalty assessment. Establishes funding for statewide victim services through raising penalty assessment by \$5.

**Funding for Services/** NJ Stats. Ann., 1968,  
**Domestic Violence** Secs. 37:1-12.1 Amend. 1981,  
**Confidentiality** to 37:1-12.3 & 30:14-1 & 1982  
to 30:14-14;  
& NJ Admin. Reg. #97

\$5 marriage license surcharge to fund all domestic violence services. Requires bilingual services, prohibits release of minor to anyone other than one who sought shelter. Shelter legislation without appropriation. Shelter records are confidential.

**Victim** NJ Stats., 1985  
**Bill of Rights** Sec. 52:4B-34 to 52:4B-38

Establishes the following rights: (1) to be treated with dignity and compassion; (2) Notification of court procedures, progress of case, and final disposition; (3) Protection from intimidation; (4) Property return; (5) Information on the criminal justice system; (6) Secure waiting areas; (7) To be compensated for a loss whenever possible.

**Victim** NJ Stats. Ann., 1985  
**Advocate** Secs. 52:4B-39 to 52:4B-45

Establishes a state office on victim-witness advocacy and on victim witness assistance to appoint and supervise county victim witness services. A victim witness coordinator to be appointed in each county. Purposes of the program include providing victims with information about services, compensation, and how to contact

county offices of victim advocacy; providing a 24 hour toll-free hotline telephone number for victims and witnesses to call; and coordination of victim assistance programs. Standards to ensure rights of victims require that offices provide the following services upon request for victims and witnesses: (1) orientation information about the criminal justice system; (2) notification of any change in case status or final disposition; (3) crime prevention information; (4) information on services; (5) advance notice of date, time and place of defendant's initial appearance, any plea agreement, trial and sentencing; (6) scheduling information; (7) separate waiting areas; (8) escort or accompaniment services for intimidated victims; (9) employer intercession; (10) notification of case disposition; (11) property return; (12) Plea consultation through Attorney General guidelines.

**Victim Involvement/** NJ Stats., 1980  
**Sentencing** Sec. 2C:44-6

Permits victim impact statement as part of the pre-sentence investigation.

**Victim** NJ Stats. Ann., 1985  
**Participation** Sec. 2C:44-6

Extends victim impact statement in pre-sentence investigations to include juvenile delinquency victims.

**Parole** NJ Stats. Ann., 1983  
**Involvement** Sec. 30:4-123.54

Provides notice of and allows victim impact statement/allocation at parole hearings.

**Restitution** NJ Stats. Ann., 1979  
Sec. 2C:43-3

Offenders may be sentenced to pay a fine, to make restitution or both. The restitution cannot exceed the victim's loss.

**Restitution** NJ Stats. Ann., 1979  
**Condition/Probation** Sec. 2C:45-1(b)(8)

Court may order restitution as a condition of probation.

**Restitution** NJ Stats. Ann., 1985  
Sec. 2C:46-1

Gives victims right to seek civil judgment against offender's wages under a restitution order.

**Conditional** NJ Stats., 1983  
**Restitution** Sec. 2A:8-31.1

Any defendant sentenced to make restitution who defaults may be ordered to perform work in a work program established or designated by the municipality.

**Drunk Driving** NJ Stats. Ann., 1985  
**Rights/Notification** Sec. 39:4-50.9

Establishes certain rights for drunk driving victims, including the right to notification and information about the court proceedings.

<b>Protection from Intimidation</b>	NJ Stats., Secs. 2C:28-5, & 2C:29-3 to 2C:29-5	1982	Protection from Intimidation	NJ Stats., Secs. 2C:28-5, & 2C:29-3 to 2C:29-5	1982
Makes it a crime to tamper with witnesses or to retaliate against them. Prohibits volunteering false information or receiving pecuniary benefits for refraining from reporting.			Requires criminal history record checks on candidates for employment in the public schools.		
<b>Protection from Intimidation</b>	NJ Stats., Secs. 28-5, 29-3, & 29-4	1983	<b>Child/Background Check</b>	NJ Stats. Ann., Sec. 18A:6-7.1	1987
Strengthens existing statute on intimidation by providing for protective orders to be issued when intimidation or retaliation is suspected or threatened. Also provides for revocation of pre-trial release when order is violated.			Requires criminal history record checks on candidates for employment in the public schools.		
<b>Protection from Intimidation</b>	NJ Stats. Ann., Sec. 2C:28-5.1	1985	<b>Child Hearsay</b>	NJ Stats., Sec. 9:6-8.46	1974, Amend. 1977
Provides for protection of victims where defendants are out on bail.			Previous statements made by the child relating to any allegations of abuse or neglect shall be admissible in evidence.		
<b>Domestic Violence Warrantless Arrest</b>	NJ Stats. Ann., Sec. 2C:25-1 to 2C:25-16 Amend. 1981, & 1982	1968, 1981, & 1982	<b>Child Protection/Speedy Trial</b>	NJ Stats. Ann., Sec. 2A:163-4	1986
Allows warrantless arrest with probable cause in misdemeanor cases, and provides for restraining orders.			Establishes right to speedy trial for child victims.		
<b>Marital Rape</b>	NJ Stats. Ann., Sec. 2C:14-5(b)	1979	<b>Child Abuse Reporting</b>	NJ Stats. Ann., Secs. 9:6-8.10, & 9:6-8.13	1976
No actor shall be presumed to be incapable of committing a sex offense due to marriage to a victim.			Any person who suspects cases of child abuse must report. Immunity for reporters.		
<b>Sexual Assault Definition</b>	NJ Stats., Sec. 2C:14-1 to 2C:14-3	1979	<b>Sexual Assault/General Counselor Confidentiality</b>	NJ Stats. Ann., Sec. 2A:84A-22.11 to 2A:84A-22.16 NJ Rules of Evid. #37	1983, Amend. 1988
Non-gender specific. Includes with an object. Tiered into degrees of sexual assault.			Communications between counselors and sexual assault victims, as well as any victim counselor, are to be considered confidential. General victim counselors' communications are confidential excluding counselors working in county victim/witness coordinator offices based in prosecutors offices.		
<b>Child Protection/Videotaped Testimony</b>	NJ Stats., Sec. 2A:84A-32.4	1985	<b>Notoriety for Profit</b>	NJ Stats., Sec. 52:4B-1	1983
Allows videotaped or closed circuit testimony for child victims or witnesses under the age of sixteen.			Offenders not permitted to benefit from financial proceeds resulting from media coverage of crime. Profits held in escrow for five years. Victim may receive funds through civil judgments or restitution order. Remaining funds are returned to compensation fund.		
<b>Child Funding</b>	NJ Stats., Sec. 9:6A-5	1985	<b>Elderly Ombudsman</b>	NJ Stats. Ann., Sec. 52:27G-1 to 52:27G-16	1977
The Commissioner of the Department of Human Services may designate monies to be deposited into the Children's Trust Fund. Funds are to be used for the prevention of child abuse and neglect.			Ombudsman to protect person sixty years of age or older. Duties include: reporting, investigation, and registry.		
<b>Missing Children</b>	NJ Stats., Sec. 52:17B-9.7	1984	<b>Hate Violence</b>	NJ Stats. Ann., Secs. 2C:33-9 to 2C:33-11	1982
Establishes the Commission on Missing Children in the Attorney General's Office and a missing persons unit in the Division of State Police, Department of Public Safety to coordinate statewide efforts on missing children.			Defacing religious property or place of worship, including burning a cross on another's property, is a crime in the fourth degree.		
<b>Child/Statute of Limitations</b>	NJ Stats. Ann., Sec. 2C:1-6	1986	<b>Law Enforcement Training</b>	NJ Stats. Ann., Sec. 52:4B-47	1985
For victims under thirteen years of age prosecution shall be com-			Police training curriculum shall include training on responding to the needs of crime victims.		

## NEW MEXICO

## Enacted:

**Compensation** NM Stats. Ann., 1981,  
Sec. 31-22-1 to 31-22-21 Amend. 1985

Maximum Award: \$12,500; Emergency Award: permitted, no set amount; Source: general revenue. Amended in 1985 to meet VOCA criteria and to reauthorize program for four years.

**Compensation** NM Stats. Ann., 1978,  
Sec. 31-22-8 Amend. 1983

Expands compensation to include victims of homicide by vehicle and great bodily injury by vehicle.

**Domestic Violence Funding** NM Stats. Ann., 1978  
Sec. 40-12-1 to 40-12-6

Fund created to offset the cost of operating the domestic relations mediation program.

**Bill of Rights** NM Stats. Ann., 1978,  
Sec. 31-24-1 to 31-24-7 Amend. 1987

Provides for the following: to be treated with dignity and compassion; privacy protection; protection from intimidation and harm; separate waiting areas; the right to be informed, to be present and to be heard at all critical stages of the criminal justice processes to the extent that these rights do not interfere with existing constitutional rights; victim impact statement, victim statement of opinion and allocution at sentencing; to be informed about services; court attendance; to be informed about scheduling; to be informed about any offer of plea bargain; to be informed of any temporary, provisional or final release; to be informed about parole and probation hearings; mandatory restitution; property return.

**Conditional Restitution Victim Impact Statement** NM Stats. Ann., 1978  
Secs. 31-17-1(D), 31-20-6, 31-20-10, & 31-21-10(D)

Allows sentencing judge to order restitution to the victim. Establishes that restitution for actual damages shall be a condition of a deferred or suspended sentence; requires court (and thus parole board) to order restitution as a condition of probation or parole; and provides for the use of a victim impact statement when a restitution plan is created.

**Restitution/** NM Stats. Ann., 1978  
Sec. 31-17-1

Establishes restitution as a condition of probation or parole.

**Release Notification** NM Stats. Ann., 1978,  
Sec. 31-21-25 Amend. 1983

Amends notification statute to require notification of victim of release of offender on parole. Requires district attorney to notify victim of parole hearing and decision.

**Escape Notification** NM Stats. Ann., 1978,  
Sec. 33-2-48 Amend. 1983

Requires district attorney to notify victims when prisoner escapes.

**Protection from Intimidation** NM Stats. Ann., 1987  
Sec. 30-24-3

Anyone who knowingly and maliciously intimidates or retaliates against a witness shall be guilty of a fourth degree felony.

**Domestic Violence Protection Orders/Warrantless Arrest** NM Stats. Ann., 1978,  
Sec. 40-13-1 to 40-13-7 Amend. 1987

Authority for the court to make protection orders. The police officer shall arrest violators without a warrant if probable cause exists. Required to take actions to protect victim with whatever reasonable means necessary.

**Marital Rape** NM Stats., 1978  
Sec. 30-9-10(E)

Marital exemption ends if parties are living apart or one spouse has initiated legal proceedings.

**Sexual Assault Funding/Rape Exam Payment** NM Stats. Ann., 1978,  
Sec. 29-11-1 to 29-11-6 Amend. 1987

The Sexual Crimes Prosecution and Treatment Act. Funds sexual assault programs. Also pays for rape exams at the medical facility.

**Sexual Assault Definitions** NM Stats. Ann., 1978  
Sec. 30-9-11

Expands the definition of sexual assault to include penetration with any object.

**Child Protection/Videotaped Depositions** NM Stats. Ann., 1978,  
Secs. 30-9-17, Amend. 1983  
& 30-9-1

Provides for the videotaping of depositions of children under sixteen in judge's chambers for use at trial.

**Child Competency** NM Stats. Ann., 1987  
Sec. 30-9-18

For alleged victims of criminal sexual penetration or conduct under thirteen years of age, the court may hold an evidentiary hearing to decide the child's competency.

**Child/Statute of Limitations** NM Stats., 1987  
Sec. 30-1-9.1

Application period for commencing prosecution shall not commence until the victim attains the age of eighteen.

**Child Abuse Reporting** NM Stats. Ann., 1978  
Sec. 32-1-15 to 32-1-16

Any medical professional or childcare worker who has suspicion that a child is being abused shall report the matter immediately. Any person failing to report is guilty of a misdemeanor and shall be fined not less than \$25 or more than \$100. Immunity is provided for the reporting person.



## NM

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**Child Protection/  
Exploitation**      NM Stats. Ann.,      1978,  
Sec. 30-6A-1 to 30-6A-4      Amend. 1984

Relates to sexual exploitation of children, creates criminal offenses and penalties, includes pornography and abandonment, abuse and neglect.

**Counselor  
Confidentiality  
DV/SA**      NM Stats. Ann.,      1987  
Sec. 31-25-1 to 31-25-6

The records of domestic violence and sexual assault victim counselors shall be confidential.

**Notoriety  
for Profit**      NM Stats. Ann.,      1983  
Sec. 31-22-22

Prohibits offenders from receiving financial benefits as a result of crime for five years. Victims may receive funds through civil judgments. Remaining funds are returned to offender.

**Elderly  
Abuse**      NM Stats. Ann.,      1978  
Sec. 31-18-16.1      & 1980

Old age enhancement on non-capital offenses. If victim is sixty years of age or older, aggravated with a one year mandatory jail term. If serious bodily injury, two years mandatory jail term.

**Adult  
Protection**      NM Stats. Ann.,      1982,  
Sec. 27-7-1 to 27-7-13      Amend. 1984

Provides for the protection, detection, and reporting of abuse, neglect, or exploitation of adults fifty-five years of age and older.

**Hate  
Violence**      NM Stats. Ann.,      1969,  
Sec. 28-1-7      Amend. 1987

Unlawful to engage in any form of threats, reprisal, or discrimination against any person because of who they are.

**Hate  
Violence**      NM Stats. Ann.,      1984  
Sec. 30-13-1

Makes it a petty misdemeanor to disturb a religious gathering. Furthermore, it forbids the desecration of a church or any portion thereof.

**Guilty/  
Mentally Ill**      NM Stats. Ann.,      1982  
Sec. 31-9-3 to 31-9-4

Provides for the plea of guilty but mentally ill.

**Police  
Training**      NM Stats. Ann.,      1978  
Sec. 29-11-1 to 29-11-6

The Sexual Crimes Prosecution and Treatment Act is enacted to assist community-based victim treatment programs in the training of law enforcement in the effective and proper handling of sexual crime offenses.

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# NEW YORK

## Enacted:

**Compensation** NY Exec. Law., 1966, 1969,  
Art. 22 Sec. 620-635 Amend. 1979,  
1983, & 1986

Unlimited medical reimbursement; \$30,000 for loss earnings, support; Emergency Award: \$1,500; Source: general revenue.

**Compensation/  
Burial** NY Exec. Law, 1983  
Sec. 624(1)(d)

Extends eligibility for compensation to anyone who paid for or incurred the expense of the burial costs for the victim.

**Compensation/  
Good Samaritans** NY Exec. Law, 1983  
Sec. 631(5)(d)

Provides families of murdered "good samaritans" with loss of support without regard to financial difficulty.

**Compensation/  
Counseling** NY Exec. Law, 1983  
Sec. 626

Expands covered medical expenses to include "counseling" for surviving spouse, parents or children of a homicide victim.

**Compensation/  
Property  
& Transportation** NY Exec. Law, 1983  
Secs. 621(8-11), & 624(1)

Expands compensation coverage to essential personal property loss & reasonable transportation expenses for all victims. Provides special considerations for elderly, disabled and child victims.

**Compensation/  
Domestic Violence** NY Exec. Law, 1983  
Sec. 624(2)

Allows awards to victims of child abuse and domestic violence if offender is not to benefit from award.

**Compensation** NY Exec. Law, 1984  
Sec. 625(2)

Extends filing time for compensation claim to one year after discovery of crime, not just one year after occurrence.

**Compensation/  
Juvenile** NY Crim. Proc. Law, 1985  
Sec. 720.15(3)

Enables unsealing of accusatory instruments filed against a youth where such youth has been previously adjudicated as a youthful offender or convicted of a crime. Changes will allow Compensation Board to more comprehensively consider claims filed by victims of youthful offenders.

**Compensation/  
Children** NY Exec. Law, 1985  
Secs. 642-a(5), 621(11),  
626(2), 627(3), & 631-a(2)

Allows greater eligibility for child victims and witnesses to receive counseling benefits including not requiring that a child sustain a

physical injury to qualify for compensation. Requires Crime Victims Board to coordinate child services throughout state. Enables compensation board to contract for counseling services for parents of missing children and on return of missing children. Establishes guidelines for the fair treatment of children as witnesses.

**Compensation** NY Exec. Law, 1986  
Sec. 631(2)

Dependant family members of crime victims who suffer a permanent physical disability may receive occupational training to offset the loss of income resulting from a crime. Eliminates the statutory cap of \$3,000.

**Compensation** NY Exec. Law, 1986  
Sec. 626(6)

Allows for compensation for counseling of spouse of rape victim if spouse resides with victim.

**Compensation/  
Rape Exam Payment** NY Exec. Law, 1986  
Sec. 626(1)

Out of pocket loss shall mean unreimbursed expenses incurred for medical care or other services necessary as a result of an injury.

**Compensation** NY Exec. Law, 1986  
Sec. 631(8)

Elderly or disabled can be eligible for counseling even if not physically injured if counseling commences within ninety days of crime.

**Compensation/  
Means Test** NY Exec. Law, 1986  
Sec. 631(6)

Raises the threshold for application of the financial means test for compensation eligibility from \$500 to \$1,000 for crimes committed 9/1/86 to 8/31/87 and to \$2,000 for crimes committed on or after 9/1/87.

**Compensation/Victim  
Service Funding** NY Exec. Law, 1985  
Secs. 631-a; 641;  
623(3), (10-21); & 629(1)

Omnibus compensation amendments providing the following: shelter costs for domestic violence victims; elimination of physical injury requirement for disabled victims; extension of awards to drunk driving victims; allows local victim service programs to make emergency awards to needy victims, reimbursable by the Crime Victims Board. In addition, provides statutory guidelines for the board to fund local victim service programs. Additional funding for domestic violence, child abuse, and elder abuse. Sexual assault services funded through appropriation.

**Funding for Services/  
Domestic Violence** NY Soc. Serv. Law, 1979,  
Sec. 2-31(a-b); Amend. 1982  
9 NY Code of Rules & Regs.  
Sec. 3.90;  
18 NY Code of Rules & Regs.,  
Sec. 492.1 to 492.28;  
& NY Exec. Order No. 19

\$20 marriage surcharge to fund all services for shelters without

appropriations. Shelter records are confidential.

**Domestic Violence/  
Child Funding** NY Soc. Serv. Law, 1986  
Art. 10-a

Trust fund to be set up along with a board to distribute funds to support child abuse and domestic violence programs, especially for prevention.

**Fair Treatment  
Standards  
for Victims** NY Exec. Law, 1984,  
Art. 23, Amend. 1986  
Sec. 640 to 659

Establishes standards for the "fair treatment" of crime victims in law enforcement agencies and the courts. The following should be provided for: (1) Information about emergency medical services, social services, and referrals; (2) Protection from intimidation; (3) Secure waiting areas; (4) Notification of arrest, arraignment, pre-trial release, guilty plea, trial, sentencing, and prison terms; (5) Consultation on felony case disposition, dismissal, guilty plea, pretrial release, and alternative sentencing; (6) Property return; (7) Employer/creditor intercession; (8) Establishment of standards for victim programs, and required training and education for victim providers; and (9) Special services for certain victims (elderly, children, disabled).

**Victim Bill of Rights/  
Juvenile Courts** NY Exec. Law, 1985  
Sec. 640(2)

Establishes a Bill of Rights for victims of juvenile offenders by extending all provisions of Article 23, the Bill of Rights, to include the juvenile justice system.

**Property  
Return** NY Crim. Proc. Law, 1984  
Secs. 240.20(e-1); &  
NY Penal Law,  
Sec. 450.10

Enables law enforcement agencies to document property with photographs to expedite return of property to victim.

**Employer  
Intercession** NY Penal Law, 1983  
Sec. 215.11

Protects victims who testify voluntarily from being fired for time off for court appearance.

**Victim Involvement/  
Sentencing** NY Crim. Proc. Law, 1984  
Sec. 390.40

Enables prosecutors to file pre-sentence memo in order to provide courts with pertinent information beyond the victim impact statement.

**Victim Involvement/  
Sentencing/Restitution** NY Crim. Proc. Law, 1982,  
Secs. 340.30(5), 390.50(2), Amend. 1985  
& 440.50(2);  
NY Penal Law,  
Sec. 60.27(1)

Requires victim impact statement as part of pre-sentence investigation. Expands victims rights in the sentencing process. Requires the district attorney to consult with the victim prior to sentencing and allows victim to review victim impact statement before it is submitted to court. Expands the scope of information in the VIS and grants

family members of homicide victims the right to submit a VIS. Enables prosecutors to have complete pre-sentence investigation before sentencing. Creates restitution provisions.

**Victim Involvement/  
Family Court** NY Fam. Ct. Act, 1986  
Sec. 351.1(4)(5)

Use of victim impact statement extended to Family Court juvenile delinquency proceedings.

**Restitution/  
Civil Suits** NY Civil Prac. Law & Rules, 1983  
Sec. 215;  
NY Estates, Powers, & Trusts Law,  
Sec. 5-4.1(2)

Expands right of victim/survivors to sue offenders for damage.

**Restitution** NY Penal Laws, 1983  
Sec. 60.27(1)

Judges shall consider restitution as part of sentencing procedure.

**Restitution** NY Estates, Powers 1983  
& Trust Laws, Sec. 5-4.1

Extends statute of limitation on civil actions to one year after criminal proceedings are terminated.

**Restitution** NY Crim. Proc. Law, 1984  
Secs. 420.10(1), (6), (7);  
NY Penal Law,  
Sec. 60.27(8)

Establishes specific authority in each county to collect restitution in order to create a systematic means for victims to receive payments. Creates a 5% surcharge on restitution to go to county as an incentive to collect restitution.

**Restitution** NY Crim. Proc. Law, 1984  
Sec. 420.10(2);  
NY Penal Law,  
Secs. 60.27(7), & 65.10(2)(g)

Enables courts to order restitution payments made to the estate of a deceased victim.

**Restitution** NY Penal Law, 1984  
Sec. 65.10(g)

Grants courts the authority to order restitution as a condition of probation or conditional discharge.

**Restitution** NY Crim. Proc. Law, 1985  
Sec. 420.10(1)(b)

Provides that restitution must be paid before any criminal fines or penalty assessments can be collected.

<b>Restitution</b>	NY Crim. Proc. Law, Sec. 420.10(5), (6); NY Corr. Laws, Sec. 860(4); NY Penal Law, Sec. 60.27(7)	1985	<b>Protection from Intimidation</b>	NY Penal Law, Sec. 70.02(1)(a), (c)	1986
Permits judge to consider offenders' potential earnings in work release/prison programs at time of sentencing. Restitution must be collected based on the inmate's earnings.			Protects victims and witnesses of violent crimes from coercive and intimidating conduct.		
<b>Restitution</b>	NY Exec. Law, Sec. 634(1), (6)	1986	<b>Protection from Intimidation/ Protection Order</b>	NY Penal Law, Sec. 65.10(2)(k); NY Crim. Proc. Law, Secs. 530.12, 530.13, & 170.55(3); NY Jud. Law, Sec. 751(1)	1985
Enhances state's ability to secure restitution by giving certain responsibilities to Crime Victims Board and the Attorney General.			Permits a court to enforce an order of protection issued to a victim of a non-family offense, or to punish an offender for the violation of the terms and conditions of such an order, in the same manner as is presently provided in family offense cases.		
<b>Conditional Restitution</b>	NY Exec. Law, Sec. 259-l(2)(a), & 259(j)	1986	<b>Domestic Violence Protection</b>	NY Fam. Ct. Act, Secs. 818; 446; 550; 551; 655; & 1986 656; 659; 812 (1)(c), (d); 821(1), (9); 822(a); 841; 842; 1056; & NY Crim. Proc. Law, Secs. 530.11(1)(d), & 530.12	1984
Court may impose restitution as a condition of parole.			Extends family and criminal court jurisdiction over family offenses. Allows orders of protection to be entered against former spouses and persons who have a child in common regardless of whether persons have been married or have lived together. Allows victim of domestic violence to get an order of protection in the county where he or she lives and not just in the county where the violence took place.		
<b>Restitution</b>	NY Penal Law, Sec. 60.27(5)(a)	1986	<b>Protection Orders</b>	NY Crim. Proc. Law, Secs. 530.12(5), & 530.13(4)	1986
Amends the penal law to raise the statutory restitution level for felonies to \$10,000 and for other offenses to \$5,000.			Extends duration of orders of protection for felony convictions to the greater of five years from the date of conviction or three years from the date of expiration of the maximum term of imprisonment.		
<b>Victim Participation/ Notification Parole</b>	NY Stats., Sec. 259-l(2)(c)	1985	<b>Domestic Violence</b>	NY Soc. Serv. Law, Sec. 62(5)(f), & Art. 6-A	1987
Grants victims the right to submit a victim impact statement at parole hearing and to receive notification, upon request to district attorney, of final disposition of commitment.			Establishes social service district responsibility for the shelter and care of domestic violence victims and their children. Creates the Domestic Violence Prevention Act which includes funding for residential and non-residential service delivery.		
<b>Notification/ General</b>	NY Corr. Law, Sec. 149-a	1985, Amend. 1986	<b>Warrantless Arrest</b>	NY Crim. Proc. Law, Sec. 140.15	1970
Requires the Department of Correctional Services to notify victims of escape, recapture, discharge or parole.			A police officer who has reasonable cause to believe a misdemeanor crime has been committed, may enter the premises and arrest the offender without a warrant.		
<b>Protection from Intimidation</b>	NY Exec. Law, Sec. 625-a(1)	1983	<b>Marital Rape</b>	No stat. cite	1984
Requires notification of victims that they are protected from intimidation and are eligible to apply for compensation. Police stations must prominently post intimidation information.			Marital exemption abolished in <i>People v. Liberta</i> 64 NY 2d 152.		
<b>Protection from Intimidation/ Juvenile</b>	NY Fam. Ct. Act, Secs. 304.2, & 352.3	1984	<b>Protection from Intimidation</b>	NY Crim. Proc. Law, Secs. 530.12(11), & 530.13(8)	1984
Covers orders of protection in juvenile cases.			Addresses penalties for failure to obey court orders in orders of protection.		
<b>Protection from Intimidation</b>	NY Penal Law, Sec. 215.5 to 215.17	1985	Creates separate felony level for crimes of intimidating a victim or witness.		

**Sexual Assault Definition** NY Penal Law, 1987, Sec. 130.25 to 130.35, Amend. 1988 130.67, 130.70, & 70.02

Non-gender specific. Tiered into degrees of rape. Includes object rape.

**Child/Bill of Rights** NY Exec. Law, 1986 Secs. 621(11); 624(1)(g), (h); 626(2); 627(3); 631-a(2)(b)(iii); & 642-a

Persons eighteen years or under who suffer physical, mental, or emotional injury or loss or damages as a direct result of crime shall be eligible for assistance from the crime victims board. Also contains training requirements and provides guidelines for child victims and witnesses. Special consideration must be given to children, including: (1) Expedient trials; (2) Steps to minimize the number of times a child victim is called upon to testify; (3) Allowing the use of anatomically correct dolls, and; (4) providing for counseling reimbursement.

**Child Protection/ Videotaped Testimony** NY Crim. Proc. Law, 1984 Secs. 190.30(4), 190.32(1-7), 190.25(3)(g), & 240.45(1)(a)

Permits videotaped testimony to be presented to grand jury for child witnesses under twelve and other special victims.

**Child Protection/ Videotaped Testimony** NY Fam. Ct. Act, 1985 Sec. 331.4(1)(a)

Clarifies Juvenile Procedures Code provisions (Sec. 240.45) relating to discovery for videotaped examinations of witness conducted in grand jury proceedings.

**Child Protection/ Closed Circuit Testimony** NY Jud. Law, 1985 Secs. 211(1)(j)(k), 216(4); NY Crim. Proc. Law, Art. 65

Provides that vulnerable child witnesses, twelve and under, may provide testimony to court by closed circuit television.

**Child Testimony** NY Crim. Proc. Law, 1986 Sec. 60.44

Permits child victims of sex offenses to use anatomically correct dolls when testifying in court.

**Missing Children** NY Exec. Law, 1985 Sec. 837-e(2)(e); NY Ed. Law, Secs. 3212(2)(a), & 3213(2)(c), (d)

Authorizes school districts to report to statewide registry on missing children and requires immediate notification of parents when elementary children are absent from school.

**Missing Children** NY Exec. Law, 1986, Secs. 837-e, & 837-f Amend. 1987

Creates missing and exploited children's clearinghouse within the Director of Criminal Justice Services to plan, coordinate, and integrate efforts to protect children. Raises the age to eighteen as a

definable missing child.

**Child Statute of Limitations** NY Civil Prac. Law & Rules, 1985 Sec. 208

Maximum of ten years from date of crime to commencement of action, in civil cases only.

**Child/ Background Check** NY Soc. Serv. Law, 1986 Sec. 390-b(2)(a-d)

Any person applying for a position or volunteering in a day care center (including family day care) must go through a background check.

**Child Hearsay** NY Fam. Ct. Act, 1985 Sec. 1046(a)(vi)

Permits use of prior statements of abused or neglected child victims as evidence.

**Child Protection/ Privacy** NY Civil Rights Law, 1979 Sec. 50-B(1)

Relates to minor victims of sexual offenses. Statute restricts pre-indictment release to public of any report, paper, picture, photo, court file or other documents in the custody or possession of any public officer or employee that identifies victim. The accused is allowed access to information.

**Child Counselor/ Sexual Assault** NY Crim. Proc. Law, 1985, Sec. 190.25(3)(h) Amend. 1986, & 1987

Provides that a social worker, psychologist, rape crisis counselor, or other support person may accompany a child sexual assault victim twelve years of age or younger in grand jury room.

**Child Abuse Reporting** NY Soc. Serv. Law, 1973 Sec. 413; NY Crim. Proc. Law, Sec. 190.25(4)(b) & 1986

The following are mandated to report suspected cases of child abuse: medical, school personnel, social service workers, day care workers, police officers, and district attorneys. If a mandated reporter willfully fails to report they are guilty of a class A misdemeanor and civilly liable for the damages caused by such failure. Those who report are immune from liability.

**Confidentiality** NY Civil Proc. Law, 1984 Secs. 4504(a), & 4507

Clarifies that disclosure of otherwise privileged medical, psychological or psychiatric information solely for the purpose of obtaining insurance will not result in loss of all confidentiality protections. Applies only to psychologists.

**Confidentiality** NY Civil Proc. Law, 1985 Sec. 4508(a), & 4(b)(1), (2)

Provides that client/victim counselor confidentiality shall not be waived by authorizing disclosure of information for purposes of obtaining insurance benefits. Applies only to social workers.

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<b>Notoriety for Profit</b>	<b>NY Exec. Law, Sec. 632-a</b>	<b>1980</b>
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Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

<b>Adult Protection</b>	<b>NY Soc. Serv. Law, Art. 9-B, Title 1 &amp; 2, Secs. 473, &amp; 473-a</b>	<b>1975,</b>
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Pertains to guardianship, reporting and access to persons believed in need of protective services.

<b>Hate Violence</b>	<b>NY Penal Law, Secs. 240.30, &amp; 240.21</b>	<b>1984</b>
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Makes it a misdemeanor to physically threaten or harass another person because of race, color, religion, or national origin. Also, damaging a building used for religious purposes for the same reasons is prohibited. Aggravated harrassment is a felony. A person is guilty of the misdemeanor of aggravated disorderly conduct if he or she disturbs a religious assembly.

<b>Hate Violence</b>	<b>NY Civil Rights Law, Sec. 40-c, &amp; 40-d</b>	<b>1984</b>
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No person shall be discriminated against because of race, creed, color, national origin, sex, marital status or disability.

<b>Mandatory Police Training</b>	<b>NY Exec. Law, Art. 23, Sec. 642(5)</b>	<b>1987</b>
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Victim assistance training shall be provided for law enforcement and prosecutors.

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## NORTH CAROLINA

## Enacted:

Compensation NC Gen. Stats., 1983,  
Chpt. 15B Amend. 1987

Maximum Award: \$20,000 plus funeral expenses; Emergency Award: \$500; Source: general revenue of \$1 million provided.

Compensation/ NC Gen. Stats., 1981;  
Sexual Assault/ Chpt. 143B-480.2 et seq. 1983  
Rape Exam Payment

Describes eligibility for rape and other sex offense victim assistance programs as well as program elements. Expands program to cover ambulance and mental health counseling. Provides for purchase and distribution of kits for rape exam.

Compensation NC Gen. Stats., 1987  
Chpts. 15A-1343,  
& 15A-1374

Establishes funding mechanisms for the compensation program. Probation/parole fee set at \$15.

Funding for Services/ Biennial Appropriations 1982,  
Domestic Violence  
Sexual Assault

Funds domestic violence services. \$368,000 appropriated for rape crisis centers and urged to merge operations with domestic violence centers.

Principles of Fair NC Gen. Stats., 1986  
Treatment for Chpt. 15A-824 et seq  
Victims and Witnesses

Establishes the following rights: (1) Witness Assistance Coordinators in the administrative offices of the courts or in prosecutors offices; (2) Property return; (3) Notification of schedule changes, release, parole release, class G felony escape and release, and final disposition; (4) Protection from intimidation; (5) Secure waiting areas; (6) Employer intercession; (7) Witness fees; (8) Victim impact statement.

Witness Assistance NC Code, 1986  
Coordinator Chpt. 6.5.7A-347

Creates witness assistance coordinator positions and allocates personnel to prosecutorial districts.

Restitution NC Gen. Stats., 1935,  
Chpts. 148-57.1, Amend. 1987  
15A-1343, & 15A-1021

Provides that restitution is authorized in proposed plea agreements as a condition of probation or parole. Establishes that restitution may be required in instances of stolen property. Expands the definition of income in determining restitution.

Child NC Gen. Stats., 1987  
restitution Secs. 148-57.1(c), 148-33.2,  
15A-1343, 15A-1021, & 7A-650

To require the defendant convicted of child abuse to pay for rehabilitative treatment for victim as a part of sentence.

Notification NC Gen. Stats.,  
Escape Sec. 15A-825(12)

Victims of class "G" felonies or worse are to be notified of the escape of the offender.

Domestic Violence NC Gen. Stats., 1979  
Protection Orders Chpt. 50B-1 to 50B-8

The court may grant any protective order or approve consent agreements to bring about a cessation of acts of domestic violence.

Domestic Violence NC Gen. Stats., 1987  
Protection Orders Sec. 50B-4(b)

Law enforcement officers shall arrest without a warrant if the officer has probable cause to believe the person has violated a court order excluding the person from the residence.

Marital NC Gen. Stats., 1979,  
Rape Chpt. 14-27.8 Amend. 1987

Marital exemption ends when parties are separated and living apart.

Rape Exam NC Gen. Stats., 1982  
Payment Sec. 143B-480.2

Adds the following: Assistance is limited to all actual immediate and short-term medical expenses, not to exceed one thousand dollars. The crime shall have been reported within seventy-two hours unless good cause is shown.

Sexual Assault NC Gen. Stats., 1979,  
Definition Chpt. 14-27.1 Amend. 1981,  
to 14-27.10 & 1983

Non-gender specific. Includes rape with an object. Tiered into degrees of sexual assault.

Child NC Gen. Stats., 1983  
Funding Chpt. 110-150

Children's trust fund is established in the State Treasurer's office to be used by the State Board of Education to fund child abuse and neglect prevention programs.

Missing NC Gen. Stats., 1986  
Children Chpt. 143B-495 to 143B-499.6

Establishes in the Department of Crime Control and Public Safety, the North Carolina Center for Missing Persons with special emphasis on missing children.



<b>Child/ Speedy Trial</b>	<b>NC Gen. Stats., Sec. 15A-701(b)(7)</b>	<b>1973, Amend. 1977, 1979, 1983, &amp; 1987</b>
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Speedy trial for child victims and witnesses, to be expedited within 120 days with exceptions.

<b>Child Abuse Reporting</b>	<b>NC Gen. Stats., Chpt. 7A-543</b>	<b>1979, Amend. 1983</b>
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Any person or institution who has cause to suspect cases of child abuse or neglect shall report the case to the Director of the Department of Social Services.

<b>Child Protection</b>	<b>NC Gen. Stats., Chpt. 105</b>	<b>1985</b>
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Requires speedy investigation of child abuse and neglect.

<b>Elderly Abuse</b>	<b>NC Gen. Stats., Art. 6, Sec. 108A-99 to 108A-111</b>	<b>1973, Amend. 1975, 1981, 1985, 1986</b>
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"The Protection of the Abused, Neglected, or Exploited Disabled Adult Act." To provide protective services for such persons.

<b>Hate Violence</b>	<b>NC Gen. Stats., Sec. 14-12.7 to 14-12.11</b>	<b>1981</b>
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Outlaws the wearing of masks or hoods in a variety of places.

<b>Hate Violence</b>	<b>NC Gen. Stats., Sec. 14-12.12</b>	<b>1981</b>
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Prohibits the burning of a cross on land without the owner's permission, or to intimidate another.

<b>Police Training</b>	<b>NC Gen. Stats., Sec. 17C-1 et seq</b>	<b>1984</b>
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Training for law enforcement to be determined by the NC Criminal Justice Education and Training Standards Commission. Eight hours of dealing with victims is included in the curriculum.

## NORTH DAKOTA

## Enacted:

**Compensation** ND Cent. Code, 1975,  
Chpt. 65-13, Amend. 1987  
Sec. 01 to 20;  
ND Admin. Code, Chpt. 92,  
Sec. 01 to 11

Maximum Award: \$25,000; Emergency Award: \$100; Source: general revenue (statute in compliance with VOCA criteria, no legislative changes necessary).

**Compensation** ND Cent. Code, 1987  
Sec. 65-13-06

Removes the family exclusion, with no unjust enrichment to offender. Removes the minimum loss requirement.

**Compensation** ND Cent. Code, 1987  
Sec. 65-13-03

Expands to include reparation for drunk drivers. Increases funeral allowance.

**Funding for Services/ Domestic Violence** ND Cent. Code, 1981  
Secs. 14-03-21, 14-03-22, &  
14-07.2-01 to 14-07.2-05

Funds domestic violence programs with a \$19 marriage certificate surcharge.

**Victims/Bill of Rights** ND Cent. Code, 1987  
Chpt. 12.1-34

Provides for the following: (1) Notification of all court proceedings, pre-trial release, bail, plea agreements, sentencing, felony release, escape, final disposition, parole, pardon, and work release; (2) Court attendance; (3) Employer intercession; (4) Property return; (5) Secure waiting area; (6) Privacy/address protection; (7) Speedy disposition; (8) Victim impact statement/victim statement of opinion/allocation at sentencing; (9) Plea consultation; (10) Victim impact statement/allocation at parole.

**Victim Rights Study** ND SCR 4026 1987

Resolution to study state's programs for assistance to victims of and witnesses to crime.

**Employer Intercession** ND Cent. Code, 1987  
Sec. 27-.09.1-17

Makes revisions regarding protection of employment of witnesses, granting them the same rights as jurors.

**Witness Fees** ND Cent. Code, 1987  
Sec. 31-01-16

Allows \$25 per day for witness fees plus reimbursement for mileage expenses.

**Allocution Sentencing** ND Cent. Code, 1987  
Sec. 12.1-34-02(14)

Victim may orally address the court before sentencing, at the judge's discretion, if the crime was one of violence.

**Mandatory/ Conditional Restitution** ND Cent. Code, 1987  
Sec. 12.1-32-08

Requires courts, when sentencing in a criminal proceeding, to order a convicted defendant to make restitution to the victim when pecuniary damage has been inflicted or to state for the record why restitution was not ordered. To be ordered prior to setting probation, sentence or parole.

**Protection from Intimidation** ND Cent. Code, 1987  
Sec. 14-07.1-06

Revises provisions for arrest without warrant in domestic assault cases.

**Domestic Violence/ Protection Orders** ND Cent. Code, 1985  
Sec. 14-07.1-02

Grants county courts the authority and jurisdiction to order an adult abuse protection order.

**Warrantless Arrest** ND Cent. Code, 1987  
Sec. 12-64-02

Police officer may arrest a suspected offender with probable cause that a misdemeanor has occurred in a domestic violence situation.

**Training Domestic Violence** ND Cent. Code, 1987  
Secs. 12-64-02, & 12-64-05

Provides arrest procedures, guidelines and training for law enforcement officers in handling incidents of domestic violence and court-ordered protection for victims.

**Marital Rape** ND Cent. Code, 1987  
Sec. 12.1-20-09

Deletes the marital rape defense for all sexual assault cases.

**Rape Exam Payment** ND Cent. Code, 1987  
Sec. 31-01-16

Payment for rape exams as a medical cost, requiring reporting to law enforcement within 72 hours unless good cause shown.

**Sexual Assault Definition** ND Cent. Code, 1987  
Sec. 12.1-20-02 to 12.1-20-03

Tiered into classes of sexual assault. Includes rape with an object.

**Date Rape** ND Cent. Code, 1987  
Sec. 12.1-20-03

Removes the "voluntary companion" language from the class A felony charge. This language formerly served as a defense or a bar to such charge.

<b>Statute of Limitations/ Sexual Assault</b>	<b>ND Cent. Code, Sec. 12.1-20-01</b>	<b>1987</b>	ners, teachers, day care, police, social workers, and mental health practitioners. Willful failure to report is a class B misdemeanor. Immunity for those who report. Creates a child protection team.
Removes the ninety-day statute of limitations for the prosecution of sexual offenses.			
<b>Therapist/Sexual Exploitation</b>	<b>ND Cent. Code, Sec. 12.1-20-06.1</b>	<b>1987</b>	<b>Child Protection</b> <b>ND Cent. Code, Sec. 50-25.1-02</b> <b>1987</b>
Provides a criminal charge for a variety of professionals who have sexual contact with clients.			Requires organization of child protection teams in counties.
<b>Child/Bill of Rights</b>	<b>ND Cent. Code, Chpt. 12.1-35</b>	<b>1987</b>	<b>Domestic Violence/ Confidentiality</b> <b>ND Cent. Code, Sec. 14-07.2-06</b> <b>1985</b>
Provides the following for children: (1) Explanation of proceedings; (2) Privacy/address protection; (3) Speedy Trial; (4) Limitation on interviews.			Maintains confidentiality of addresses, telephone numbers, case file history and other identifying information about clients, unless client consents or if disclosure of the information is considered necessary.
<b>Child Abuse/ Funding</b>	<b>ND Cent. Code, Chpt. 50-27-01</b>	<b>1975, Amend. 1979, &amp; 1985</b>	<b>Adult Abuse</b> <b>ND Cent. Code, Chpt. 14-07.1</b> <b>1979</b>
A special children's trust fund to be set up and administered by the executive committee on children and youth of the governor's council on human resources. Establishes funding for child abuse and neglect prevention programs through a \$2 surcharge on birth certificates.			Defines adult abuse.
<b>Child Competenc.</b>	<b>ND Art. VI, Rule 601</b>	<b>1986</b>	<b>Adult Protection</b> <b>ND Cent. Code, Sec. 14-07.1-09</b> <b>1987</b>
Every person is competent to be a witness except as otherwise demonstrated.			Establishes an adult protective services demonstration project in the Department of Human Services. Provides immunity from liability for reporting, assisting or providing services related to incidents of abuse of vulnerable adults.
<b>Missing Children</b>	<b>ND Cent. Code, Sec. 54-23.2-04.1</b>	<b>1987</b>	<b>Elderly Abuse</b> <b>ND SB 2336</b> <b>1987</b>
Establishes and maintains a network for information exchange on lost or missing children.			Establishes an adult protective services demonstration project through the Department of Human Services. Time limited, therefore not codified.
<b>Child/Statute of Limitations</b>	<b>ND Cent. Code, Sec. 29-04-03.2</b>	<b>1987</b>	<b>Hate Violence</b> <b>ND Cent. Code, Secs. 12.1-14-04, &amp; 12.1-14-05</b> <b>1976</b>
Provides that the statute of limitations for sexual assault, when a victim is under fifteen years of age, does not begin to run until the victim reaches fifteen years of age.			Prohibits the intentional use of force to interfere with another because of a person's race, sex, religion, or national origin. Includes prevention to exercise the right to full and equal enjoyment of any facility open to the public. Also interference with another person's civil rights.
<b>Child Court Attendant</b>	<b>ND Cent. Code, Secs. 12.1-20-16, &amp; 14-07.1-05.1</b>	<b>1987</b>	
Allows the court to appoint guardians ad litem or child advocates in prosecution of sex offenses, or to represent minors in an action for a protection order involving custody, support, visitation, or family reunification.			
<b>Child Abuse/ Protection Reporting</b>	<b>ND Cent. Code, Sec. 50-25.1-03</b>	<b>1975, Amend. 1979, 1985, 1987</b>	
Provides intervention and protective services for families. Requires reporting of child abuse by health care workers, religious practitio-			

## OHIO

## Enacted:

**Compensation** OH Rev. Code, 1976,  
Sec. 2743.51 to 2743.72 Amend. 1977,  
1978, 1980,  
1981, 1982,  
1985, & 1986

Maximum Award: \$25,000; Emergency Award: no maximum; Source: fines, penalty assessments, and supplemental appropriations. Permits award of reparations involving a minor victim within one year from the filing of a complaint, indictment, or information against the alleged offender. Allows for crime victim compensation for loss of unemployment benefits. Court fines for special reparations account. Court costs of \$6.00 for misdemeanors and \$20.00 for felonies, provides for reciprocity, and includes motor vehicle crimes (limited).

**Service Funding** OH Rev. Code, 1984  
Sec. 109.91 to 109.92

Provides funding for victim assistance programs and creates an advisory board.

**Funding for Services/ Domestic Violence** OH Rev. Code Ann., 1981  
Sec. 3113.33 to 3133.39

Funds basic and other shelter services through a \$17 marriage surcharge, administered by each county. Discrimination is prohibited, and confidentiality is assured for both shelter and "battered spouse counselors." State may fund up to 75% of costs.

**Bill of Rights Compilation of Statutes** OH Rev. Code, 1984  
Secs. 2743, 2921, 2933, 2937,  
2939, 2945, 2947, & 2967

Establishes the following rights: (1) Notification of changes in court schedules, court proceedings, plea agreements, sentencing, pardon, final disposition of case, release, and felon's parole; (2) Information on victim/witness services; (3) Speedy return of property; (4) Employer intercession; (5) Victims of felony acts may attend and present victim impact statement and opinion at sentencing, dispositional, parole, and early-release hearings; (6) Protection from intimidation; and (7) Notoriety for profit.

**Victim/witness Information** OH Rev. Code, 1987  
Sec. 109.42

The attorney general shall prepare a pamphlet containing a compilation of victim statutes in the form of a bill of rights.

**Restitution** OH Rev. Stats., 1974,  
Sec. 2929.21 Amend. 1986

The court may require the offender to make restitution for property damage or theft committed in a misdemeanor.

**Notification Escape** OH Rev. Code, 1987  
Secs. 309.18, 341.011,  
753.19, & 5120.14

Requires that victims be notified of offender's escape by the

prosecuting attorney.

**Domestic Violence Protection Orders** OH Rev. Code, 1981  
Sec. 2919.25

A temporary protection order containing terms designed to ensure the safety and protection of the complainant may be issued.

**Warrantless Arrest** OH Rev. Code, 1981  
Sec. 2935.03(B)

At the discretion of the police officer in misdemeanor cases, he or she may arrest without a warrant in cases of domestic violence.

**Marital Rape** OH Rev. Code, 1986  
Secs. 2907.01(L), 2907.02(A)(1),  
2907.03 to 2907.06, 2907.12(A)(1),  
2907.01(G), & 2907.12(A)(2)

Marital exemption ends if parties are living apart or one spouse has initiated legal proceedings.

**Rape Exam Payment** OH Rev. Code, 1975  
Sec. 2907.28

Evidentiary rape exams are to be paid by the county or municipality in which the alleged offense was committed.

**Sexual Assault Definition** OH Rev. Code, 1974  
Secs. 2907.01, & 2907.12

Non-gender specific. Includes felonious sexual penetration with an object. Aggravated classifications.

**Child Protection/ Videotaped Testimony/Hearsay** OH Rev. Code, 1985  
Secs. 109.54, 2937.11,  
2937.15, 2945.49,  
2151.3511, & 2907.41

Authorizes closed hearings and permits videotaped testimony in preliminary hearings in criminal cases where a child is an alleged victim of a sexual offense. Also establishes a new exception to the hearsay rule to permit the deposition to be admitted as evidence in certain situations in the juvenile or criminal court.

**Child Funding** OH Rev. Code, 1984  
Sec. 3109.13 to 3109.18

Creates the Children's Trust Fund Special Account in the State Special Revenue Fund to fund child abuse and neglect prevention programs by requiring an additional fee of \$2 for copies of birth certificates, plus an additional \$10 fee for filing of divorce.

**Missing Children** OH Rev. Stats. Ann., 1984  
Sec. 2151.421,  
& 2901.30 to 2901.31

The County Human Services or Children Services Board shall report cases of missing children to a central registry, maintained by the State Department of Human Services.

**Child Abuse Reporting** OH Rev. Code, 1985  
Sec. 2151.421

Professionals who have reason to believe that a child under eighteen

years of age is being abused shall report to the children services board or the county department of human services. Failure to report constitutes a fourth degree misdemeanor.

<b>Counselor Confidentiality/ Domestic Violence/ Sexual Assault</b>	<b>OH Rev. Code, Sec. 2921.22(6)</b>	<b>1980</b>
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Programs that provide counseling services to sexual assault and domestic violence are removed from public record requirements.

<b>Privacy/Address Protection</b>	<b>OH Rev. Code Ann., Sec. 2907.11</b>	<b>1975</b>
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Upon the request of the victim, the name of a sex-crime victim is suppressed until the accused is arraigned, the charge is dismissed, or the case is otherwise concluded, whichever comes first.

<b>Notoriety for Profit</b>	<b>OH Rev. Code Ann., Secs. 2743.81, &amp; 2969.04,</b>	<b>1982</b>
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Prohibits convicted offender from benefiting from profits gained from notoriety due to crime.

<b>Elder Protection</b>	<b>OH Rev. Code, Sec. 51:17-29</b>	<b>1981, Amend. 1983, 1984, &amp; 1986</b>
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Provides reporting, investigation, and protection for persons sixty years or older.

<b>Hate Violence</b>	<b>OH Rev. Code Ann., Sec. 2921.45</b>	<b>1982</b>
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Prohibits any public servant from knowingly depriving any person of their constitutional or statutory rights.

<b>Sexual Assault/ Officer Training</b>	<b>OH Rev. Code Ann., Secs. 2907.30, &amp; 109.741</b>	<b>1984, Amend. 1985</b>
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Provides that peace officers interviewing victims of rape and sexual assault be given training in crisis counseling.

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## OKLAHOMA

## Enacted:

**Compensation/  
Rape Exam Payment** 21 OK Stats., 1981,  
Sec. 142.1 to 142.20, Amend. 1982,  
1984

Maximum award: \$10,000; Emergency Award: \$500; Source: penalty assessments. The 1984 penalty provisions establish \$20 to \$10,000 felony and \$5 to \$100 misdemeanor assessments for compensation fund. The state through the Crime Victims Compensation Board pays for sexual assault exams (\$125 maximum).

**Compensation** 57 OK Stats., 1987  
Sec. 542

The Department of Corrections shall pay into the Crime Victim Compensation Fund an amount equal to five percent of the gross wages earned by inmates employed in a private prison industries program.

**Service Funding/  
Domestic Violence** 43A OK Stats., 1982,  
Sec. 3-311 to 3-312; Amend. 1986  
74 OK Stats.,  
Sec. 285.53

Funds basic shelter and other domestic violence services. Funds to be appropriated by the Department of Mental Health. Creation of the Domestic Violence Advisory Committee to review rules, regulations and overall policies relating to the operation and funding of domestic violence programs.

**Service Funding  
Victim Rights** 19 OK Stats., 1981  
Sec. 215.32 to 215.33

Permits each district attorney's office to have one victim/witness coordinator to ensure the following victim rights: (1) Notification of schedule changes and final release; (2) Protection from intimidation; (3) Information on financial assistance, victim services, and witness fees; (4) Secure waiting areas; (5) Speedy return of property; (6) Employer intercession; and (7) Includes provision for these rights to be extended to families of homicide victims. *Note: Although Oklahoma does not have a single victim bill of rights, the legislature has passed what is considered a "package" of victim rights.*

**Intimidation  
Penalty** 21 OK Stats., 1981  
Sec. 455

Penalty for intimidating witnesses and preventing them from testifying is one-to-ten years.

**Victim Participation/  
Victim Impact  
Statement** 22 OK Stats., 1981  
Sec. 982

Provides that the pre-sentence investigation in felony cases shall include the voluntary statement of the victim concerning the offense and the amount of the victim's loss, as well as information about the defendant.

**Court  
Attendance** 12 OK Stats., 1988  
Sec. 2615(3)

Exceptions from witness exclusion includes the victim of an alleged criminal offense upon the motion of the state to bar such exclusion, unless the court finds such exclusion to be in the interest of justice.

**Parole/VIS  
Allocution** 57 OK Stats., 1987  
Sec. 332.2

The Department of Probation and Parole can establish policies for hearings. The policies allow victims to provide a victim impact statement (oral or written) through the open meeting law.

**Restitution/Condition  
of P/P/WR** 57 OK Stats., 1983  
Sec. 332.8

Restitution must be considered as a condition of parole.

**Restitution** 22 OK Stats., 1985,  
Sec. 991-A Amend. 1986

Enables judges to order convicted offenders to pay restitution directly or through a local trust fund.

**Restitution/  
Juvenile** 10 OK Stats., 1985  
Sec. 1404.1

Establishes juvenile restitution program whereby offenders pay up to 50% of their wages to victim.

**Parole/Pardon  
Notification** 57 OK Stats., 1981  
Sec. 332.2

Requires Pardon and Parole Board to notify the district attorney at least twenty days in advance of regular meetings or ten days for special meetings, by sending a copy of the docket with notification of recommendations for commutations or paroles, so victims can be informed.

**Rape and Domestic  
Abuse Victim Rights** 22 OK Stats., 1982  
Secs. 40 to 40.4, & 60 to 60.7 & 1983

Describes rights and services for rape and domestic abuse victims; includes Protection from Domestic Abuse Act.

**Warrantless  
Arrest** 22 OK Stats., 1987  
Sec. 196(6), & 40.3

Peace officer with probable cause to believe that within the previous 4 hours an act of domestic violence has occurred may arrest without a warrant. The officer must first observe physical injury.

**Marital  
Rape** 21 OK Stats., 1981,  
Sec. 1111 Amend. 1983

Removes exemption of spouse from definition of rape. Must be living apart.

**Sexual Assault  
Definition** 21 OK Stats., 1981  
Sec. 1111 to 1123

Non-gender specific. Includes rape with an object. Tiered into degrees of rape.

**Child Protection/ Videotaped Testimony Sec. 753**      **22 OK Stats.,**      **1985**

Allows for videotaped depositions and closed circuit testimony for child sexual abuse victims under the age of twelve years.

**Child Competency**      **OK Rules of Evid.,**      **1978**  
**Rule 601**

Everyone is competent to be a witness unless otherwise provided for. Children must understand an oath to tell the truth.

**Missing Children**      **10 OK Stats.,**      **1983**  
**Sec. 1628**

Duty of law enforcement upon report of a missing child sixteen or under, to immediately initiate an investigation.

**Child Protection/ Evidence/ Hearsay**      **12 OK Stats.,**      **1981,**  
**Sec. 2803.1;**      **Amend. 1984,**  
**47 OK Stats.,**      **1986**  
**Sec. 7-508**

Declares statements of children under twelve years of age describing acts of sexual contact are admissible as evidence in criminal proceedings. Allows the admission of hearsay testimony if the child is unavailable or unable to testify.

**Child Hearsay Recording**      **22 OK Stats.,**      **1981,**  
**Sec. 752, & 753;**      **Amend. 1986**  
**10 OK Stats.,**  
**Sec. 1147, & 1148**

The recording of statement of a child twelve years or younger made before the proceedings begin is admissible into evidence. Also provides for closed circuit testimony of the child in another room.

**Child Abuse Reporting**      **21 OK Stats.,**      **1985**  
**Sec. 846**

Medical professionals and childcare workers; mandatory reporting of physical abuse of children. Failure to report is a misdemeanor.

**Child Protection**      **21 OK Stats.,**      **1981,**  
**Sec. 1123**      **Amend. 1983**

Prohibits lewd or indecent proposals to, or acts with, children under age sixteen years (raised from fourteen years).

**Notoriety for Profit**      **22 OK Stats.,**      **1981**  
**Sec. 17**

Requires all monies paid to convicted persons as a result of contracts made regarding the crime committed for movies, books, newspapers, magazine articles, radio or television presentations, or live entertainment, be paid to the court and deposited in an escrow account payable to victim. Any money remaining in the account after five years will be turned over to state Victim Compensation Fund.

**Incapacitated Persons & Elderly Abuse/ Reporting and Protective Services**      **43A OK Stats.,**      **1977,**  
**Sec. 10-101 et seq**      **Amend. 1984**  
**& 1986**

Mandates reporting of, and protective services for, abused or

neglected adults (sixty-five years of age or older) and incapacitated persons.

**Hate Violence**      **21 OK Stats.,**      **1983**  
**Secs. 913 to 916,**  
**1301 to 1306, & 1765**

Misdemeanor to willfully, through threat or violence, compel another person to practice or prevent another from practicing any form of religious belief. Misdemeanor to willfully disturb a place of worship. Prohibits wearing a mask or hood to conceal one's identity. Such a concealment while making an assault with a deadly weapon is a felony. Prohibits societies which require oaths in conflict with the Constitution. Prohibits defacing religious property or places of worship.

**Hate Violence**      **21 OK Stats.,**      **1987**  
**Sec. 850**

No person shall maliciously and with the specific intent to intimidate or harass another person because of that person's race, color, religion, ancestry, national origin or disability.

## OREGON

## Enacted:

**Compensation** OR Rev. Stats., 1978  
Sec. 147.005 to 147.365

Maximum Award: \$23,000; Emergency Award: \$1000; Source: general revenue and penalty assessments.

**Compensation** OR Rev. Stats., 1987  
Sec. 8-147.345

Limited kinds of loss and amounts of loss for which crime victims may obtain compensation from the state. Minimum loss \$100. No deductible. No family exclusion. Benefits for counseling of family members of a sex abuse victim. Removes \$1,000 minimum for counseling. Funeral expenses \$2,000. Non-dependant relative available for reimbursement.

**Service Funding/  
Domestic Violence** OR Rev. Stats., 1981,  
Secs. 106.45, Amend. 1983  
& 108.610 to 108.660

Funds basic shelter and other domestic violence services with a \$20 marriage surcharge used to fund up to 75% of costs. Shelter records are confidential and shelter addresses are kept secret.

**Service Funding/  
Bill of Rights** OR Rev. Stats., 1983  
Sec. 147.005 to 147.365

Establishes new penalty assessment to provide funds for compensation and prosecutor-based victim/witness programs. Requires programs to provide certain services and guarantees the following victim rights: (1) Information on case status and progress; (2) Assistance in all phases of court proceedings; (3) Property return; (4) Employer intercession; (5) Victim consultation on plea agreements and sentencing; and (6) Information on court proceedings, compensation, and victim services.

**Bill of Rights  
Initiative** OR Rev. Stats., 1986  
Secs. 40.355, 40.385, 136.060,  
136.145, 137.013, 137.101,  
144.120, 144.260  
147.450, & 147.410

An initiative to provide the following rights: (1) Protection from intimidation; (2) Address protection; (3) Notification and consultation on trial schedule; (4) Courtroom attendance; (5) VSO/VIS/allocation at sentencing; (6) Compensatory fines to victim in addition to restitution; (7) Notification of parole at least 30 days in advance; (8) VSO/VIS/allocation at parole; (9) Notification of any prisoner release.

**Secure Waiting  
Area** OR Rev. Stats., 1983  
Secs. 147.205(3),  
& 147.227(2)(H)

Authority to Attorney General to approve funding for certain comprehensive services among which is to provide a safe waiting area separate from the defendant and his or her family.

**Victim Involvement/  
Sentencing** OR Rev. Stats., 1983  
Secs. 137.530, & 144.790

Requires victim impact statement as part of pre-sentence investigation. Victim must be advised that VIS will be made available to the defense. Consent of parent must be obtained prior to contacting victim under age of eighteen for VIS.

**Court  
Attendance** OR Evid. Code, 1981  
Sec. 40.385, Rule 615

The exclusion of witnesses rule does not authorize exclusion of the victim in a criminal case.

**Restitution** OR Rev. Stats., 1981  
Sec. 137.103

Permits court to order compensatory fines to be paid to the victim as restitution for special and general damages such as pain and suffering.

**Restitution** OR Rev. Stats., 1983  
Sec. 137.106

Requires the district attorney to make a report of pecuniary damages, if the information is not available in the victim impact statement. Restitution order may not be reduced later unless there has been an error.

**Conditional  
Restitution** OR Rev. Stats., 1987  
Sec. 137.540(k)

The probationer shall pay resitution as a condition of probation.

**Restitution and  
Notification/Juveniles** OR Rev. Stats., 1983  
Secs. 484(6), & 419.635(3)

Requires the following: (1) Copies of summons to juveniles shall be sent to victim; (2) Victim may be present at hearings; and (3) Any disposition may include juvenile restitution orders.

**Notification  
Escape** OR Rev. Stats., 1981  
Sec. 161.326

If the victim desires, the board shall make a reasonable effort to notify the victim of the offender's escape, discharge, hearings, or conditional release.

**Domestic Violence  
Protection Orders** OR Rev. Stats., 1985  
Sec. 107.700 to 107.730

Victim may petition for relief and removal of a family member if that person intentionally, knowingly or recklessly places another in fear of imminent serious bodily injury.

**Warrantless  
Arrest** OR Rev. Stats., 1981  
Sec. 133.310

If police officer has probable cause to believe a felony or class A misdemeanor has occurred, he or she may arrest without a warrant. Applies to domestic violence cases.



**Mandatory Arrest Domestic Violence** OR Rev. Stats., Sec. 133.055(2) 1983

Mandatory arrest in cases where an assault has occurred causing or placing one in fear of imminent physical injury occurring in the last four hours.

**Marital Rape** OR Rev. Stats., Sec. 163.305 1977

Abolishes the marital rape exemption in all cases.

**Rape Exam Payment** OR Rev. Stats., Sec. 147.375 1987

Requires police agency to pay for medical exam of victim when, in sex crime, exam is requested by agency.

**Sexual Assault Definition** OR Rev. Stats., Sec. 163.408, 163.411, & 163.412 1971, Amend. 1983

Degrees of penetration with an object. Degrees by force.

**Child Abuse Reporting** OR Rev. Stats., Sec. 418.750 1981

Any public or private official having reasonable cause to believe that a child has been abused shall report it to the local Children's Services Division.

**Privacy/Protection** OR Rev. Stats., Secs. 192.500(1a D), & 135.970 1985

Prevents disclosure of biographical information of victim to defendant.

**Notoriety for Profit** OR Rev. Stats., Sec. 147.275 1985

An escrow account to be set up for the benefit of victims from monies received through contracts for the publishing or producing of a story of a compensable crime.

**Elderly Assistance** OR Rev. Stats., Sec. 413.005 to 413.240 1965

Defines eligibility and administrative provisions for old-age assistance.

**Elderly Reporting** OR Rev. Stats., Sec. 410.610 to 410.700 1981, Amend. 1983

Provides for mandatory reporting and investigation of allegedly abused elderly persons (sixty-five years of age or older).

**Hate Violence** OR Rev. Stats., Secs. 166.155, 166.165, & 166.075 1981

A person is guilty of intimidation in the second degree if he or she commits either criminal mischief or harassment because of race, religion, or national origin. Prohibits two or more persons from acting together to commit a crime for these reasons. Outlaws

intentional abuse of a place of worship or burial.

**Hate Violence** OR Rev. Stats., Secs. 30.190, & 30.200 1981

Provides for a cause of action to victims of intimidation in the first and second degrees. Also gives the district attorney the power to bring civil claims against any person who it is believed is in violation of the Oregon code.

**GUILTY/Mentally Ill** OR Rev. Stats., Sec. 161.295 1983

If found "guilty except for insane" the offender will be under the supervision of the psychiatric security review board until found sane. The board has jurisdiction equal to corrections. The offender could receive the same sentence as if he or she didn't use the insanity rule.

## PENNSYLVANIA

## Enacted:

**Compensation** 71 PA Stats., 1976  
Sec. 180-7 et seq.

Maximum Award: \$25,000; Emergency Award: \$1,000; Source: fines and penalty assessments.

**Compensation** 71 PA Stats., 1979  
Sec. 180-7.17

Requires law enforcement agencies to inform victims of availability of compensation and requires all law enforcement personnel to be trained about compensation board and eligibility requirements.

**Compensation** 71 PA Stats., 1984  
**Rape Exam Payment** Sec. 180-7 et seq.

Extends compensation costs and eligibility; expands compensation losses (e.g., includes loss of earnings, out-of-pocket costs for counseling and evidentiary medical exams, and loss of social security benefits); extends victim-family coverage. Requires that local law enforcement agencies notify victims in writing of the availability of compensation.

**Service Funding/** 62 PA Stats., 1988  
**Domestic Violence/** Sec. 1201 et seq.  
**Sexual Assault**

Amount: \$1.5 million; Source: \$10 penalty assessment; Eligible recipients: domestic violence shelters and rape crisis centers. This funding which expired 6/18/1987 was reauthorized under this act.

**Victim Bill of Rights/** 71 PA Stats., 1984  
**Funding for Services/** Sec. 180-9 et seq.  
**Compensation Extension**

Establishes a \$15.00 fine for any person who pleads guilty, no contest or who is convicted of a crime (\$10.00 of the fine funds compensation and \$5.00 funds victim and witness services). Establishes grant process for services programs. Establishes the following rights and services: (1) Victim impact statement in pre-sentence investigation; (2) Restitution as condition of probation; and (3) Notification of any release in felonious assault crimes. The following services are encouraged to be provided, with oversight vested in the Commission on Crime and Delinquency: (1) Notification of services and financial assistance, court schedule changes, work release, bail in felonious assault crimes by request of the victim, court proceedings, and final disposition; (2) Protection from intimidation; (3) Secure waiting areas; and (4) Property return.

**Intimidation** 18 PA Consol. Stats. Ann., 1980  
**Penalty** Sec. 4951 et seq.

Intimidation of victims/witnesses becomes a third-degree felony.

**Employer** 18 PA Consol. Stats. Ann., 1986  
**Sanctions** Sec. 4957

Prevents an employer from firing or otherwise penalizing an employee for appearing in court as the victim or witness of a crime.

**Parole** 61 PA Stats., 1986  
**Notification** Sec. 331.1 et seq.

Requires the district attorney to notify, thirty days in advance, the victim or victim's family of their right to make an oral or written impact statement. To inform the victim of the final disposition on parole.

**Domestic Violence** 35 PA Stats., 1976  
**Protection** Sec. 10181 et seq.

Provides for restraining orders for protection from abuse for spouses and children.

**Domestic Violence/** 18 PA Consol. Stats. Ann., 1986  
**Protection Orders** Sec. 2711

Strengthens existing law to provide law enforcement with authorization to use probable cause arrests in domestic violence cases.

**Marital Rape** 18 PA Consol. Stats. Ann., 1984  
Sec. 3128, 3101,  
3103, & 3121

Expands the definition of sexual assault to include spousal sexual assault under specified conditions.

**Sexual Assault** 18 PA Consol. Stats. Ann., 1972,  
**Definition** Sec. 3101 et seq. Amend.  
1984

The sexual assault code is non-gender specific.

**Child Bill of Rights/** 42 PA Consol. Stats. Ann., 1986  
**Videotaped hearing/** Sec. 5981 et seq.  
**Closed Circuit Testimony**

Sets forth child rights including the following: (1) Information on court proceedings; (2) Designation of individual to explain proceedings to the child, to act as a friend of the court, and to assist the child and family; (3) Speedy trial; (4) Videotaped deposition for preliminary hearing or pre-trial hearing and closed circuit testimony; (5) Provisions for hearsay admissibility under certain conditions; (6) Permits the use of anatomically correct dolls; (7) Prohibits public disclosure of child's identity.

**Child** 42 PA Consol. Stats. Ann., 1976  
**Competency** Sec. 5911

All persons are competent unless otherwise provided.

**Missing Children's** 18 PA Consol. Stats. Ann., 1985  
**Clearinghouse** Sec. 2908

Establishes a statewide clearinghouse on missing children and requires immediate investigation of missing children reports.

**Child Protection/** 42 PA Consol. Stats. Ann., 1985  
**Statute of Limitations** Sec. 5554

The statute of limitation does not begin in child abuse cases until the victim is eighteen years of age.

**Child/Employee Background Check**      **11 PA Stats., Sec. 2223.1**      **1985**

Background checks are required for child care workers.

**Child Protection/ Abuse Reporting**      **11 PA Stats., Sec. 2201 et seq.**      **1975, Amend. 1984**

Establishes Child Protective Services procedures for reporting abuse and neglect. The 1984 amendment requires any person who in the course of their employment, occupation or practice comes into contact with children to report abuse or neglect. Those who do not report are guilty of a summary offense and can be fined up to \$300 or sentenced to up to 90 days in jail. Subsequent offenses, third degree misdemeanor and up to one year in jail. Also, establishes a central registry for child abuse.

**Counselor Confidentiality/ Domestic Violence**      **Acts of PA, # 1988-56**      **1988**

Allows communications between victims and domestic violence counselors to remain privileged. Counselors may not be required to testify or reveal notes without consent of victim. Covered counselors must have forty hours of training and be under the supervision of a domestic violence program. Not yet codified.

**Counselor Confidentiality/ Sexual Assault**      **42 PA Consol. Stats. Ann., Sec. 5945.1**      **1981**

Allows communications between victims and sexual assault counselors to remain privileged. Counselors may not be required to testify or reveal notes without consent of victim. Covered counselors must have forty hours of training and be under the supervision of a rape crisis center.

**Notoriety for Profit**      **71 PA Stats., Sec. 180-7.18**      **1982**

Requires the creation of escrow accounts for profits from notoriety due to crime. Victims have five years in which to receive funds through civil judgments. Any remaining funds may be used by offender for legal fees.

**Adult Abuse**      **35 PA Stats., Sec. 10181 to 10190**      **1977, Amend. 1984**

Provides protection from abuse for adults and children by a person who lives with them. Specifies remedies and legal procedures.

**Elderly Abuse Penalties**      **42 PA Consol. Stats. Ann., Sec. 9717**      **1982**

Provides for minimum sentences for crimes committed against persons over sixty years of age.

**Elder Abuse**      **35 PA Stats., Sec. 10211 to 10224**      **1987**

Relates to the protection of the abused, neglected, exploited, or abandoned elderly. Establishes a uniform statewide reporting and

investigative system for suspected abuse. Provides for protective services, and funding.

**Guilty/ Mentally Ill**      **18 PA Consol. Stats. Ann., Sec. 314**      **1982**

Provides for a plea or finding of guilty but mentally ill.

**Police Training**      **18 PA Consol. Stats. Ann., Sec. 180-7.17**      **1988**

The police department of each city, borough, incorporated town and township shall insure that all officers have instruction concerning protection from abuse in their training curriculum.

**Hate Violence**      **18 PA Consol. Stats. Ann., Secs. 2710, 3307, & 5509**      **1983**

Prohibits malicious intent toward the race or religion of an individual or group. A person is guilty of institutional vandalism (a misdemeanor in the second degree) if he or she knowingly desecrates a religious structure or burial place.

## RHODE ISLAND

## Enacted:

<b>Constitutional Amendment</b>	<b>Initiative Question, No. 8</b>	<b>1986</b>
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Victim of crime shall have constitutionally endowed rights, including the right to compensation from perpetrators. Includes the right to "dignity and compassion" for victims of crime and the right to present a victim impact statement at sentencing.

<b>Compensation</b>	<b>RI Gen. Laws Ann., Sec. 12-25-1 to 12-25-14</b>	<b>1972, Amend. 1988</b>
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Maximum Award: \$25,000; Emergency Award: none; Source: fines and penalty assessment.

<b>Compensation/ Fine Increases</b>	<b>RI Gen. Laws, Sec. 12-25-12</b>	<b>1984</b>
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Increases maximum penalties to be paid to Violent Crimes Indemnity Fund. Felony penalties of five years or more are \$100 (or 10% of other fine if greater); for less than five years, \$60 (or 10% of other fine if greater). Misdemeanor fines equal \$20 (or 10% of other fine if greater). Fines shall be imposed on no-contest pleaders.

<b>Compensation</b>	<b>RI Gen. Laws Ann., Sec. 12-25-6</b>	<b>1988</b>
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Amends compensation statute to strengthen reporting requirements and prohibits awarding benefits where the court feels unjust enrichment to the offender would result.

<b>Compensation</b>	<b>RI Gen. Laws, Sec. 12-25-2</b>	<b>1988</b>
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Amends compensation statute to meet VOCA criteria.

<b>Funding for Services</b>	<b>RI Gen. Laws, Sec. 12-25-12.2</b>	<b>1984</b>
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Creates a lien on wages earned at prison to insure collection of funds, to notify victims of rights and services, and to provide funding for services established in Bill of Rights. Amends parts of compensation procedures.

<b>Victim Bill of Rights</b>	<b>RI Gen. Laws Ann., Chpt. 12-28-1 to 12-28-10</b>	<b>1983, Amend. 1988</b>
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Establishes the following rights for victims of crime and their families: (1) Information on services; (2) Protection from intimidation; (3) Notification of investigation, arraignment, bail release, disposition, court proceedings and schedule changes, custody release, general release, parole hearing and parole; (4) Speedy property return; (5) Employer intercession; (6) Victim impact statement or allocution at sentencing; (7) Secure waiting areas; (8) Witness fees; (9) Allocution/VIS at parole hearing; and (10) Restitution and automatic civil judgment/liability. (Upon conviction of a felony, a civil judgment shall be automatically entered by the trial court against the offender. The provision is separate from restitution.) (11) Victim notification and participation at plea bargain.

<b>Speedy Trial</b>	<b>RI Gen. Laws, Sec. 11-37-11.2</b>	<b>1988</b>
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With child victims fourteen years of age or under or a victim sixty-five years of age or older, the court and the attorney general's office shall take appropriate action to ensure a speedy trial.

<b>Parole Involvement</b>	<b>RI Gen. Laws Ann., Sec. 13-8-26</b>	<b>1956 Amend. 1985</b>
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Allows interested persons to make a written statement "with respect to a particular applicant for parole."

<b>Restitution</b>	<b>RI Gen. Laws Ann., Sec. 12-19-32</b>	<b>1978</b>
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Allows court to make restitution a condition of probation.

<b>Child/Offender Restitution</b>	<b>RI Gen. Laws, Sec. 11-37-8.6</b>	<b>1986</b>
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Allows court discretion to require defendants convicted of child molestation to pay the cost of the child's medical or psychological treatment resulting from the crime.

<b>Juvenile Restitution</b>	<b>RI Gen. Laws Ann., Sec. 14-1-32.1</b>	<b>1987</b>
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Covers juvenile restitution.

<b>Parole Notification</b>	<b>RI Gen. Laws, Sec. 13-8-9.1</b>	<b>1984</b>
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Relates to notification by parole board upon offender's release.

<b>Domestic Violence Protection Orders</b>	<b>RI Gen. Laws, Sec. 15-15-1 to 15-15-7</b>	<b>1986</b>
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Domestic violence victims may file a complaint in family court requesting any order which will protect them from such abuse.

<b>Allowable Arrest/ Domestic Violence</b>	<b>RI Gen. Laws Sec. 15-15-5</b>	<b>1982</b>
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A police officer who has reason to believe a family/household member has been abused shall use all reasonable means to prevent abuse including arrest for a misdemeanor committed in the officer's presence.

<b>Marital Rape</b>	<b>RI Gen. Laws, Sec. 11-37-1 to 11-37-2.1</b>	<b>1982, Amend. 1987</b>
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Marital exemption eliminated in first degree sexual assault.

<b>Rape Exam Payment</b>	<b>RI Gen. Laws, Sec. 23-17-26</b>	<b>1984</b>
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Requires Department of Social and Rehabilitative Services to pay costs of emergency room treatment and other examinations for sexual assault victims without medical or hospital insurance coverage.

<b>Sexual Assault Definition</b>	<b>RI Gen. Laws, Sec. 11-37-1 et seq.</b>	<b>1987</b>	<b>Child/Statute of Limitations</b>	<b>RI Gen. Laws, Sec. 12-12-17</b>	<b>1988</b>
Includes rape with an object. Non-gender specific. Tiered into degrees of sexual assault.			Adds first and second degree child molestation sexual assault to the exceptions from the three year statute of limitations on minor offenses.		
<b>Witness Reporting</b>	<b>RI Gen. Laws, Sec. 11-37-3.1</b>	<b>1983</b>	<b>Child/Background Check</b>	<b>RI Gen. Laws, Sec. 40-13.2-1 et seq.</b>	<b>1985</b>
Requires reporting of sexual assault crimes.			Provides for the certification of child care personnel and personnel providing educational services to very young children.		
<b>Child/Bill of Rights</b>	<b>RI Gen. Laws, Sec. 12-28-9</b>	<b>1985</b>	<b>Child Hearsay</b>	<b>RI Gen. Laws, Sec. 14-1-69</b>	<b>1985</b>
Child victims under fifteen years of age shall have the following rights: (1) To have the proceedings explained in language the child can understand; (2) To have a court attendant; (3) To minimize the number of times a child must participate; (4) To testify in the least traumatic manner; (5) To be provided information on services available to the child and his or her family in coping with the emotional impact of the crime; (6) To be permitted to testify at all judicial proceedings.			Permits statements made by a child under thirteen years of age about an act of abuse to be introduced into evidence at hearings before the Family Court.		
<b>Child Abuse Reporting/Videotaping</b>	<b>RI Gen. Laws, Sec. 40-11-2 et seq.</b>	<b>1979 &amp; 1985</b>	<b>Childrens Rights/Privacy Protection</b>	<b>RI Gen. Laws, Sec. 11-37-8.5</b>	<b>1985</b>
Any person who suspects child abuse has a duty to report it; failure to report is a misdemeanor punishable by up to \$500 fine or one year in jail. Reporter is immune from civil or criminal liability. Reports shall be confidential. Videotaped interviews in child abuse cases are admissible; provides for procedures.			The Department for Children and their Families shall advise the court, the police, and the prosecutor on the capacity of the child victim to participate in court proceedings. Also protects the identity of victims of child molestation sexual assault.		
<b>Child/Videotape</b>	<b>RI Gen. Laws, Sec. 11-37-13.1</b>	<b>1985</b>	<b>Notoriety for Profit</b>	<b>RI Gen. Laws, Chpt. 12-25.1-1</b>	<b>1983</b>
Allows for videotaped or closed circuit testimony by children thirteen or under at grand jury trials.			Provides that royalties paid to convicted offenders for commercial publication, re-enactment or dramatization of the crime may be recovered by the state to pay trial costs and to compensate victims.		
<b>Child/Closed Circuit</b>	<b>RI Gen. Laws, Sec. 11-37-13.2</b>	<b>1985</b>	<b>Elderly Abuse</b>	<b>RI Gen. Laws, Sec. 42-66-1 to 42-66-11</b>	<b>1977, Amend. 1987</b>
Child sexual assault victims seventeen years or less may testify by means of a closed circuit camera.			Any person with reasonable cause has a duty to report suspected abuse to the Department of Elderly Affairs. Failure to report shall cause punishment by fine of not more than \$500.		
<b>Child/Videotape Family Court</b>	<b>RI Gen. Laws, Sec. 14-1-68</b>	<b>1985</b>	<b>Elder Abuse</b>	<b>RI Gen. Laws, Sec. 11-5-10, &amp; 11-5-10.2</b>	<b>1980, Amend. 1988</b>
Any child under the age of eighteen may testify by videotape in family violence cases.			Determines the penalties for assault on persons sixty years of age or older. Determines penalties for assault on persons sixty years of age or older who sustain serious bodily injury.		
<b>Child Funding</b>	<b>RI Gen. Laws, Secs. 15-2-9.1, 42-72-30, &amp; 42-72-12</b>	<b>1983</b>	<b>Hate Violence</b>	<b>RI Gen. Laws, Secs. 11-42-3, &amp; 11-53-1 to 11-53-2</b>	<b>1982</b>
A license fee is imposed which establishes a family's and children's trust fund.			Prohibits threats with the intent to terrorize a person because of race, religion, or national origin. It is the right of every person no matter their race, color, creed, religion, ideological persuasion, or national origin to be protected from intimidation. Prohibits burning crosses or placing of swastikas without permission. Prohibits malicious threats whether a citizen of U.S. or not.		
<b>Missing Children</b>	<b>RI Gen. Laws, Sec. 42-28.8-1 et seq.</b>	<b>1985</b>	<b>Hate Violence</b>	<b>RI Gen. Laws, Sec. 9-1-35</b>	<b>1985</b>
Creates a missing children's information center within the state police with the responsibility of locating missing children, and requires the reporting of cases of missing children to the center.			Provides a civil cause of action to anyone subjected to intimidation or harrasment because of race, religion or national origin.		

## SOUTH CAROLINA

## Enacted:

**Compensation** SC Code Ann., 1982,  
Sec. 16-3-1110 et seq. Amend.  
1984, 1986

Maximum Award: \$10,000; Emergency Award: \$500; Source: penalty assessment. Funeral expenses: up to \$2,000. Provides for appeals from initial decisions to the board (or designated panel). Expands Board membership and duties. Extends coverage to victims, intervenors, surviving spouse, and parent or child legally dependent on deceased victim or intervenor, and covers non-residents injured in the state. Establishes victim restitution and victim/witness assistance programs.

**Domestic Violence** Yearly Appropriations 1987  
**Funding**

Funds domestic violence shelters through a yearly appropriation. \$690,000 for 1987.

**Sexual Assault** SC Code Ann., 1986  
**Funding** Sec. 16-3-652 et seq.

To appropriate funds allotted to the state government under the public works employment act of 1976 (Federal), to be distributed by the Department of Health and Environmental Control for rape crisis centers.

**Victim** SC Code Ann., 1984,  
**Bill of Rights** Sec. 16-3-1510 et seq. Amend. 1985

Rights include: (1) Access to human services and treatment with dignity and compassion; (2) Protection from intimidation and secure waiting areas; (3) Information on services and financial assistance and case progress; (4) Notification of release, pre-trial release, bail, plea agreements, sentencing, final disposition; (5) Notification of post-sentence hearings and of release or escape; (6) Notification of all proceedings and schedule change; (7) Information about all civil remedies and legal counsel available to victims; (8) Right to reparation and compensation; (9) If restitution is not ordered, then the judge must explain with a substantial and compelling reason why not; (10) Employer/creditor intervention; (11) Property return; (12) Right to due process protections, including right to participate in the criminal justice process either directly or through representation; (13) Right to speedy disposition of case; (14) Children, elderly or handicapped shall be treated "sensitively," and courts may use closed or taped sessions when appropriate; (15) Right to submit orally or in writing a victim impact statement at sentencing, disposition or parole hearing; and (16) Ensures that victim shall not bear cost of medical exams for sexual assault.

**Court** SC Code Ann., 1985  
**Attendance** Sec. 16-3-1530(C)(8)

Unless there is a judicial determination to restrict attendance, a victim or witness has the right to attend all hearings or procedures involving his/her case.

**Mandatory/** SC Code, 1986  
**Conditional** Chpt. 25, Title 17,  
**Restitution** Secs. 24-21-480, & 24-21-485

Five percent of salaries of work release inmates will be taken for deposit to support victim assistance programs as a condition of probation.

**Domestic Violence** SC Code Ann., 1984  
**Protection** Sec. 20-4-10

Establishes crime of domestic violence and the "Protection from Domestic Abuse Act."

**Marital** SC Code, 1977  
**Rape** Sec. 16-3-658

Marital rape exemption ends when parties are separated under a court order.

**Rape Exam** SC Code, 1982  
**Payment** Sec. 16-3-1210,  
& 16-3-1560

The state shall ensure that alleged victims of criminal sexual assault shall not bear the cost of a routine medicological exam. Licensed health care facilities are eligible for awards to cover costs for medical exams for cases of alleged sexual assault.

**Sexual Assault** SC Code, 1977  
**Definition** Sec. 16-3-651 et seq.

"Actor" in sexual assault cases is not gender specific. Includes rape with an object. Tiered into three degrees of sexual assault.

**Child** SC Stats., 1984  
**Funding** Sec. 20-7-5010 to 20-7-5060

Children's trust fund set up to meet needs of child private non-profit organizations.

**Child Hearsay/** SC Code 1988  
**Competency** Sec. 19-1-180

Permits the use of out-of-court statements of children under 12. Every child alleged to be abused or neglected is presumed competent to be a witness.

**Missing** SC Code Ann., 1985  
**Children** Sec. 20-7-650

Establishes a missing persons' center at state law enforcement headquarters to follow up leads on missing children, to coordinate training and education, and to provide a hotline service.

**Child Abuse** SC Code Ann., 1985  
**Reporting** Sec. 10-7-510(A)  
& 20-7-520

Medical, educational, child care, and law enforcement personnel must report suspected cases of child abuse.

**Privacy/Address Protection**      **SC Stats.,**      **1979**  
                                 **Sec. 16-3-730**

It is a misdemeanor for news media or private person to publish name of sexual assault victims.

**Notoriety for Profit**      **SC Stats. at Large,**      **1981**  
                                 **Title 15, Chpt. 59, Art. 40**

Profits of convicted offender held in escrow for five years for victim with civil judgment.

**Adult Protection**      **SC Code,**      **1962,**  
                                 **Sec. 43-29-10 to 43-29-100**      **Amend.**  
                                 **1974, & 1979**

Defines condition for providing protective services. Specifies initiation of charges, penalties for abuse, and reporting of abuse.

**Hate Violence**      **SC Code Ann.,**      **1976**  
                                 **Secs. 16-7-110, 16-7-120,**  
                                 **& 16-5-10**

Prohibits the wearing of masks in public places to conceal one's identity. Unlawful to place a burning cross on property without owner's permission. Prohibits two or more persons from conspiring to hinder another from exercising their constitutional rights.

**Guilty/Mentally Ill**      **SC Crim. Code**      **1985**  
                                 **Secs. 17-24-20,**  
                                 **& 44-17-58<sup>a</sup>**

Provides for a disposition of guilty, but mentally ill.

**Mandatory Police Training**      **SC Code,**      **1985**  
                                 **Sec. 23-23-40**

Mandates basic training for law enforcement. State Criminal Justice Academy Board policy is to include training in victim issues.

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## SOUTH DAKOTA

## Enacted:

**Service Funding/  
Domestic Violence** SDCL, 1983  
Sec. 25-10-15 to 25-10-21

Funds basic shelter and other domestic violence services. A \$15 marriage surcharge is collected and administered at the county level. Shelters can receive up to 80% state funding. Those victims receiving funded services are to be treated with confidentiality.

**Victim/Witness  
Coordinator** SDCL, 1986  
Secs. 22-1-10 to 22-1-11,  
& 22-1-2

Victim or witness assistant may be appointed by the county; paid for by the county, duties include: (1) Advise the victim about the legal proceedings; (2) Notify victim when he or she must appear and when there are continuances; (3) Work with the victim and system to decide restitution; (4) Advise victims (and their families) under sixteen years of age of their right to testify by videotape in a deposition or preliminary hearing; (5) Advise the victim or his or her family if the defendant is released from custody and the defendant's bail conditions; (6) May accompany the victim to any criminal proceedings.

**Property  
Return** SDCL, 1985  
Sec. 23A-37-14

Requires that property owned by victims be returned unless needed to preserve evidence.

**Speedy  
Trial** SDCL, 1986  
Sec. 23A-44-5.1

One hundred and eighty day rule for a trial date from first arraignment.

**Court  
Attendance** SDCL, 1986  
Sec. 23A-24-7 to 23A-24-8

Victim and parent/guardian may not be excluded from courtroom unless defendant is excluded. Allows for victim representative if victim is not available.

**Witness  
Fees** SDCL, 1986  
Secs. 19-5-1, & 23A-14-20

The following fee schedule will be paid to witnesses: \$20 per day, \$25 per night, 21¢ a mile, in-state and out-of-state.

**VIS/VSO  
Allocution** SDCL, 1986  
Sec. 23A-27-1.1

Allows victim, under certain conditions, to address the court concerning the impact of the defendant's crime, and to allow the victim to comment upon the sentence which may be imposed.

**Participation/  
Notification/  
Plea Agreements** SDCL, 1985  
Sec. 23A-7-8

Grants victims the right to comment on plea agreements offered to

criminal defendant in crimes of violence.

**Restitution** SDCL, 1976,  
Secs. 22-6-1 to 22-6-2, Amend.  
& 23A-28-12 1978, 1979,  
1980, & 1985

Court may impose restitution on a defendant along with his or her sentence to be paid to the victim.

**Restitution/  
Civil Lien** SDCL Ann., 1978,  
Sec. 23A-28-1 Amend. 1985

Provides for restitution for victims of crime. Provides that an order of restitution may be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

**Mandatory  
Restitution** SDCL, 1986  
Sec. 23A-28-3

If the sentencing court orders the defendant to the county jail, to the state penitentiary, suspended imposition of sentence, suspended sentence, or probation, the court shall require as a condition that the defendant prepare a restitution plan.

**Notification/  
Escape** SDCL, 1987  
Sec. 24-15-8.2

Victims are to be notified if the offender escapes.

**Notification  
Parole/release/  
work release/** SDCL, 1986  
Sec. 24-15-8.1 to 24-15-8.3

Upon request of victim, notification of parole, release or placement on furlough; also notification of parole hearings and possibility of allocation or victim statement of opinion at parole hearing.

**Protection from  
Intimidation** SDCL, 1986  
Sec. 22-11-19

Violation of intimidation is a class four felony.

**Domestic  
Violence** SDCL, 1984  
Secs. 25-10-1, 25-10-5,  
& 25-10-13

Revises Domestic Abuse Act and increases penalties.

**Warrantless  
Arrest** SDCL, 1979  
Sec. 23A-3-2

Police officers may arrest without a warrant in misdemeanor cases if there is probable cause to believe an assault has occurred. Applied to domestic violence.

**Marital  
Rape** SDCL, 1985  
Sec. 22-22-1.1

Marital exemption ends when parties are separated under a court order. Separate crime of spousal rape provided that parties are either not cohabitating or are legally separated and a complaint has been filed with police within ninety days. Marital rape is a class two felony.



<b>Rape Exam Payment</b>	<b>SDCL, Sec. 22-22-26</b>	<b>1986</b>	release their specific address, unless it is required by due process or is in the interest of justice.
County to pay for evidentiary rape exams if a report is filed.			
<b>Sexual Assault Definition</b>	<b>SDCL, Sec. 22-22-1 to 22-22-2</b>	<b>1985</b>	<b>Notoriety for Profit</b> <b>SDCL, Sec. 23A-28A-1 to 23A-28A-14</b> <b>1982</b>
Non-gender specific. Tiered into degrees of rape.			Contracts with accused or convicted persons for publications regarding crime. Attorney general to receive copy of contract and monies owed.
<b>Child Videotape</b>	<b>SDCL, Secs. 19-5-1, 23A-12-9, &amp; 23A-12-10</b>	<b>1986</b>	<b>Adult Abuse</b> <b>SDCL, Sec. 22-46 et seq.</b> <b>1986</b>
Allows for videotaping of children under sixteen years of age in certain circumstances at preliminary hearings or in a deposition. May be used at a trial if child is unavailable or testimony would be detrimental to child.			Abuse of disabled adult is a felony. Theft by exploitation a misdemeanor.
<b>Child Competency</b>	<b>SDCL, Sec. 19-14-1</b>	<b>1982</b>	<b>Hate Violence</b> <b>SDCL, Sec. 22-27-1</b> <b>1979</b>
Every person is competent to be a witness unless otherwise provided.			Prohibits intentional prevention by threats of violence of person performing lawful acts in the practice of their religion.
<b>Missing Children</b>	<b>SDCL, Sec. 23-3-18.1</b>	<b>1986</b>	<b>GUILTY/Mentally Ill</b> <b>SDCL, Sec. 23A-7-16</b> <b>1983</b>
Established guidelines for state uniform procedures for the reporting and investigation of missing persons.			Provides for means by which a defendant can be examined by a psychiatrist to plead guilty but mentally ill.
<b>Child Protection/Hearsay</b>	<b>SDCL, Sec. 19-16-38</b>	<b>1984</b>	
Allows into evidence statements of a child under ten years of age relating to sexual conduct or rape under certain conditions.			
<b>Child/Privacy Protection</b>	<b>SDCL, Sec. 26-10-12.2 to 26-10-12.3</b>	<b>1973, Amend. 1975, 1980, &amp; 1984</b>	
Reports of child abuse shall be kept confidential unless necessary to discharge official duties. Unauthorized disclosure is a misdemeanor.			
<b>Child Abuse Reporting</b>	<b>SDCL, Sec. 26-10-10 to 26-10-11.1</b>	<b>1964, 1973, 1975, 1976, &amp; 1984</b>	
Certain professionals are required to report cases of suspected child abuse. Failure to report by hospital or school personnel constitutes a misdemeanor.			
<b>Child Protection/Treatment Costs</b>	<b>SDCL, Sec. 23A-28-12</b>	<b>1984</b>	
Directs payment of treatment costs by those convicted of sexual crime against a minor.			
<b>Privacy/Address Protection</b>	<b>SDCL, Secs. 19-14-18.1, 22-1-12, &amp; 23A-6-22; SD Supreme Court, Rule 85-5</b>	<b>1985</b>	
Shall not require that witnesses, at time of questioning in open court,			

## TENNESSEE

## Enacted:

**Compensation**      **TN Code Ann.,**      **1976,**  
                                  **Secs. 29-13-101 to 29-13-208, Amend.**  
                                  **40-24-107, & 40-28-201**      **1978-81,**  
                                       **1984,**  
                                       **1985,**  
                                       **& 1986**

Maximum Award: \$5,000; Emergency Award: \$500; Source: fines and penalty assessment. Amends compensation law to reduce maximum award to \$5,000 from \$10,000. Also, multiple crimes occurring simultaneously will be considered a single crime; specifies a "finding of fact" must be made for award. Fines from \$26.50 to \$50.00 (for crimes against a person). Permanent, total or partial disabilities covered. Permits compensation if operator of a motor vehicle is convicted of a felony or would have been, if lived. Places all forfeitures of felony appearance bonds in new county criminal injuries compensation fund account. Recipients of criminal injury compensation awards shall cooperate with the board should the state initiate action against the offender.

**Compensation**      **TN Code Ann.,**      **1986**  
**Drunk Driving**      **Sec. 40-24-107**

Victims of drunk driving are eligible for compensation. Source of fund is from tax collection.

**Domestic Violence**      **TN Code Ann.,**      **1984**  
**Child/Funding**      **Sec. 67-4-411**

Establishes program to fund family violence shelters, shelter services, and child abuse prevention services through a fifteen dollar marriage license fee.

**Victim/Witness**      **TN Code Ann.,**      **1986**  
**Coordinator/**      **Sec. 8-7-206**  
**Funding**

Mandates the establishment of the position of victim/witness coordinator in each judicial district and specifies that their duties shall include: (1) Victim/witness information; (2) Notification of court scheduling, sentencing, parole hearings, pardon, and any type of inmate release; (3) Involvement in plea bargaining, pre-sentence report and sentencing hearing; (4) Assistance in obtaining restitution; (5) Assistance in obtaining compensation. It also creates the Victims of Crime Assistance Fund for the victim/witness program and as available, other eligible crime victim assistance programs. Source is tax collected to be distributed as follows: 25% to this fund, 25% to compensation, and 50% to the Victims of Drunk Drivers Compensation fund.

*Note that many activities normally described as "victim rights" are listed above, but it is uncertain whether or not they have the same status as a separate legislative bill of rights. Hence there is a movement in Tennessee to enact an independent bill of rights for victims.*

**Victim Impact**      **TN Code Ann.,**      **1982**  
**Statement/VSO**      **Sec. 40-35-207(8)**

Pre-sentence report shall set forth any statement relating to sentence-

ing submitted by the victim of the offense or the investigative agency.

**Juvenile**      **TN Code Ann.,**      **1983**  
**Restitution**      **Sec. 37-1-131**

Makes restitution a dispositional alternative in delinquency cases, involves payment to victim by juvenile. Parents liable if court decides they were aware of child's actions.

**Conditional**      **TN Code Ann.,**      **1932,**  
**Restitution**      **Sec. 40-20-116; 39-3-405(a)**      **& 1982**

In felony cases only, a first offender cannot receive a suspended sentence or probation unless restitution is paid. In cases of felonious taking or receiving of property the value of the property shall be ascertained and restitution shall be ordered.

**Domestic Violence**      **TN Code Ann.,**      **1986**  
**Protection Orders/**      **Sec. 40-7-103**  
**Warrantless Arrest**

Law enforcement responding to a domestic violence situation may arrest the assailant if he or she has probable cause to believe violence has occurred. Officer shall also inform the victim of availability of shelters and services, and let them know their rights.

**Marital**      **TN Code Ann.,**      **1979**  
**Rape**      **Sec. 39-2-610**

Marital exemption ends if parties are living apart and one spouse has filed a petition for annulment, divorce, separation or separate maintenance.

**Sexual Assault**      **TN Code,**      **1985**  
**Definition**      **Sec. 39-2-602**

Non-gender specific. Includes rape with an object. Separates rape and sexual battery.

**Child Protection/**      **TN Code Ann.,**      **1985**  
**Videotaped Testimony**      **Sec. 37-1-607**

Allows videotaping of child depositions for use in court and establishes child abuse teams in each county.

**Child Videotape**      **TN Code Ann.,**      **1985**  
**Testimony**      **Sec. 24-7-116**

Recorded out-of-court statements made by victims of child sexual abuse thirteen years of age or younger may be admissible in preliminary hearings.

**Child/**      **TN Code Ann.,**      **1985**  
**Competency**      **Sec. 24-1-101**

Victims of child sexual abuse under the age of thirteen are deemed competent as witnesses if they declare they will testify truthfully and will be impressed upon to do so.

**Missing**      **TN Code Ann.,**      **1985**  
**Children**      **Secs. 37-1-408(a-c),**  
                                  **& 37-1-605(d)**

Creates a central register for missing children reports.

**Child/Statute of Limitations**      **TN Code Ann., Sec. 40-2-101**      **1985**

Prosecutions for offenses committed against a child shall be commenced no later than the date the child attains the age of majority or within four years after the commission of the offense, whichever occurs later. Crimes punishable by life imprisonment may be prosecuted at any time.

**Child/Background Check**      **TN Code Ann., Sec. 14-10-129**      **1985**

Child care workers must submit information on their criminal backgrounds to be checked by the Tennessee Bureau of Investigation.

**Child/Privacy Protection**      **TN Code Ann., Sec. 37-1-612**      **1985**

All records on reported child sexual abuse shall be confidential.

**Child Court Attendant**      **TN Code Ann., Sec. 37-1-610**      **1985**

Guardian ad litem shall be appointed to represent the child in any child sexual abuse civil or juvenile proceeding, and in general sessions or criminal court at the discretion of the court.

**Child/Sexual Abuse Task Force**      **TN Code Ann., Sec. 37-1-603**      **1985**

Task force set up to study the problem of child sexual abuse and to develop a plan of action pertaining to the detection, intervention, prevention, and treatment of child sexual abuse.

**Child Abuse Reporting**      **TN Code Ann., Sec. 37-1-605**      **1985**

Anyone who suspects child abuse is legally required to report it to the authorities.

**Child/Elder Abuse**      **TN Code, Sec. 40-35-111(4)**      **1982**

Factors for establishing especially aggravated offenses include a crime in which the victim was vulnerable because of age.

**Notoriety for Profit**      **TN Code Ann., Sec. 29-13-201 to 29-13-208**      **1980**

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

**Elderly Fraud**      **TN Code Ann., Sec. 14-2-101 to 14-2-116**      **1937, Amend. 1974**

Outlines eligibility for old age assistance and penalties for fraudulent claims.

**Elderly Protection**      **TN Code Ann., Sec. 14-5-101 to 14-5-112**      **1974**

Establishes protective services for elderly persons sixty years of age or older. Includes guidelines for reporting.

**Adult Protection**      **TN Code Ann., Sec. 14-25-101 to 14-25-118**      **1978, Amend. 1986**

Provides for protective services, reporting, remedies, and penalties for abuse, neglect, and exploitation of adults.

**Hate Violence**      **TN Code Ann., Secs. 39-2-703, 39-2-704, 39-2-706, & 39-2-710**      **1982**

Prohibits masked or disguised persons from disturbing the peace. Any person who willfully intimidates or terrorizes citizens or damages or destroys property is guilty of a misdemeanor. Prohibits the burning of a cross or other religious symbol with the intention of intimidation.

**Mandatory Police Training**      **TN Code Ann., Sec. 37-1-603**      **1985**

Mandates forty hours of law enforcement training in dealing with child sexual abuse cases.

## TEXAS

## Enacted:

**Compensation**      **Vernon's TX Stats. Ann.,**      **1980,**  
                                  **Art. 8309-1**      **Amend. 1983,**  
                                       **1985, & 1987**

Maximum Award: \$25,000; Emergency Award: \$1,500; Source: penalty assessments and unclaimed restitution. Raises penalty assessment for felony to \$20, for misdemeanor (with assessment of more than \$200) to \$15.00, and for misdemeanor (with assessment of less than \$200) to \$12.50; funds go to compensation program. Decreased maximum award from \$50,000 to \$25,000. Amends statute to comply with VOCA and eliminates family exclusion. Lowers Class C misdemeanor fine from \$12.50 to \$3.00, excluding pedestrian and parking. Fines go to compensation program.

**Service**      **TX Code of Crim. Proc.,**      **1971**  
**Funding**      **Art. 102.051 et seq.**

Establishes the "Criminal Justice Planning Fund." Part of this fund goes to victim service programs.

**Service Funding/**      **TX Hum. Res. Code Ann.,**      **1982,**  
**Domestic Violence**      **Sec. 51.001 to 51.011;**      **& 1983**  
**Confidentiality**      **TX Sen. Conc. Res.,**  
                                  **82 to 86, & 89;**

Funding for all domestic violence services. State may fund up to \$755 of shelter costs, and shelter records are confidential. Establishes definitions, contract requirements, and grant/funding processes for family violence shelters.

**Bill**      **TX Code of Crim. Proc.,**      **1985,**  
**of Rights**      **Article 65.02; Article 56.02**      **Amend.**  
                                       **1987**

Establishes the following rights: (1) Protection from intimidation; (2) Consideration of victim/family's safety in setting the amount of bail; (3) Information on court proceedings, plea negotiations, social services, payment of medical expenses for a victim of sexual assault, and compensation; (4) Victim impact statement/allocation in pre-sentence investigation; (5) Notification of parole proceedings; (6) VIS and participation at parole; (7) Right to be present at all court proceedings, subject to approval of judge; (8) Establishes victim assistance coordinators in district attorneys' offices; (9) Grants clearinghouse authority to establish procedures for compliance with act; (10) Secure waiting for victims; (11) Prompt return of property, and; (12) Employer intercession (13) notification of general release.

**Conditional**      **Vernon's TX Stats.,**      **1981**  
**Restitution**      **Art. 6166x-3**

Authorizes Department of Corrections to establish a "work furlough plan" for prisoners which may include procedures to contribute restitution to victims.

**Restitution**      **TX Code of Crim. Proc.,**      **1983,**  
                                  **Art. 42.12**      **Amend.**  
                                       **1987**

Establishes community restitution centers as an alternative to

sentencing where convicted persons must secure employment to pay restitution and may also be required to perform community service. Sex offenders may be ordered to pay restitution to the victims for mental health counseling.

**Notification**      **TX Code of Crim. Proc.,**      **1987**  
**Parole/VIS/**      **Sec. 15(f)(2), Art. 42.12;**  
**Conditional**      **& Sec. 8, Art. 42.18(f-3)**  
**Restitution**

The parole board shall make a reasonable effort to notify a victim of the prisoner's crime that he or she is being considered for parole. The board shall consider testimony provided through victim impact statements. Persons released on parole shall provide restitution to the victim.

**Notification**      **TX Code of Crim. Proc.**      **1987**  
**Prisoner Release**      **Sec. 8, Art. 42.18**

Notification of release on parole or release of a prisoner on mandatory supervision.

**Domestic**      **TX Code of Crim. Proc.,**      **1985**  
**Violence**      **Chpt. 5**  
**Protection**

Provides criminal penalties for the violation of certain court orders and establishes procedures and reporting requirements for law enforcement, prosecutors, and courts in family violence incidents and cases.

**Domestic Violence**      **TX Family Code,**      **1987**  
**Protection Orders**      **Sec. 3.581**

Person commits an offense if he or she knowingly tries to communicate directly with the family either at home, place of business, or school. On the request of a family member the court may exclude the address or telephone number from the public record. A violation of such order is a misdemeanor punishable by a fine of not more than \$1,000 or jail of up to six months.

**Warrantless**      **TX Code of Crim. Proc.,**      **1987**  
**Arrest**      **Arts. 14.03, & 14.05**

Peace officers may make arrests in misdemeanor cases without a warrant if the offense is committed within the officer's view.

**Marital**      **TX Penal Code,**      **1983,**  
**Rape**      **Secs. 22.011(c), & 22.021**      **Amend. 1987**

The marital exemption ends if parties are living apart and one spouse has filed a petition for annulment, divorce, separation or separate maintenance. Removal of marital exemption in cases of aggravated sexual assault.

**Rape Exam**      **Vernon's TX Stats.,**      **1983**  
**Payment**      **Art. 4447m**

Evidentiary rape exams are to be paid by the law enforcement agency requesting it.

**Sexual Assault**      **TX Penal Code,**      **1983**  
**Definition**      **Chpt. 22**

Non-gender specific through a constitutional amendment Includes

rape with an object. Tiered into degrees of sexual assault.

**AIDS Testing** TX Code of Crim. Proc., 1987  
Sec. 21.31

Mandates testing of defendant for AIDS in sexual assault cases. Cannot be used against the defendant as evidence.

**Child/Videotaped testimony** Vernon's TX Stats. Ann., 1984,  
Art. 38.071 Amend. 1987

Children under the age of twelve years of age may testify by means of film, videotape or other electronic means.

**Child Funding** Vernon's TX Stats., 1985  
Sec. 74.006 to 74.011

Establishes a children's trust fund to oversee the distribution of funds from an increase on marriage license fees to local child abuse prevention programs.

**Child Competency** TX Rules of Evid., 1983,  
Rule 601(2) Amend. 1985

All persons unless otherwise denoted are competent to testify. Children who appear not to have sufficient intellect to be able to relate transactions must prove their competency.

**Missing Children/Clearinghouse** Vernon's TX Stats., 1985  
Chpt. 74 et seq.

Creates a missing children's clearinghouse in the Department of Public Safety.

**Missing Children** TX Family Code Ann., 1986  
Art. 34.06

Creates a central registry in the Texas Department of Human Services.

**Missing Children Program** TX Family Code, 1987  
Sec. 51.14(c)

Establishes missing child prevention and identification programs.

**Child/Statute of Limitation** TX Code of Crim. Proc., 1987  
Art. 12.01

Extends the statute of limitation to ten years for the prosecution for indecency with a child.

**Child/Statute of Limitations** TX Code of Crim. Proc., 1987  
Sec. 12.01(2)(D)

Cases of sexual abuse can be prosecuted ten years from the date of the commission of the offense.

**Child/Background Check** Vernon's TX Stats., 1985  
Sec. 22.006

The Department of Public Safety shall investigate owners and employees of child care facilities, and other child care workers.

**Child Protection/Hearsay** TX Penal Code, 1985  
Art. 38.072

Allows first person a child talks to about the crime to testify and provides that children do not have to testify but have to be available during court proceedings.

**Child/Court Attendant** TX Code of Crim. Proc., 1975  
Art. 38.071(c), Sec. 3(a), & Sec. 5(c)

Anybody who would contribute to the well-being of the child victim may accompany the child to court.

**Child Abuse Reporting** TX Family Code Ann., 1985,  
Secs. 3407, & 34.01 1986

Professional child care worker or anyone who suspects cases of child abuse or neglect is required to report it.

**Child Protection** TX Penal Code, 1985  
Art. 17.41

Grants court's authority to order defendant to stay away from child victim.

**Child Protection** TX Family Code, 1987  
Sec. 71.11

The court may issue protective orders to keep the offending party from going near the child care facility or school the child attends.

**Sexual Assault/Confidentiality** TX Code of Crim. Proc., 1987  
Art. 57.01

Establishes a pseudonym provision for sexual assault victims which may be used instead of the victim's name.

**Privacy/Protection Parole** TX Code of Crim. Proc., 1987  
Sec. 8, Art. 42.18(f-4)

The Board of Corrections may not disclose to any person the name or address of a victim unless approved by that victim or if he or she is ordered by a court of competent jurisdiction.

**Notoriety for Profit** Vernon's TX Stats. Ann., 1980,  
Art. 8309-1, Sec. 16-18 Amend. 1985

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

**Adult Day Care** TX Human Res. Code, 1979  
Sec. 103.001 to 103.011

Establishes a program of day care and health care for adults to afford the maximum independence for elderly persons. Also provides regulatory provisions for licensing.

**Elderly Rights** TX Human Res. Code, 1983  
Sec. 102.001 to 102.004

Defines rights to be granted elderly persons fifty-five years of age and older. A person providing services to the elderly must not deny an elderly person a right guaranteed under this chapter.

**Elderly Abuse** TX Human Res. Code, 1987  
Sec. 48.002

Provides for emergency protective order, reports of abuse, and a court attendant for the elderly and disabled.

<b>Hate Violence</b>	<b>TX Penal Code Ann., Sec. 42.09(2)</b>	<b>1974</b>
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Makes it unlawful to intentionally desecrate a place of worship or burial. Violators commit a class A misdemeanor.

<b>Mandatory Police Training</b>	<b>TX Rev. Civil Stats. Ann., Art. 4413(29aa), Sec. 2(K)</b>	<b>1986</b>
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Requires police training in the investigation of cases involving abuse or neglect of children. Training to be on a continuous basis.

<b>Mandatory Judicial Training</b>	<b>Vernon's TX Stats., Art. 320(e)</b>	<b>1987</b>
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Supreme Court shall require the Texas State Bar to institute continuing legal education for judges on child abuse and neglect issues.



## UTAH

## Enacted:

**Compensation**      **UT Code Ann.,**      **1986**  
                                  **Sec. 62-63-9**

Source: Surcharge on criminal fines, penalties, forfeitures, notoriety for profit. Maximum award: \$25,000 and emergency award of \$1,000.

**Compensation/**      **UT Code Ann.,**      **1985,**  
**Drunk Driving**      **Chpt. 41-25-1 to 41-25-8**      **Amend. 1986**

Mandates that \$100 of each drunk driving fine be given to a victims' fund to provide compensation for victims of drunk driving offenses. Authorizes creation of program. Administrative guidelines have not been established. Facilitates claims for DUI victims. Maximum award \$25,000 from DUI compensation fund.

**Service Funding/**      **UT Code Ann.,**      **1979**  
**Domestic Violence**      **Sec. 30-6-9**

Funding includes a \$13.00 marriage license surcharge for basic shelter and other domestic violence services.

**Victim**      **HJR 12**      **1985**  
**Bill of Rights**

This Joint Resolution sets forth the following rights to be addressed with specificity under a Bill of Rights after further study by the Legislature (see the Bill below): (1) To be treated with dignity and compassion; (2) To protection from intimidation and harm; (3) To be informed concerning the criminal justice process; (4) To provide input into the criminal justice process especially at such key points as plea bargaining, sentencing, and parole release hearings; (5) To reparations; (6) To preservation of property and employment; (7) To due process in criminal court proceedings; (8) To timely notice of judicial proceedings they are to attend, and timely notice of cancellation of any proceedings.

**Bill of**      **UT Code,**      **1987**  
**Rights/Adult**      **Sec. 64A-1-1**  
**Child**

The bill includes the rights: (1) To be informed concerning the level of protection from intimidation and harm available to them; (2) To be informed and assisted as to their role in the criminal justice process; (3) To clear explanations regarding relevant legal proceedings; (4) To a secure waiting area; (5) To restitution or reparations; (6) To expeditious return of property; to reasonable employer intercession services; to speedy disposition of criminal justice processes; to timely notice of judicial proceedings they are to attend and timely notice of cancellation of proceedings. Children shall have additional rights: (1) To protection from emotional and physical injury during criminal justice proceedings; (2) Not responsible for inappropriate behavior adults commit against them and have the right not to be questioned, nor to have allegations made, implying this responsibility; (3) To have interviews relating to prosecution kept to a minimum and coordinated by people sensitive to needs of children; and (4) To be informed of community resources and services available to them. In addition the bill of rights include a designation of responsible agencies for such rights; the provision of a victim rights committee in each judicial district to review implem-

entation and enforcement; and a provision for injunctive relief upon failure to provide rights.

**Court**      **UT Jud. Council Rules**      **1987**  
**Attendance**      **Rule on Victims and Witnesses**

Prosecuting agency to provide written notice of victims' right to attend court proceedings unless sequestered.

**Victim Impact**      **UT Code,**      **1985**  
**Statement**      **Sec. 64-13-20(4)**

Victim impact statements allowed in pre-sentence investigations.

**VIS/**      **UT Code,**      **1985**  
**Parole**      **Sec. 77-27-13(5)**

Requires a victim impact statement to be included in parole board files within thirty days of sentencing.

**Restitution**      **UT Code,**      **1979**  
                                  **Secs. 76-3-201, 75-3-204.3,**  
                                  **77-18-1, & 77-27-3**

Requires that restitution be a condition of probation and parole. Also requires that there be a finding by judge in a written order of defendant's inability to pay. Defendant to make restitution double the amount of pecuniary damages. Defines restitution and requires that non-payment to be treated as contempt of court.

**Restitution**      **UT Code Ann.,**      **1980**  
                                  **Sec. 77-32a-1**

A criminal court may order defendant to pay restitution.

**Restitution/**      **UT Code Ann.,**      **1981**  
**Parole/Pardon**      **Chpt. 77-27-6**

Mandates that victims must be notified of parole and makes restitution a condition of parole/pardon. Must state reasons in writing.

**Juvenile/**      **UT Code,**      **1983**  
**Restitution**      **Sec. 55-11b-23**

Restitution to victims of youth offenders.

**Restitution**      **UT Code Ann.,**      **1984**  
                                  **Sec. 77-18-1**

Omits probation for Class C misdemeanor, specifies probation procedures. Places any outstanding restitution obligations at end of probation under courts of civil jurisdiction for collection.

**Restitution/**      **UT Code Ann.,**      **1985**  
**Probation**      **Sec. 77-18-1(8)**

Mandates that restitution as a condition of probation shall be continued until restitution order is satisfied.

**Domestic Violence**      **UT Code,**      **1979**  
**Protection Orders**      **Sec. 30-6-2 to 30-6-8**

Persons subjected to abuse or in danger of abuse may seek relief through protective orders.



<b>Warrantless Arrest</b>	<b>UT Code, Sec. 77-36-2(3)(a)</b>	<b>1983</b>	<b>Child Statute of Limitations</b>	<b>UT Code, Sec. 76-1-303(c)</b>	<b>1983</b>
Police officers responding to a misdemeanor domestic violence call who have reasonable cause to believe a crime was committed may exercise arrest powers.			Sexual abuse of a child must be reported within eight years after the alleged offense.		
<b>Marital Rape</b>	<b>UT Crim. Code Ann., Secs. 76-5-402, &amp; 76-5-407</b>	<b>1979</b>	<b>Child Hearsay</b>	<b>UT Code, Sec. 76-5-411</b>	<b>1983</b>
Marital exemption ends when parties are separated under a court order.			An indication of a sexual offense by a child fourteen years of age or younger is sufficient corroboration, whether the child is available or not.		
<b>Rape Exam Payment</b>	<b>UT Code Ann., Sec. 63-63-11(10a)</b>	<b>1987</b>	<b>Child/Court Attendant</b>	<b>UT Jud. Code, Sec. 78-3a-20.5(3)</b>	<b>1984</b>
Office of Victim Reparations will pay for evidentiary medical exams unless otherwise taken care of by insurance or other. Must file with police.			Court shall appoint a guardian ad litem to represent the child if the court feels it is necessary for the child's welfare.		
<b>Sexual Assault Definition</b>	<b>UT Code, Sec. 76-5-401 et seq.</b>	<b>1983, Amend. 1984, &amp; 1986</b>	<b>Child Abuse Reporting</b>	<b>UT Code, Sec. 78-3b-1 et seq.</b>	<b>1983, Amend. 1986</b>
Non-gender specific. Includes rape with an object.			Anyone who has suspicion of child abuse, especially child care workers, has an obligation to report. Failure to testify is a class B misdemeanor. Allows for a clergy privilege. Immunity to reporters.		
<b>Child Protection/ Abuse and Kidnapping</b>	<b>UT Code Ann., Sec. 76-3-201, (10)</b>	<b>1984</b>	<b>Child Protection</b>	<b>UT Code Ann., Secs. 78-3b-8, &amp; 78-3b-16</b>	<b>1986</b>
Establishes the following: (1) Mandates minimum sentences; (2) Extends statute of limitations; (3) Creates life sentences without parole for two or more prior convictions; (4) Requires 10 year parole and three year counseling after release; (5) Establishes automatic competency of children under ten years of age; and (6) Hearsay statements of child admissible in court.			Establishes interdisciplinary child protection teams. Requires coordination of child abuse and neglect proceedings.		
<b>Child Protection/ Videotaped Testimony Chpt. 77-35-15.5(1-4)</b>	<b>UT Code Ann.,</b>	<b>1985</b>	<b>Child Protection</b>	<b>UT Code Ann., Sec. 78-3a-20.6 to 78-3a-20.9</b>	<b>1984</b>
Allows for videotaped or closed circuit testimony of children twelve years of age or younger in lieu of testimony in court in cases of sexual or physical abuse.			Protective orders may be issued to keep the defendant from abusing the child, or to vacate the dwelling. Violation of this order is a class B misdemeanor.		
<b>Child Funding</b>	<b>UT Code Ann., Secs. 26-2-12.5, 78-3d-1.5, 78-3d-4.5, &amp; 78-3d-9</b>	<b>1986</b>	<b>Counselor Confidentiality/ Sexual Assault</b>	<b>UT Jud. Code, Secs. 78-3c, &amp; 78-24-8(6)</b>	<b>1983</b>
Increases birth certificate fees to fund prevention programs. Establishes child abuse advisory council to contract with organizations addressing child abuse prevention and treatment.			Establishes privileged communications for sexual assault counselors and victims.		
<b>Child Competency</b>	<b>UT Code Ann., Sec. 76-5-410</b>	<b>1983</b>	<b>Notoriety for Profit</b>	<b>UT Code, Sec. 78-16-10</b>	<b>1984</b>
Victims of sexual abuse under the age of ten shall be considered competent and allowed to testify in judicial proceedings.			Convicted criminal's book/movie proceeds to go to victim restitution fund.		
<b>Missing Children</b>	<b>UT Code, Sec. 77-26a-1</b>	<b>1983</b>	<b>Adult/Elderly Protection</b>	<b>UT Code Ann., Sec. 55-19-1 to 55-19-10</b>	<b>1977, Amend. 1983</b>
Establishes a missing children's registry. Inquiries are confidential.			Provides protection to incapacitated adults and aged persons. Includes: reporting and protective services.		
			<b>GUILTY/ Mentally Ill</b>	<b>UT Code, Sec. 77-13-1(5)</b>	<b>1983</b>
			Provides for the plea of guilty and mentally ill		

## VERMONT

## Enacted

<b>Service Funding/ Domestic Violence</b>	<b>VT Stats. Ann., Title 18, Sec. 2 to 3</b>	<b>1981</b>	<b>Rape Exam Payment</b>	<b>VT Stats. Ann., Chpt. 17, Title 32, Sec. 1407</b>	<b>1981</b>
Funds basic shelter and other domestic violence services with a \$19.00 marriage license surcharge.			Funds are transferred to the state victim assistance office which pays directly for evidentiary exams.		
<b>Victim Bill of Rights</b>	<b>VT Stats. Ann., Title 13, 7006</b>	<b>1984</b>	<b>Sexual Assault Definition</b>	<b>VT Stats. Ann., Title 13, Chpt. 72, Sec. 3251 to 3255</b>	<b>1977, Amend. 1981</b>
Establishes the following rights: (1) Mandatory restitution; (2) Restitution as a condition of probation or parole; (3) Notice of sentencing; (4) Victim impact statement and allocution (right to appear and express views about crime and need for restitution); and (5) Information about plea agreements made public.			Statute revised to delete the word "rape" and insert the words "sexual assault." Includes assault with an object.		
<b>Victim Bill of Rights</b>	<b>VT Stats. Ann., Title 13, Chpt. 165, Sec. 5301 to 5307</b>	<b>1986</b>	<b>Child/Videotape Closed Circuit/ Hearsay</b>	<b>VT Rules of Evid., Secs. 804a, &amp; 807</b>	<b>1986</b>
Creates a statewide victim assistance program in each prosecutor's office; lists duties; funded by surcharges and general revenues. Requires cooperation and provides for the following: (1) Notification of court proceedings, final disposition, escape, released from custody; (2) Protection from intimidation; (3) Information regarding services and witness fees; (4) Victim impact statement and statement of opinion/allocution; (5) Property return; (6) Creditor/employer intercession; and (7) Restitution as a mandatory condition of probation or parole, and (8) Speedy disposition.			Children age 12 or under may testify by recorded means if they are unable to testify in court. Also, hearsay evidence allowed for children under special circumstances.		
<b>Restitution</b>	<b>VT Stats. Ann., Title 13, Sec. 7943</b>	<b>1984</b>	<b>Child Funding</b>	<b>VT Stats. Ann., Title 33, Chpt. 16, Sec. 1056</b>	<b>1986</b>
Victims who suffer material loss or incur medical expenses due to crime shall be paid restitution, a term of probation to be ordered with restitution as the only condition.			Establishes a state appropriation to fund child abuse neglect and prevention programs as well as for juveniles. Also allows for donations and gifts.		
<b>Domestic Violence Protection Orders</b>	<b>VT Stats. Ann., Title 15, Sec. 1102 to 1109</b>	<b>1983, Amend. 1985</b>	<b>Missing Children</b>	<b>VT Stats. Ann., Title 20, Sec. 1825</b>	<b>1986</b>
Household members may seek relief from abuse by filing a petition requesting orders restraining that person from abusing the plaintiff or his or her children.			Law enforcement shall immediately transmit missing children information for inclusion in the national crime information center computer.		
<b>Warrantless Arrest</b>	<b>VT Rules of Crim. Proc., Rule 3a(2)</b>	<b>1986</b>	<b>Child Abuse Reporting</b>	<b>VT Stats. Ann., Title 33, Chpt. 14, Sec. 681 to 689</b>	<b>1984</b>
An officer may arrest without a warrant if he or she has cause to believe a misdemeanor has occurred which involves an assault against a family, household member or a child in the house.			Any person shall report suspected cases of child abuse and is immune from any civil or criminal liability. Any professional who violates the reporting requirement may be fined not more than \$500.		
<b>Marital Rape</b>	<b>VT Stats. Ann., Title 13, Sec. 3252</b>	<b>1985</b>	<b>Elderly Abuse</b>	<b>VT Stats. Ann., Title 18, Chpt. 22, Sec. 1153a to 1159</b>	<b>1979, Amend. 1985</b>
Marital exemption abolished in all cases.			Provides the following for the elderly (sixty years of age and older): (1) Reporting; (2) Investigation; (3) Remedial action; (4) Protective services; (5) Registry of cases; (6) Penalties; (7) Public education. Also provides for an appropriation.		



# VIRGINIA

## Enacted:

**Compensation** VA Code Ann., 1968,  
Chpt. 21.1, Amend. 1978,  
Sec. 19.2-368.1 to 19.2-368.18 1981, &  
1984-1986

Maximum Award: \$15,000; Emergency Award: \$2,000; Funeral expenses: \$1,500; Source: fines and penalty assessments. Amended in 1985 to raise maximum award from \$12,500 to \$15,000, emergency award from \$1,000 to \$2,000, and increased reporting time to 120 hours. To cover: unreimbursed medical expenses, replacement services, pregnancy expenses due to forcible rape. Also establishes public information program. Brought into compliance with VOCA.

**Compensation** VA Code Ann., 1984  
Chpt. 747  
Sec. 19.2-368.4

Modifies family exclusion such that incest victims, mentally deranged persons, and victims who are separate from (and help with prosecution of) the offender are eligible for awards.

**Compensation** VA Code Ann., 1984  
Chpt. 619  
Sec. 19.2-368.2

Excludes motor vehicle crime victims from compensation awards, unless the injury was intentional.

**Compensation** VA Code Ann., 1986  
Sec. 19.2-368.17

Police officers required to notify victims of compensation.

**Service Funding** VA Code Ann., 1984  
Title 9, Chpt. 27  
Sec. 9-173.3

Establishes programs, rules, and grant/funding procedures for victim and witness assistance programs. Program implemented by the Department of Criminal Justice Services.

**Service Funding/  
Domestic Violence** VA H.J. Res 31 of 1978; 1978,  
VA Code, Secs. 63.1-315 Amend. 1982  
to 63.1-319, & 20-15

Funds basic shelter and other domestic violence services. A \$7.00 marriage surcharge is enacted with accompanying legislation to appropriate monies to domestic violence programs.

**Victim  
Bill of Rights** VA HJR 105 1984

The General Assembly resolves that victims should have the following: (1) Protection from intimidation; (2) Information about services and financial assistance; (3) Separate waiting areas; (4) Property return; (5) Employer intercession; (6) Notification of proceedings.

**Victim Involvement/  
Sentencing** VA Code Ann., 1983,  
Sec. 19.2-299.1 Amend. 1987

Allows, in discretion of court, victim impact statement as part of the pre-sentence investigation; if no PSI ordered, VIS may be prepared if victim desires. Commonwealth Attorney may provide details about PSI ordered. VIS is to be confidential.

**Victim Impact  
Statement** VA Code Ann., 1984,  
Sec. 19.2-299.1 Amend. 1987

Amends VIS law to allow VIS preparation by commonwealth attorney when court does not order the PSI.

**Restitution** VA Code Ann., 1984  
Sec. 19.2-303 to 19.2-310

Makes restitution mandatory as a condition of probation.

**Domestic Violence  
Protection Orders** VA Code, 1984,  
Secs. 16.1-253.1, Amend. 1987  
& 16.1-279.1

Upon petition, an order of protection may be issued against an allegedly abusing spouse.

**Warrantless  
Arrest** VA Code, 1982  
Sec. 19.2-81

Police may arrest without a warrant if they witness a misdemeanor assault.

**Marital  
Rape** VA Code, 1981,  
Secs. 18.2-61, Amend. 1986  
& 18.2-67.2:1

The marital exemption is abolished.

**Rape Exam  
Payment** VA Code, 1976,  
Sec. 19.2-165.1 Amend. 1982,  
& 1987

Evidentiary rape exams are to be paid by the county in which the rape occurred.

**Sexual Assault  
Definition** VA Code, 1986  
Sec. 18.2-67.5

Non-gender specific. Includes rape with an object.

**Missing  
Children** VA Code, 1985  
Sec. 63.1-248.7(I)

A central registry is created to handle missing children reports, in the Department of Social Services.

**Missing  
Children** VA Code Ann., 1985  
Secs. 15.1-131.9,  
& 52-31 to 52-34

Amends code to abolish any police waiting periods on the acceptance of missing children reports. Provides for the creation of a missing children's clearinghouse.

**Mandatory reporters include: Health care, social workers, probation, school personnel, child care, police, state facility workers. Immunity to reporters. Penalty for not reporting is not more than \$500 fine. Subsequent offenses not less than \$100 or more than \$1,000.**

Provides protection from abuse for persons sixty years of age or older, as well as incapacitated adults.

**Creates the Department of aging and provides for an ombudsman program. Also includes long-term care services coordination and a fund for research into Alzheimer's and related diseases.**

Prohibits a person from conspiring to incite acts of violence by one race against another. Unlawful to wear a mask or conceal one's identity on another person's property without that person's consent. Unlawful to burn a cross on the property of another with the intent of intimidation. Forbids the placing of a swastika on a religious building with the intent to intimidate. Forbids the willful disruption of a religious meeting. It is a misdemeanor to willfully deface places of worship.

**The Criminal Justice Service Board is mandated to provide minimum training for police officers. The board mandates in the curriculum training in the handling of child abuse, sexual assault, and domestic violence cases.**

**Provides for an interpreter for a victim who is deaf or who doesn't speak English.**

## WASHINGTON

## Enacted:

**Compensation**      **Rev. Code of WA Ann.,**      **1974, 1975,**  
                                  **Chpt. 7.68.010**      **Amend. 1977,**  
                                  **to 7.68.915**      **1981, 1982,**  
                                       **1983, 1985, & 1987**

Maximum Award: Establishes different maximum awards. (See compensation chart for medical costs, which are unlimited.) Emergency Award: None.

**Compensation**      **Rev. Code of WA,**      **1985**  
                                  **Chpt. 7.68**

Eliminates, under certain conditions, family or same-household exclusion and brings statute in compliance with VOCA.

**Compensation**      **Rev. Code of WA,**      **1986**  
                                  **Chpts. 7.68.060, 7.68.080,**  
                                  **& 3.62.090**

Changes the application deadline from one year from the date of the assault to one year after first reporting to the police.

**Service**      **Rev. Code of WA,**      **1982,**  
**Funding**      **Chpts. 7.68.035(4),**      **Amend. 1985,**  
                                  **& 7.68.035(8)**      **1987**

Provides that 1.75% of court revenues collected may be used for comprehensive victim/witness programs in County Prosecutors' offices if approved by compensation program.

**Service Funding/**      **WA Rev. Code Ann.,**      **1979**  
**Domestic Violence**      **Chpt. 70.123.010 to 70.123.900**

Funds basic shelter and other domestic violence services. State can fund up to 50% of costs. Also, shelter's civil liability is limited and its address is kept secret.

**Sexual Assault**      **Rev. Code of WA,**      **1979,**  
**Service Funding**      **Chpt. 70.125 et seq.**      **1985**

Appropriations from general fund to the Department of Social and Health Services. Centralized office to coordinate programs. Not direct services. Only for training and community education.

**Victim**      **Rev. Code of WA,**      **1981,**  
**Bill of Rights**      **Chpt. 7.69;**      **Amend.**  
                                  **& Sec. 9.94A.110**      **1985**

Lists rights of Victims, including: (1) Information on final disposition; (2) Notification of court schedules; (3) Protection from intimidation; (4) Information on witness fees; (5) Secure waiting areas; (6) Property return; (7) Employer intercession; (8) Medical assistance. Substantially amended in 1985. Changes add the following rights: (9) Expanding the definition of "victim" to include victim's survivors; (10) Victim impact statement in pre-sentence investigation; (11) Notification of hearings, sentencing, and any release of convicted prisoners; (12) Victim statement of opinion/allocation at sentencing hearings; (13) Right to remain in courtroom during trial and if subpoenaed to testify, to be scheduled as early as possible. Reasonable effort required to ensure rights.

**Restitution**      **Rev. Code of WA,**      **1977,**  
                                  **Sec. 7.68.035**      **Amend 1985,**  
                                       **& 1987**

Provides for victim restitution. Includes payment for counseling.

**Mandatory**      **Rev. Code of WA,**      **1981,**  
**Restitution**      **Chpt. 9.94A.120(14)**      **Amend. 1986**

Restitution shall be ordered for all convictions of felonies resulting in injury to any person or damage/loss of property. Must give reason if not ordered. First-time offenders must make restitution to the victim for the cost of counseling. The court has the authority to retain jurisdiction over the offender for ten years for the purposes of restitution.

**Notification/**      **Rev. Code of WA,**      **1985**  
**Escape/Release**      **Chpt. 9.94A.157**

Upon written request, the department of corrections shall notify victim of a prisoner's escape, release or work furlough.

**Domestic Violence**      **Rev. Code of WA,**      **1984,**  
**Protective Orders**      **Chpt. 26.50.010**      **Amend. 1987**

Creates a civil remedy for persons abused by a family member, provides for protective orders. Sanctions for abuse and protective order against violence set forth.

**Mandatory/**      **Rev. Code of WA,**      **1984**  
**Warrantless Arrest**      **Chpt. 10.31.100(2)(b)**  
**Domestic Violence**

Warrantless arrest in misdemeanor cases where there is an assault causing bodily injury, physical acts putting one in fear of death or of serious bodily injury. Also, police officers shall arrest if there is probable cause that abuse has occurred.

**Marital**      **Rev. Code of WA Ann.,**      **1983**  
**Rape**      **Chpts. 9A.44.010, 9A.44.040,**  
                                  **9A.44.050, & 9A.44.060**

Marital exemption abolished in first and second degree rape, but not third degree.

**Rape Exam**      **Rev. Code of WA,**      **1979**  
**Payment**      **Chpt. 7.68.170**

Evidentiary rape exams are to be paid by the state crime victim compensation program.

**Sexual Assault**      **Rev. Code of WA,**      **1979**  
**Definition**      **Chpt. 9A.44.010 et seq.**

Sexual assault is not gender specific. Includes assault with an object, however slight. Tiered into degrees of rape.

**Child**      **Rev. Code of WA,**      **1985**  
**Bill of Rights**      **Chpt. 7.69A**

Provides that child victims and witnesses are: (1) Aware of the nature of the proceedings; (2) Protected from public identification; (3) Protected from pressure before a hearing; (4) Represented by an advocate; (5) Supported by an advocate during the court process.

<b>Child Funding</b>	<b>Rev. Code of WA, Chpt. 43.121.010</b>	<b>1982</b>	<b>Counselor Confidentiality/ Sexual Assault</b>	<b>Rev. Code of WA, Chpt. 70.125.065</b>	<b>1981</b>
Sets up a fund to establish community-based child abuse and neglect service and prevention programs.			Records maintained by rape crisis centers shall not be made available to the defense attorney, unless the relevant value outweighs the victim's privacy interest. The court should take into account any further trauma that may be inflicted on the victim.		
<b>Child Competency</b>	<b>Rev. Code of WA, Chpt. 5.60.020, &amp; 5.60.050</b>	<b>1986</b>	<b>Notoriety for Profit</b>	<b>Rev. Code of WA, Chpt. 7.68.200</b>	<b>1981</b>
Removes references to age when determining competency. The witness, child or adult, must still be found competent by the court.			Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.		
<b>Missing Children</b>	<b>Rev. Code of WA, Chpts. 13.60.010, 13.60.020 &amp; 13.60.030</b>	<b>1985</b>	<b>Adult Abuse Protection/Reporting</b>	<b>Rev. Code of WA, Chpt. 74.34 et seq.</b>	<b>1984, Amend. 1986</b>
Establishes a missing children clearinghouse with 24-hour hotline, in conjunction with the WA State Patrol. Linked to national computer, enters data within 12 hours of notification, distributes information.			Child and health care workers shall report suspected cases of abuse of a vulnerable adult. Also, police and social care workers. Those who report are immune from liability. Also permits a petition for an order for protection in situations of abuse of vulnerable adults.		
<b>Child/Statute of Limitations</b>	<b>Rev. Code of WA, Chpt. 9A.04.080</b>	<b>1985</b>	<b>Hate Violence</b>	<b>Rev. Code of WA Chpt.. 9A.36.080</b>	<b>1985</b>
Extends from five to seven years the statute of limitations for persons accused of sexual assault of minors.			It is unlawful to intimidate or harrass another person because of race, color, religion, ancestry, national origin, or mental, physical, or sensory handicap.		
<b>Child/Background Check</b>	<b>Rev. Code of WA, Chpt. 43.20A.710</b>	<b>1986, Amend. 1987</b>			
Gives department of human services the authority to do criminal background checks on prospective state employees working with children or developmentally disabled adults.					
<b>Child/Hearsay</b>	<b>Rev. Code of WA, Chpt. 9A.44.120</b>	<b>1985</b>			
Allows the admissability of hearsay testimony of a child under the age of ten in dependency proceedings involving a sexual offense. Certain restrictions.					
<b>Child Abuse Reporting</b>	<b>Rev. Code of WA, Chpt. 26.44.030</b>	<b>1985</b>			
Professional child care workers and medical personnel shall report suspected cases of child abuse to the proper law enforcement agency within forty-eight hours. Failure to report constitutes a misdemeanor. Immunity for reporters.					
<b>Child Protection/Abuse and Neglect</b>	<b>Rev. Code of WA, Chpts. 43.121.010 to 43.121.020, 43.121.090, 43.121.100, 36.18.010, 43.131.319, &amp; 43.131.320</b>	<b>1982, Amend. 1984</b>			
Provides for child protection, revises laws regulating state council for prevention of child abuse and neglect.					
<b>Child Abuse Protection Orders</b>	<b>Rev. Code of WA, Chpts. 26.44.063, &amp; 26.44.067</b>	<b>1985</b>			
Permits the court to restrain the offending parent in cases of alleged sexual or physical abuse.					

## WEST VIRGINIA

## Enacted:

**Compensation** WV Code, 1981,  
Sec. 14-2A-1 to 14-2A-28 Amend. 1984  
1985 & 1987

Maximum Award: \$35,000 (\$50,000 for death claims); Emergency Award: none; Source: penalty assessments. Includes non-residents as claimants, expands covered losses and costs, increases amount paid for burial expenses. No filing fee. Requires law enforcement officers and prosecuting attorneys to supply data regarding compensation needs (while granting them immunity from civil liability). Brings statute into compliance with VOCA.

**Domestic Violence/  
Funding for Services** WV Code, 1981  
Secs. 48-2C-1 to 48-2C-9,  
& 48-1-24

Establishes family protection Sub-Committee. Provides methods to fund shelters with a \$15.00 marriage surcharge. State may fund up to 35% of costs of services. Shelter records are confidential.

**Victim  
Bill of Rights** WV Code, 1984  
Sec. 61-11-A-2 to 61-11-A-3

Establishes right to: (1) Emergency social and medical services; (2) Information about compensation, available treatment, role in criminal justice system, and how to obtain information at various stages; (3) Notification of available protection; (4) Notice of scheduling changes; (5) Notification of important events, including arrest, initial appearance, pre-trial release, plea, trial, sentence, disposition, and release from imprisonment; (6) Victim impact statement/allocation, at sentencing and notification thereof; (7) Law enforcement officer/district attorney duty to obtain information regarding crime's impact on victim for VIS/pre-sentence investigation and for compensation application; (8) Consultation on dismissal, pre-trial release, plea negotiations, and pre-trial diversion; (9) Separate waiting area; (10) Property return; (11) Employer intercession; (12) Prosecutor may prepare VIS even if PSI not ordered; and (13) Mandatory restitution as a condition of probation or parole.

**Restitution/  
Juvenile** WV Code, 1982  
Sec. 49-5-13B

Allows juvenile court to order children to make restitution.

**Domestic Violence  
Protection Orders** WV Code, 1979  
Sec. 48-2A-1 et seq.

Court may grant protective orders if necessary to bring a cessation of abuse of the complainant or minor children.

**Warrantless/  
Mandatory Arrest  
Domestic Violence** WV Code, 1981  
Sec. 48-2A-10

Provides for mandatory arrest for violation of temporary protective order. Allows law enforcement to enter without a warrant to enforce existing protective or temporary orders by mandatory arrest.

**Marital  
Rape** WV Code, 1984  
Sec. 61-8B-6

Establishes a separate crime of sexual assault of spouse. Applies only to first degree rape and carries a lesser penalty than first degree rape by a stranger.

**Sexual Assault  
Definitions** WV Code, 1976,  
Sec. 61-8B-1 to 61-8B-13 Amend. 1984

Terminology reflects deletion of references to specific gender, substitution of the word "sexual assault" for "rape" and in general use of broader definitions throughout the revised statute. Includes degrees of sexual assault.

**Child  
Funding** WV Code, 1984  
Sec. 49-6C-1 to 49-6C-7

Establishes community-based educational and service programs for the prevention of child abuse and neglect. Funded by voluntary designations on West Virginia tax refund forms.

**Child  
Competency** WV Code, 1984  
Secs. 61-8B-11(c); & 61-8-7

In any prosecution neither age nor mental capacity shall preclude a witness from testifying.

**Child/  
Background Check** WV Code, 1986  
Sec. 49-2B-8

Any child welfare agency shall be check into the child abuse and neglect records of applicants and employees of the facility.

**Child Abuse  
Reporting** WV Code, 1984  
Sec. 49-6A-2

Health care, religious healers, school personnel, and the police are required to report suspected child abuse to the state department of human services. Failure to report constitutes a misdemeanor.

**Child/Limits on  
Interviews/Payment  
for Treatment Restitution** WV Code, 1986  
Secs. 61-8B-13, & 61-8B-14

Interviews of child abuse victims eleven years of age or less shall be limited. Court may allow the use of anatomically correct dolls, mannequins, or drawings to assist the child in testimony. Sexual history of victim below a critical age is inadmissible as evidence. In addition to any other restitution ordered, the convicted offender may be ordered to pay for the cost of medical, psychological or psychiatric treatment of the victim, including rape exams.

**Adult  
Protection** WV Code, 1981  
Sec. 9-6-1 to 9-6-15

Provides for protective services, reporting, and penalties in cases involving vulnerable adults.



AnnHate	1987 V Code,	1977
2 Violence	Secs. 61-6-13, & 61-10-16	

ise with intent to willfully interrupt or disturb a religious assembly.  
 Unlawful for a person, corporation, or company to advertise or  
 exhibit any picture or act that reflects injuriously upon a class of  
 Annpeople which may arouse prejudice against that race.  
 12

ses damage to a place used for  
 ss E felony.

1985  
 5(4)(b)

e amount of training to enable  
 nestic abuse incidents.

1984  
 4

tential crime to assist victim or  
 ss C misdemeanor. Immunity  
 s they expect payment for their

1986,  
 46, 48.355, Amend.  
 1987

venile offenses, including: (1)  
 ds; (2) ID of child offender and  
 n of final disposition.

## WISCONSIN

## Enacted:

**Compensation** WI Stats. Ann., 1977,  
**Rape Exam Payment** Chpt. 949 Amend. 1979,  
 1981, 1985,  
 & 1986

Maximum Award: \$40,000, plus \$2,000 for funeral expenses. Emergency Award: \$500; Source: general revenue. Crime scene cleanup: \$1,000. Provides for replacement of essential personal property, unlimited medical benefits, including payment for rape exams. Statute in compliance with VOCA.

**Compensation/** WI Stats. Ann., 1984  
**Drunk Driving** Chpts. 346.63(2), & 940.25

Appropriates funding and extends eligibility for compensation for victims of intoxicated drivers.

**Service** Attached to Victim Bill 1980  
**Funding** of Rights

General revenues support services for Bill of Rights.

**Service** WI Stat. Ann., 1983  
**Funding** Chpt. 973.045, Sec. 20-455(5)(g)

Penalty assessments of \$30.00 per misdemeanor count and \$50.00 per felony count to support victim services. Inmate wages may be garnished.

**Service Funding/** WI Stats. Ann., 1982, &  
**Domestic Violence** Secs. 15.197(16), 20.435(8)(c), 1983  
 46.95, 50.01(1), 973.05,  
 & 973.055

Provides state appropriations. State may fund up to 70% of costs. Shelters are exempt from multiple dwelling license requirement.

**Victim** WI Stats. Ann., 1980,  
**Bill of Rights** Chpt. 950 Amend.  
 1983

First in country. Includes following rights: (1) Information on services, compensation and witness fees; (2) Notification of schedule changes, final disposition, custody releases; (3) Protection from intimidation; (4) Separate and secure waiting area; (5) Return of property; (6) Employer intercession; and (7) Speedy disposition of case. All rights are extended to families of homicide victims; (8) Requires governor's office to notify victim or members of deceased victim's family of pardon application prior to hearing; and (9) To notify victims that they may provide a written statement and/or participate at hearing; (10) Employer intercession, prohibits penalizing victim for testifying.

**Parole** WI Stats Ann., 1988  
**Notification/VIS** Sec. 950.045

Victims of crime have the right to be notified and to provide written statements concerning parole of offender.

**Restitution** WI Stats. Ann., 1981  
**Condition/Probation** Secs. 973.09, 943.50, &  
 949.15

Requires court to consider restitution for the victim when determining whether to order payment of costs. Must combine in a single order restitution and all other payments required as a condition of probation.

**Protection from** WI Stats. Ann., 1984  
**Intimidation** Secs. 947.013, & 813.125

Courts may issue restraining orders for violations of harassment statute. Creates class B forfeiture for harassment.

**Domestic Violence** WI Stats., 1984  
**Restraining Orders** Sec. 813.12

Provides for temporary restraining order and injunctions against domestic abuse and provides for penalties.

**Mandatory** WI Stats. Ann., 1988  
**Arrest** Sec. 968.075(2)

Law enforcement officers shall arrest a person if the officer has reasonable grounds to believe the person has committed domestic abuse.

**Warrantless** WI Stats., 1979  
**Arrest** Sec. 968.07

If police officer has probable cause that a crime has been committed, he or she may arrest without a warrant irrespective of his or her presence.

**Marital** WI Stats. Ann., 1982  
**Rape** Sec. 940.225(6)

Expressly abrogates the marital exemption.

**Sexual Assault** WI Stats., 1976  
**Definition** Sec. 940.225

Takes out mention of gender, also includes penetration by objects. Tiered into four degrees of sexual assault.

**Rape** WI Stats., 1984  
**Shield** Sec. 972.11(2)(c)

Limits the introduction of prior sexual conduct of the victim and other related information.

**"Children's"** WI Stats. Ann., 1984  
**Bill of Rights/** Secs. 950.055, 967.04(7),  
**Videotaped depositions** & 971.105

Extends rights of adult victims to children. In addition, judges may order videotaped depositions of witnesses younger than eighteen years of age. Prosecutors must designate a person who will do the following: (1) Explain legal proceedings to child witnesses; (2) Act as friend of the court attesting to the child's understanding of court procedures; (3) Advise prosecutor on child's competency, ability to cooperate, and on the potential effects of the proceedings on the child; (4) Encourage expedited proceedings when appropriate; and (5) Bar the use of children's names and addresses in the press. (The



## WYOMING

## Enacted:

**Compensation** WY Stats., 1985,  
Sec. 1-40-101 to 1-40-119 Amend. 1987

Maximum Award: \$10,000; Emergency Award: \$1,000; Funding Source: Surcharges. Statute in compliance with VOCA. Defendants who plead guilty or are convicted of a criminal offense shall be assessed a surcharge of not less than fifty dollars to be deposited in the Crime Victims Compensation Fund.

**Domestic Violence** WY Stats., 1982  
**Funding for Services** Sec. 9-3-104 to 9-3-105

State appropriation for basic shelter services.

**Funding Services** WY Stats., 1987  
**Domestic Violence** Secs. 35-1-611 to 35-1-627, &  
**Sexual Assault** 9-105(a) to 9-3-109(a)(vii)

Gives funding for sexual assault and domestic violence programs.

**Victim Impact** WY Stats., 1987  
**Statement/Sentencing/** Secs. 7-13-303(a)(iv),  
**Parole** & 7-13-402(e)(v)

Requires presentence reports to include statements of impact on victims; requires the state board of parole to provide an opportunity for victim input.

**Restitution** WY Stats., 1980  
**Condition/** Secs. 7-13-307 to 7-13-315,  
**Probation/Parole** 7-13-501, 7-13-601 to 7-13-615,  
7-13-701, 7-13-401 to 7-13-409, &  
7-13-422 to 7-13-424

Allows judge to order restitution in criminal cases. States that restitution can be a condition of probation or parole.

**Notification** WY Stats., 1987  
**Release** Sec. 7-13-402(e)(vi)

Board of parole to notify victims of the pending release of prisoners.

**Domestic Violence** WY Stats., 1982  
**Protection Orders** Chpt. 21,  
Sec. 35-21-101 to 35-21-107

Offers temporary protection to victims or potential victims of family violence through a court order.

**Warrantless Arrest/** WY Stats., 1987  
**Notification of rights/** Sec. 7-20-101 to 7-20-107 Amend. 1988  
**Police Training**

Authorizes arrests without warrants in misdemeanor situations. Requires a notice to victims of rights and remedies. Provides for peace officer training in family violence matters.

**Marital** WY Stats., 1983  
**Rape** Secs. 6-2-307, 6-2-301,  
6-2-302, & 6-2-304

Marital exemption abolished in first and second degree sexual assault. Exemption remains in third and fourth degrees.

**Rape Exam** WY Stats., 1977  
**Payment** Sec. 6-2-309(c)

Rape exam is to be paid by the county in which the rape occurred.

**Sexual Assault** WY Stats., 1986  
**Definition** Sec. 6-2-301

Tiered into degrees of sexual assault. Non-gender specific. Includes rape with an object.

**Child/Videotape** WY Stats., 1987  
**Testimony** Sec. 7-11-408

In certain criminal cases of incest or sexual assault, a child under twelve years of age may testify through a videotaped deposition.

**Child/Privacy** WY Stats., 1985  
**Protection** Sec. 6-2-310

The court shall restrict disclosure of a child victim's identity. Violators are guilty of contempt with penalties imposed.

**Child Abuse** WY Stats., 1978  
**Reporting** Sec. 14-3-205

Professionals or anyone who suspects that a child has been abused or neglected shall immediately report it to the child protective agency or local law enforcement agency.

**Counselor** WY Stats., 1985  
**Confidentiality** Secs. 1-12-1116,  
**Domestic Violence** & 14-3-210  
**Sexual Assault**

Family violence or sexual assault advocates are not required to testify to confidential communications unless the victim consents. However, the advocate may be compelled to testify if the victim is unable to because of death or incompetence.

**Privacy/Address** WY Stats., 1977  
**Protection** Sec. 6-4-310

Restricts preindictment release of the identity of a victim of sexual assault.

**Adult/Elderly** WY Stats., 1981,  
**Abuse** Sec. 35-20-101 to 35-20-109 Amend.  
1985,  
& 1986

Provides protection for vulnerable adults and the elderly, through reporting, protective services, petitions, and penalties.

**Hate  
Violence**

**WY Stats.,  
Sec. 6-9-102**

**1977**

Unlawful to deny the rights of life, liberty, the pursuit of happiness,  
and other necessities because of race, color, sex, creed or national  
origin.

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**PART FOUR:  
SAMPLE STATUTES**



## **SAMPLE STATUTES**

### **Victim Compensation Sample Statute South Carolina**

(R587, H3499)

**AN ACT TO AMEND ARTICLE 13, CHAPTER 3, TITLE 16, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COMPENSATION OF VICTIMS OF CRIME, THE SOUTH CAROLINA VICTIM'S COMPENSATION FUND, AND THE SOUTH CAROLINA CRIME VICTIM'S ADVISORY BOARD, SO AS TO PROVIDE THAT APPEALS FROM INITIAL DECISIONS UNDER THE ARTICLE SHALL BE MADE TO THE BOARD OR A PANEL OF THE BOARD RATHER THAN TO AN INDUSTRIAL COMMISSIONER, TO EXPAND THE MEMBERSHIP OF THE BOARD AND PROVIDE FOR THE TERMS AND QUALIFICATIONS OF THE ADDITIONAL MEMBERS, TO FURTHER PROVIDE FOR THE FUNCTIONS AND DUTIES OF THE BOARD, TO REVISE CERTAIN CRITERIA PERTAINING TO THE ELIGIBILITY FOR AND AMOUNT OF THE AWARDS TO VICTIMS OF CRIME, TO REVISE THE RESIDENCY REQUIREMENTS FOR PERSONS WHO QUALIFY FOR AN AWARD, TO PROVIDE THAT LICENSED HEALTH CARE OR MEDICAL FACILITIES UNDER CERTAIN CONDITIONS ARE ELIGIBLE FOR AWARDS TO COVER THE COST OF MEDICOLEGAL EXAMS GIVEN TO PARTICULAR VICTIMS, TO FURTHER PROVIDE FOR THE FUNCTIONS OF THE DIRECTOR OF THE VICTIM'S COMPENSATION FUND IN REGARD TO VICTIM RESTITUTION PROGRAMS AND TO PROVIDE THAT RESTITUTION PAYMENTS TO THE FUND MAY BE MADE BY THE DEPARTMENT OF CORRECTIONS FROM THE WAGES ACCUMULATED BY OFFENDERS IN ITS CUSTODY, TO PROVIDE THAT THE INTEREST ACCRUING ON THE MONIES HELD IN THE VICTIM'S COMPENSATION FUND SHALL BE PLACED IN THE FUND, AND TO MAKE OTHER NECESSARY REVISIONS IN THE ARTICLE TO ACCOMPLISH THE ABOVE; AND TO AMEND CHAPTER 3, TITLE 16 OF THE 1976 CODE RELATING TO CRIMES AND OFFENSES BY ADDING ARTICLE 14 SO AS TO ESTABLISH A STATE VICTIM/WITNESS ASSISTANCE PROGRAM.**

Be it enacted by the General Assembly of the State of South Carolina:

#### **Compensation of victims of crime**

SECTION 1. Article 13, Chapter 3, Title 16 of the 1976 Code, which was added by the provisions of Act 455 of 1982, is further amended to read:

"Article 13



### **Compensation of Victims of Crime.**

**Section 16-3-1110. For the purpose of this article:**

(1) 'Board' means the South Carolina Crime Victim's Advisory Board.

(2) 'Claimant' means any person filing a claim pursuant to this article.

(3) 'Fund' means the South Carolina Victim's Compensation Fund.

(4) 'Director' means the Director of the State Workers' Compensation Fund.

(5) 'Field Representative' means a field representative of the State Workers' Compensation Fund.

(6) 'Crime' means an act which constitutes a crime as defined by state, federal, or common law which results in physical injury or death to the victim. No act involving the operation of a motor vehicle, boat, or aircraft which results in injury or death shall constitute a crime for the purpose of this article unless the injury or death was recklessly or intentionally inflicted through the use of such vehicle, boat, or aircraft. Reckless use of a motor vehicle, boat, or aircraft includes but is not limited to violations of Sections 56-5-2910, 56-5-2920, 56-5-2930 and 56-5-1210. Such reckless use also includes the use of a motor vehicle, boat, or aircraft to flee the scene of a crime in which the driver of the motor vehicle, boat, or aircraft knowingly and willingly participated.

(7) 'Victim' means a person who suffers physical injury or death as a direct result of crime.

(8) 'Intervenor' means any person who goes to the aid of another and suffers physical injury or death as a direct result of acting, not recklessly, to prevent the commission of a crime, to lawfully apprehend a person reasonably suspected of having committed a crime, or to aid the victim of a crime, except that the term 'intervenor' does not include law enforcement officers performing their normal duties.

(9) 'Deputy Director' means the Deputy Director of the Victim's Compensation Fund.

(10) 'Panel' means a three-member panel of the Board designated by the Board Chairman to hear appeals.

**Section 16-3-1120.** The Director of the State Workers' Compensation Fund, as appointed by the Governor pursuant to Section 42-7-20, is hereby also named Director of the Victim's Compensation Fund. The Director's annual salary is eighty-five percent of the salary paid to the Industrial Commissioners of the State. The Director is responsible for administering the provisions of this article. Included among the duties of the Director is the responsibility, with approval of the South Carolina Crime Victim's Advisory Board as established herein, for developing and administering a plan for informing the public of the availability of the benefits provided under this article and procedures for filing claims for the benefits.

The Director, upon approval by the South Carolina Crime Victim's Advisory Board, has the following additional powers and duties:

(1) To appoint a Deputy Director of the Victim's Compensation Fund, and staff necessary for the operation thereof, and to contract for services. The Director shall recommend the salary for the

Deputy Director and other staff members, as allowed by statute or applicable law.

(2) To promulgate regulations to carry out the provisions and purposes of this article and Article 14 of this chapter.

(3) To request from the Attorney General, South Carolina Law Enforcement Division, solicitors, magistrates, judges, county and municipal police departments, and any other agency or department such assistance and data as will enable the Director to determine whether, and the extent to which, a claimant qualifies for awards. Any person, agency, or department listed above is authorized to provide the Director with the information requested upon receipt of a request from the Director. Any provision of law providing for confidentiality of juvenile records does not apply to a request of the Deputy Director, Director, the Board, or a panel of the Board pursuant to this section.

(4) To reinvestigate or reopen previously decided award cases as the Deputy Director considers necessary.

(5) To require the submission of medical records as are needed by the Board, a panel of the Board, or Deputy Director or his staff and, when necessary, to direct medical examination of the victim.

(6) To take or cause to be taken affidavits or depositions within or without the State. This power may be delegated to the Deputy Director or the Board or its panel.

(7) To render each year to the Governor and to the General Assembly a written report of the activities of the Victim's Compensation Fund pursuant to this article.

(8) To delegate the authority to the Deputy Director to reject incomplete claims for awards or assistance.

(9) To render awards to victims of crime or to those other persons entitled to receive awards in the manner authorized by this article. The power may be delegated to the Deputy Director.

(10) To apply for funds from, and to submit all necessary forms to, any federal agency participating in a cooperative program to compensate victims of crime.

(11) To delegate to the Board or a panel of the Board on appeal matters any power of the Director or Deputy Director.

Section 16-3-1130. (1) A claim, once accepted for filing and completed, must be assigned to a Field Representative. The Field Representative shall examine the papers filed in support of the claim and cause an investigation to be conducted into the validity of the claim. The investigation shall include but not be limited to an examination of police, court, and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury upon which the claim is based. All claims arising from the death of an individual as a direct result of a crime must be considered together by a single field representative.

(2) Claims must be investigated and determined, regardless of whether the alleged criminal has been apprehended, prosecuted, or convicted of any crime based upon the same incident or whether the alleged criminal has been acquitted or found not guilty of the crime in question.

(3) The Field Representative conducting the investigation shall file with the Deputy Director a written report setting forth a recommendation and his reason therefor. The Deputy Director

shall render a decision and furnish the claimant with a copy of the report.

Section 16-3-1140. (1) The claimant may, within thirty days after receipt of the report of the decision of the Deputy Director, make an application in writing to the Deputy Director for review of the decision.

(2) Upon receipt of an application for review pursuant to subsection (1) of this section, the Deputy Director shall forward all relevant documents and information to the Chairman of the Crime Victim's Advisory Board. The Chairman shall appoint a three-member panel of the Board which shall review the records and affirm or modify the decision of the Deputy Director; provided, that the Chairman may order, in his discretion, that any particular case must be heard by the full Board. If considered necessary by the Board or its panel or if requested by the claimant, the Board or its panel shall order a hearing prior to rendering a decision. At the hearing any relevant evidence, not legally privileged, is admissible. The Board or its panel shall render a decision within ninety days after completion of the investigation. The action of the Board or its panel is final and non-appealable. If the Deputy Director receives no application for review pursuant to subsection (1), his decision becomes the final decision of the Victim's Compensation Fund.

(3) The Board or its panel, for purposes of this article, may subpoena witnesses, administer or cause to be administered oaths and examine such parts of the books and records of the parties to proceedings as relate to questions in dispute.

(4) The Deputy Director shall within ten days after receipt of the Board's or panel's final decision make a report to the claimant including a copy of the final decision and the reasons why the decision was made.

Section 16-3-1150. Notwithstanding the provisions of Section 16-3-1130, if it appears to the Deputy Director that the claim is one with respect to which an award probably will be made and undue hardship will result to the claimant, if immediate payment is not made, the Deputy Director may make one or more emergency awards to the claimant pending a final decision in the case, provided that (a) the amount of each emergency award shall not exceed five hundred dollars, (b) the total amount of such emergency awards shall not exceed fifteen hundred dollars, (c) the amount of such emergency award must be deducted from any final award made to the claimant and (d) the excess of the amount of any emergency award over the amount of the final award, or the full amount of any emergency award if no final award is made, must be repaid by the claimant to the Victim's Compensation Fund as created by this article.

Section 16-3-1160. There is created a board to be known as the South Carolina Crime Victim's Advisory Board to consist of eleven members to be appointed by the Governor with the advice and consent of the Senate. Of the original seven members, at least two of the members shall have been admitted to practice law in this State for not less than five years next preceding their appointment, one member shall be a physician licensed to practice medicine under the laws of this State, and one member shall have at least four years administrative experience in a court-related Vic-

tim's Assistance Fund, provided that such a qualified person is available. Of the four additional members, one must be a law enforcement officer with at least five years administrative experience, one shall have at least five years experience in directing sexual assault prevention or treatment services, one shall have at least five years experience in providing services for domestic violence victims, and one shall have been a victim of crime.

The term of office of each appointed member is five years and until his successor is appointed and qualified. Of those seven members first appointed, two shall serve for a term of one year, two for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, with the initial terms to be designated by the Governor when making the initial appointments. The initial terms of four additional members to be appointed as provided herein are for two, three, four, and five years respectively, the initial term of each member to be designated by the Governor when making the appointment. The Governor shall select a chairman. The Board may elect a secretary and other officers as deemed necessary.

Any vacancy must be filled for the remainder of the unexpired term by appointment in the same manner of the initial appointments.

The Board shall meet at least twice each year and must be subject to the call of the Chairman, to consider improvements in and monitor the effectiveness of the Victim's Compensation Fund, and to review and comment on the budget and approve the regulations pertaining to the Victim's Compensation Fund of this article and the Victim/Witness Assistance Program of Article 14 of this chapter. The members of the Board shall receive the same subsistence, mileage, and per diem as is provided by law for members of state boards, committees, and commissions, to be paid from the Victim's Compensation Fund as created by this article.

Section 16-3-1170. No award may be made unless the Board, its panel, or the Deputy Director finds that (a) a crime was committed, (b) the crime directly resulted in physical injury to or death of the victim or intervenor and (c) police records show that the crime was promptly reported to the proper authorities. In no case may an award be made where the police records show that such report was made more than forty-eight hours after the occurrence of such crime unless the Deputy Director or the Board or its panel, for good cause shown, finds the delay to have been justified. The Board, its panel, or Deputy Director upon finding that any claimant or award recipient has not fully cooperated with all law enforcement agencies, may deny, reduce, or withdraw any award.

Section 16-3-1180. (1) (a) Any award made pursuant to this article may be in an amount not exceeding actual expenses including indebtedness reasonably incurred for medical services or other services necessary as a direct result of the injury upon which the claim is based. These services include but are not limited to mental health counseling which may be required by eligible individuals for up to ninety days which shall be provided by either a mental health professional who is certified or licensed in his discipline, or a qualified paraprofessional who has specific

training in particular victimizations and who is recognized by the South Carolina Victim's Compensation Board.

(b) Any award made pursuant to this article may be for loss of earnings or support resulting from such injury; provided, the claimant has lost non-reimbursable earnings or support for at least two consecutive weeks. This amount is limited to the maximum allowable compensation rate as determined by the South Carolina Industrial Commission under Section 42-1-50. These provisions may be waived upon a determination by the Deputy Director, the Board or its panel if the interests of justice so require.

An award for loss of earnings may also include reasonable expenses of job retraining services or similar employment-oriented rehabilitative services incurred as a direct result of the injury.

(2) In the event of death of a victim or intervenor, an award may be made for actual expenses reasonably incurred for burial, not to exceed two thousand dollars.

(3) If there are two or more family members as specified in Section 16-3-1210(c) who are entitled to an award as a result of the death of a person which is the direct result of a crime, the award must be apportioned by the Deputy Director, the Board, or its panel among the claimants.

(4) No award made under the provisions of this article shall exceed ten thousand dollars in the aggregate.

(5) Any award made pursuant to this article is subject to a deduction of one hundred dollars from any and all losses; provided, however that this provision may be waived by the Deputy Director, the Board, or its panel upon a determination that the interests of justice so require. An award to a person sixty-five years of age or older is not subject to any deduction.

(6) The Deputy Director, the Board, or its panel may reject an application for an award when the claimant has failed to cooperate with the Deputy Director or his staff in the verification of the information contained in the application.

Section 16-3-1190. Any award made pursuant to this article may be reduced by or set-off by the amount of any payments received or to be received as a result of the injury (a) from or on behalf of the person who committed the crime, (b) from any other private or public source, including an award of workmen's compensation pursuant to the laws of this State or (c) as an emergency award pursuant to Section 16-3-1150; provided, that private sources shall not include contributions received from family members, or persons or private organizations making charitable donations to a victim.

Section 16-3-1200. In determining the amount of an award, the Deputy Director, the Board, or its panel shall determine whether because of his conduct the victim or intervenor of such crime contributed to the infliction of his injury, and the Deputy Director, the Board, or its panel may reduce the amount of the award or reject the claim altogether in accordance with such determination; provided, however, the Deputy Director, the Board, or its panel may disregard for this purpose the contribution of an intervenor for his own injury or death where the record shows that the contribution was attributable to efforts by the intervenor as set forth in subsection (8) of Section 16-3-1110.

**Section 16-3-1210. (1)** Except as provided in Section 16-3-1220, the following persons are eligible for awards pursuant to this article:

- (a) a victim;
- (b) an intervenor;
- (c) a surviving spouse; or
- (d) a parent or child who is legally dependent for his principal support upon a deceased victim or intervenor.

Victims and intervenors may be legal residents or nonresidents of this State. However, the crime must have been committed in this State in order to qualify for an award hereunder. No victim or intervenor whether a legal resident of this State or another state is entitled to file a claim in more than one state. A surviving spouse, parent, or child who is legally dependent for his principal support upon a deceased victim or intervenor is entitled to file a claim hereunder if the deceased victim or intervenor would have been so entitled regardless of the residence or nationality of the surviving spouse, parent, or child.

(2) A licensed health care or medical facility is eligible for an award to cover the specific cost for a routine medicolegal exam of an alleged victim of criminal sexual conduct in any degree or child sexual abuse provided the victim has filed an incident report with the police, provided the health care facility has performed the exam adhering to sexual assault exam protocol standards developed by the South Carolina Law Enforcement Division and the South Carolina Hospital Association, and provided that the crime occurred in South Carolina.

**Section 16-3-1220. (1)** A person listed in items (a), (b), or (c) of Section 16-3-1210 shall be ineligible for an award if he or she committed or aided in the commission of the crime upon which the claim was based or was engaged in any unlawful activity at the time of the crime.

(2) Unless the Deputy Director, the Board, or its panel shall determine in a particular case that the interests of justice require otherwise, a person listed in items (a), (b), or (c) of Section 16-3-1210 is ineligible for an award if he or she:

(a) is a surviving spouse, or parent, or child who is legally dependent upon a deceased victim or intervenor who committed an act set forth in subsection (1) of this section, or

(b) was residing at the time of the crime in the same household as the person who committed the crime.

**Section 16-3-1230. (1)** A claim may be filed by a person eligible to receive an award, as provided in Section 16-3-1210, or, if the person is an incompetent or a minor, by his parent or legal guardian or other individual authorized to administer his affairs.

(2) A claim must be filed by the claimant not later than one hundred eighty days after the occurrence of the crime upon which the claim is based or not later than one hundred eighty days after the death of the victim or intervenor. Upon good cause shown, the Deputy Director may extend the time for filing for a period not to exceed two years after such occurrence or death.

(3) Claims must be filed in the office of the Deputy Director by mail or in person. The Deputy Director shall accept for filing all claims submitted by persons eligible under subsection (1) of this section and meeting the requirements as to the form of the claim

contained in the regulations of the Board.

**Section 16-3-1240.** It is unlawful, except for purposes directly connected with the administration of the victim's compensation program, for any person to solicit, disclose, receive, or make use of or authorize, knowingly permit, participate in or acquiesce in the use of any list, or names of, or information concerning persons applying for or receiving awards hereunder without the written consent of the applicant or recipient. The records, papers, files, and communications of the Board, its panel and the Director and his staff must be regarded as confidential information and privileged and not subject to disclosure under the Freedom of Information Act as contained in Chapter 3 of Title 30.

**Section 16-3-1250.** Payment of an award pursuant to this article shall subrogate the State, to the extent of such payment to any right of action accruing to the claimant or to the victim or intervenor to recover losses resulting from the crime with respect to which the award is made.

**Section 16-3-1260.** (1) Any payment of benefits to, or on behalf of, a victim or intervenor or eligible family member under this article shall create a debt due and owing to the State by any person found in a court of competent jurisdiction of this State to have committed such criminal act.

(2) The circuit court, when placing on probation any person who owes a debt to the State as a consequence of a criminal act, may set as a condition of probation the payment of the debt or a portion of the debt to the State. The court may also set the schedule or amounts of payments subject to modification based on change of circumstances.

(3) The Department of Parole and Community Corrections shall also have the right to make payment of the debt or a portion of the debt to the State a condition of parole.

(4) When a juvenile is adjudicated delinquent in a family court proceeding involving a crime upon which a claim under this article can be made, the family court in its discretion may order that the juvenile pay the debt to the Victim's Compensation Fund as created by this article as an adult would have to pay had an adult committed the crime. Any assessments so ordered may be made a condition of probation as provided in Section 20-7-1330.

(5) Payments authorized or required under this section must be paid to the Victim's Compensation Fund. The Director of the Victim's Compensation Fund shall coordinate the development of policies and procedures for the South Carolina Department of Corrections, the South Carolina Office of Court Administration and the South Carolina Board of Parole and Community Corrections to assure that victim restitution programs are administered in an effective manner to increase payments into the Compensation Fund.

(6) Restitution payments to the Victim's Compensation Fund may be made by the Department of Corrections from wages accumulated by offenders in its custody who are subject to this article, except that offenders wages shall not be used for this purpose if such monthly wages are at or below minimums required to purchase basic necessities.

**Section 16-3-1270.** If a person is unable at the time of sentencing or at any other time the court may set to pay a restitution charge

imposed by the court pursuant to Sections 24-23-210 through 24-23-230, such restitution charge shall constitute a lien against the offender and against any real or personal property of the offender. A restitution charge shall not constitute a lien if it is waived by the Director pursuant to Section 24-23-210. Such lien may be filed by the Attorney General in the respective offices of the clerks of court and registers of mesne conveyances of this State in the same manner state tax liens are filed and may be enforced and collected by the Attorney General in the same manner state tax liens are enforced and collected.

Section 16-3-1280. Any person who knowingly makes a false claim or a false statement in connection with any claim hereunder is guilty of a misdemeanor and upon conviction must be punishable by a fine of not less than five hundred dollars or by a term of imprisonment for not less than one year, or both, and shall further forfeit all money received hereunder, if any.

Section 16-3-1290. (1) There is hereby created a special fund to be known as the Victim's Compensation Fund for the purpose of providing for the payment of all necessary and proper expenses incurred by the operation of the Victim's Compensation Fund and the payment of claims. The State Treasurer is the custodian of the fund and all monies in the fund are held by the State Treasurer.

(2) The funds placed in the Victim's Compensation Fund shall consist of all money appropriated by the General Assembly, if any, for the purpose of compensating claimants under this article and money recovered on behalf of the State pursuant to this article by subrogation or other action, recovered by court order, received from the federal government, received from additional court costs, received from assessments or fines, or received from any other public or private source, pursuant to this article.

(3) All administrative costs of this article, except the Director's salary, must be paid out of money collected pursuant to this article which has been deposited in the Victim's Compensation Fund.

(4) Interest must be accrued on all monies held in the Victim's Compensation Fund. All accrued interest must be placed in the Fund.

Section 16-3-1300. Any award made under this article must be paid in accordance with the discretion and decision of the Deputy Director as to the manner of payment, subject to the regulations of the board and not inconsistent with the Board's or panel's award. No award made pursuant to this article is subject to garnishment, execution, or attachment other than for expenses resulting from the injury which is the basis for the claim. In every case providing for an award to a claimant under this article, the Deputy Director, the Board or its panel may, if in its opinion the facts and circumstances of the case warrant it, convert the award to be paid into a partial or total lump sum, without discount.

Section 16-3-1310. No award of any kind must be made under this article to a victim or intervenor injured while confined in any federal, state, county, or municipal jail, prison, or other correctional facility.

Section 16-3-1320. An award made pursuant to this article shall not constitute a payment which is treated as ordinary income under either the provisions of Chapter 7 of Title 12 of the 1976



Code, or to the extent lawful, under the United States Internal Revenue Code.

Section 16-3-1330. Notwithstanding any other provision of this article to the contrary, where an award under this article has been authorized but there are not sufficient funds in the Victim's Compensation Fund to pay or continue paying the award, then the award or the remaining portion thereof must not be paid unless and until sufficient funds become available from the fund and at such time awards which have not been paid must begin to be paid in chronological order with the oldest award being paid first. In the event an award was to be paid in installments and some remaining installments have not been paid due to a lack of funds, then when funds due become available that award must be paid in full when its appropriate time for payment comes on the chronological list before any other post-dated award must be paid. Any award hereunder is specifically not a claim against the State if it cannot be paid due to a lack of funds in the Victim's Compensation Fund.

Section 16-3-1340. A claimant may be represented by an attorney in proceedings under this article. Fees for such attorney must be paid from the Victim's Compensation Fund, subject to the approval of the Director, except that in the event of an appeal pursuant to Section 16-3-1140, attorneys' fees are subject to the approval of the Board or its panel hearing the appeal. Attorneys for the South Carolina Workers' Compensation Fund shall represent the South Carolina Victim's Compensation Fund in proceedings under this article.

Any person who receives any fee or other consideration or any gratuity on account of services so rendered, unless such consideration or gratuity is approved by the Deputy Director, or who makes it a business to solicit employment for a lawyer or for himself in respect to any claim or award for compensation is guilty of a misdemeanor and, upon conviction must for each offense, be punished by a fine of not more than five hundred dollars or by imprisonment not to exceed one year, or by both such fine and imprisonment."

#### **Victim/Witness Assistance Program**

SECTION 2. Chapter 3, Title 16 of the 1976 Code is amended by adding:

##### **"Article 14**

##### **Victim/Witness Assistance Program.**

Section 16-3-1400. For the purpose of this article: (1) 'Victim' means a person who suffers direct or threatened physical, emotional, or financial harm as the result of the commission or attempted commission of a crime. 'Victim' also includes the immediate family of any victim who is a minor or who is incompetent or the immediate family of a homicide victim.

(2) 'Witness' means any person who has been or is expected to be summoned to testify for either the prosecution or the defense or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution or defense, whether or not any action or proceeding has yet been commenced.

Section 16-3-1410. The Victim Compensation Fund is authorized

to provide the following victim assistance services, contingent upon an appropriation of funds therefor by the General Assembly:

(A) Provide information, training, and technical assistance to state and local agencies and groups involved in victim/witness and domestic violence assistance, such as the Attorney General's Office, the solicitors' offices, law enforcement agencies, judges, hospital staff, rape crisis centers, and spouse abuse shelters.

(B) Provide recommendations to the Governor and General Assembly on needed legislation and services for victims.

(C) Serve as a clearinghouse of victim/witness information.

(D) Develop guidelines for the implementation of victim/witness assistance programs.

(E) Develop ongoing public awareness and programs to assist victims, such as newsletters, brochures, television and radio spots and programs, and news articles.

(F) Provide staff support for a state level advisory group representative of all agencies and groups involved in victim/witness and domestic violence services to improve coordination efforts.

(G) Coordinate the development and implementation of policy and guidelines for the treatment of victims/witnesses with appropriate agencies, with initial emphasis in the following three areas:

(1) The State Victim/Witness Program shall work with the solicitors of this State, the Attorney General's Office, and relevant professional organizations to develop guidelines for solicitors to follow in the handling of victims, to include but not be limited to:

(a) Periodically informing victims of the status of a case.

(b) Providing information to the court on the views of victims of violent crime on bail decisions, continuances, plea bargains, dismissals, sentencing, and restitution.

(c) Pursuing charges of defendants who harass, threaten, injure, or otherwise attempt to intimidate or retaliate against victims or witnesses.

(d) Utilizing a victim and witness on-call system.

(e) Developing procedures for the prompt return of victims' property.

(f) Considering the views of victims and witnesses concerning the use of case continuances.

(g) Informing the solicitors' offices about victim assistance units and their effectiveness.

(h) Informing victims of the availability of civil as well as criminal redress.

(2) The State Victim/Witness Program shall assist the Office of Court Administration and South Carolina Sentencing Guidelines Commission in developing guidelines for all judges to follow in the handling of victims, to include but not be limited to:

(a) Scheduling of court proceedings and an on-call notification system.

(b) Separate waiting rooms for prosecution and defense witnesses.

(c) Special weight for victim's interests when considering requests for continuances.

(d) Special weight must be given to the victim's interest in speedy return of property before trial in ruling on the admissibility of photographs of that property.

(e) Child sexual assault/incest victims must be given practical legal support by allowing them videotape, legal transcript, or closed session testimony.

(3) The State Victim/Witness Program shall work with the appropriate law enforcement officers' associations and other relevant organizations to develop guidelines and model policies for law enforcement agencies to utilize in handling and working with victims of crime.

Section 16-3-1420. The Director of the State Victim/Witness Assistance Program is the Director of the South Carolina Victim's Compensation Fund.

**Time effective**

SECTION 3. This act shall take effect upon approval by the Governor.

In the Senate House the 21st day of June

In the Year of Our Lord One Thousand Nine Hundred and Eighty-Four.

Michael R. Daniel,  
*President of the Senate*  
W. Sterling Anderson,  
*Speaker Pro Tempore of the*  
*House of Representatives*

Approved the 22nd day of June, 1984.

Richard W. Riley,  
Governor

—XX—

Printer's Date — 6/26/84 — S.

## Funding of Victim Services Sample Statute

### California Chapter 166

*The people of the State of California do enact as follows:*

**SECTION 1.** Section 12018 of the Fish and Game Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 2.** Section 12019 of the Fish and Game Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 3.** Section 13967 of the Government Code, as amended by Section 3 of Chapter 530 of the Statutes of 1980, is amended to read: 13967. (a) Upon a person being convicted of a crime of violence committed in the State of California resulting in the injury or death of another person, if the court finds that the defendant has the ability to pay a fine and finds that the economic impact of the fine upon the defendant's dependents will not cause such dependents to be dependent on public welfare the court shall, in addition to any other penalty, order the defendant to pay a fine commensurate with the offense committed, and with the probable economic impact upon the victim, of at least ten dollars (\$10), but not to exceed ten thousand dollars (\$10,000).

(b) The fine imposed pursuant to this section shall be deposited in the Indemnity Fund in the State Treasury, the proceeds of which shall be available for appropriation by the Legislature to indemnify persons filing claims pursuant to this article and to provide assistance to established local comprehensive programs for victims and witnesses, including but not limited to, pilot local assistance centers for victims and witnesses established pursuant to the provisions of Article 2 (commencing with Section 13835) of Chapter 4 of Title 6 of Part 4 of the Penal Code, and to provide funding for the programs provided pursuant to Article 3 (commencing with Section 13836) of Chapter 4 of Title 6 of Part 4 of the Penal Code and Article 4 (commencing with Section 13837 of Chapter 4 of Title 6 of Part 4 of the Penal Code.

(c) It is the intent of the Legislature that funds appropriated pursuant to this section for local assistance centers for victims and witnesses shall be in addition to any funds appropriated as provided in Section 13835.8 of the Penal Code.

(d) Funds appropriated pursuant to this section shall be made available through the Office of Criminal Justice Planning to those public or private nonprofit programs for the assistance of victims and witness which:

(1) Provide comprehensive services to victims and witnesses of all types of crime. It is the intent of the Legislature to make funds available only to programs which do not restrict services to victims and witnesses of a particular type or types of crimes.

(2) Are recognized by the county board of supervisors as the major provider of comprehensive services to such victims and witnesses.

(3) Are selected by the county board of supervisors as the eligible program to receive such funds.

(4) Assist victims of violent crimes in the preparation and presentation of their claims to the State Board of Control for indemnification pursuant to this article.

(5) Cooperate with the State Board of Control in obtaining and verifying data required by this article.

**SECTION 4.** Section 13967 of the Government Code, as amended by Section 3.1 of Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 5.** Section 13967 of the Government Code, as added by Section 3.5 of Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 6.** Section 1464 of the Penal Code, as amended by Section 1 of Chapter 1047 of the Statutes of 1980, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars (\$4) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposit of bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in

the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.50 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 37.36 percent of the funds deposited in the Assessment Fund during the preceding month.

(e) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall remain in effect only until January 1, 1982, and as of that date is repealed.

**SECTION 7.** Section 1464 of the Penal Code, as amended by Section 2 of Chapter 1047 of the Statutes of 1980, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars (\$4) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclist, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 40.69 percent of the funds deposited in the Assessment Fund during the preceding month.

(e) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1982, shall remain in effect until July 1, 1982, and as of that date is repealed.

**SECTION 8.** Section 1464 of the Penal Code, as added by Section 3 of Chapter 1047 of the Statutes of 1980, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars (\$4) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the

courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The money so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 50.83 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on July 1, 1982.

**SECTION 9.** Section 13521 of the Penal Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 10.** Section 13835.9 is added to the Penal Code, to read:

13835.9. By January 1, 1985, the Office of Criminal Justice Planning shall prepare and submit to the Legislature a report summarizing the effectiveness of victim and witness assistance centers established pursuant to this article. That report shall include, but not be limited to, the effectiveness in achieving the design functions enumerated in Section 13835.4 and the provision of services enumerated in Section 13835.6.

The Office of Criminal Justice Planning is specifically authorized and encouraged to seek the assistance of an organization or organizations which may be able to utilize funding sources other than the state to prepare this report for the Office of Criminal Justice Planning.

**SECTION 11.** Section 42050 of the Vehicle Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 12.** Section 42051 of the Vehicle Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 13.** Section 42052 of the Vehicle Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 14.** Section 42053 of the Vehicle Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 15.** Section 258 of the Welfare and Institutions Code as amended by Section 12 of Chapter 530 of the Statutes of 1980 is amended to read:

258. (a) Upon a hearing conducted in accordance with Section 257, upon an admission by the minor of the commission of a traffic violation charged, or upon a finding that the minor did in fact commit such traffic violation, the judge, referee, or traffic hearing officer may do any of the following:

(1) Reprimand the minor and take no further action;

(2) Direct the probation officer to file a petition as provided for in Article 8 (commencing with Section 325); or

(3) Make any or all of the following orders:

(i) That the driving privileges of the minor be suspended or restricted as provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle Code or any other provision of law, when the Vehicle Code does not provide for the suspension or restriction of driving privileges that, in addition to any other order, the driving privileges of the minor be suspended or restricted for a period of not to exceed 30 days.

- (ii) That the minor attend traffic school over a period not to exceed 60 days.
- (iii) That the minor pay to the general fund of the county a sum, not to exceed fifty dollars (\$50), and to the Assessment Fund an assessment in the amount provided in Section 1464 of the Penal Code. Any judge, referee, or traffic hearing officer may waive an assessment if the amount the minor is ordered to pay to the general fund of the county is less than ten dollars (\$10).
- (iv) That the probation officer undertake a program of supervision of the minor for a period not to exceed six months.
- (v) That the minor produce satisfactory evidence that the vehicle or its equipment has been made to conform with the requirements of the Vehicle Code pursuant to Section 40150 of the Vehicle Code.
- (vi) That the minor work in a city park or recreational facility or county or regional park for not to exceed 25 hours over a period not to exceed 30 days, during times other than his hours of school attendance or employment. When the order to work is made by a referee or a traffic hearing officer, it shall be approved by a judge of the juvenile court.
- (b) The judge, referee, or traffic hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

**SECTION 16.** Section 258 of the Welfare and Institutions Code, as added by Section 12.5 of Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 17.** Section 3 of Chapter 713 of the Statutes of 1979 is repealed.

**SECTION 18.** Section 13 of Chapter 530 of the Statutes of 1980 is repealed.

**SECTION 19.** The sum of two million seven hundred thousand dollars (\$2,700,000) is hereby appropriated from the General Fund in augmentation of Item 472, Budget Act of 1980, for the payment of claims under the Victims of Violent Crimes Program, as a loan, which shall be repaid, without interest, during the 1981-82 fiscal year from the first two million seven hundred thousand dollars (\$2,700,000) in revenues that are deposited in the Indemnity Fund during the 1981-82 fiscal year.

**SECTION 20.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act will affect the Budget Act of 1980, funding provisions relative to the 1981-82 fiscal year, and certain activities of the Office of Criminal Justice Planning. In order that it may achieve its intended results, it is necessary that this act take effect immediately.

**Funding of Victim Services/  
Victim Bill of Rights  
Sample Statute**

**Massachusetts  
Chapter 258B.**

**Rights of Victims and Witnesses of Crime.**

AN ACT ESTABLISHING CERTAIN RIGHTS OF VICTIMS OF CRIMES.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES IN GENERAL COURT ASSEMBLED, AND BY THE AUTHORITY OF THE SAME, AS FOLLOWS:

**SECTION 1.** The General Laws are hereby amended by inserting after chapter 258A the following chapter:

**Section 1.** The following words as used in this chapter shall have the following meanings, unless the context otherwise requires:—

“Board”, the victim and witness assistance board as established in section four;

“Court”, a forum established under the general laws for the adjudication of criminal complaints or indictments;

“Crime”, an act committed in the commonwealth which would constitute a crime if committed by a competent adult including any act which may result in an adjudication of delinquency;

“Disposition”, the sentencing or determination of penalty or punishment to be imposed upon a person convicted of a crime or found delinquent or against whom a finding of sufficient facts for conviction or finding of delinquency is made;

“Family member”, a spouse, child, sibling, parent, or legal guardian of a victim;

“Restitution”, money or services which a court orders a defendant to pay or render to a victim as part of the disposition;

“Victim”, a natural person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime. The term “victim” also includes the family members of a minor, incompetent or a homicide victim.

“Witness”, any person who has been or is expected to be summoned to testify for the prosecution whether or not any action or proceeding has yet been commenced.

**Section 2.** A victim has the rights and is eligible of [sic] the services set forth under this chapter only if such victim reported the crime to law enforcement authorities within five days of its occurrence or discovery, unless the district attorney finds that a good cause existed [for] not having done so.

**Section 3.** To the extent reasonably possible and subject to the available resources, victims and witnesses of crime, or in the case of a homicide, the family members of the victim whether or not such members are witnesses in any criminal proceeding, shall be afforded the following rights where applicable:

(a) for victims, family members, and witnesses to be informed by the prosecutor of the final disposition of the case. Victims, family members, and witnesses shall, at their request, be informed by the appropriate custodial authority whenever the defendant receives a temporary, provisional or final release from custody or whenever the defendant escapes from custody. Those persons requesting such notice must provide the appropriate authority with current information as to address and telephone number.

(b) for victims, family members, and witnesses, to be notified by the district attorney, in a timely manner, when a court proceeding to which they have been summoned will not go on as scheduled;

(c) for victims and witnesses, to be provided with information by the district attorney as to the level of protection available and to receive protection for [sic] the local law enforcement agencies from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

(d) for victims and witnesses, to be informed by the district attorney of financial assistance and other social services available to victims or witnesses of a crime, including information relative to applying for such assistance or services;

(e) for victims, to be informed by the district attorney of the right to request that restitution be an element of the final disposition of a case and to obtain assistance in the documentation of the victim's losses;

(f) for victims and witnesses, to be informed by the court and the district attorney of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;

(g) for victims, family members, and witnesses, to be provided a secure waiting area or room during court proceedings by the district attorney;

(h) for victims or family members to have the opportunity to inform the court of the impact of the crime pursuant to section four A of chapter two hundred and seventy-nine of the General Laws as created by section two of this act;

(i) for victims to have any personal property that was stolen or taken for evidentiary purposes, except contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, returned by [the] court, the district attorney, or law enforcement agencies within ten days of its taking or recovery if it is not needed for law enforcement or prosecution purposes or as expeditiously as possible when said property is no longer needed for law enforcement or prosecution purposes;



(j) for victims and witnesses, to be provided, where appropriate, with employer and creditor intercession services by the district attorney to seek employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process, and to seek consideration for [sic] creditors if the victim is unable, temporarily, to continue payments;

(k) for victims, family members, and witnesses, to a prompt disposition of the case in which they are involved as a victim or a witness.

**Section 4.** There is hereby established a victim and witness assistance board, to consist of five members who shall serve without compensation. Notwithstanding any provision of section six of chapter two hundred and sixty-eight A of the General Laws to the contrary, the board shall be composed of the attorney general or his designee who shall be chairman; two district attorneys who shall be appointed by the governor; and two members of the public who shall be appointed by the governor, of whom one shall be a victim. The members of the board first appointed shall serve as follows: of the district attorneys appointed by the governor, one shall serve for three years, and one shall serve for one year; of the members of the public appointed by the governor, one shall serve for three years and one shall serve for two years. The successor of each such member shall serve for a term of three years and until his successor is duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the board shall be eligible for reappointment.

The board shall by majority vote of its members, appoint an executive director who shall serve at such rate of compensation as the board directs for a term of three years unless removed for cause by a vote of four members of the board.

The executive director shall have the power to hire such staff, subject to the approval of the board, as is needed to fulfill the powers and duties of the board. The executive director shall have such other powers and duties as the board may delegate to him.

The provisions of chapter thirty-one of the General Laws shall not apply to the executive director or any employee of the board.

The board shall review and approve program plans, annual reports, and the implementation and operation of programs as described in this chapter. The board shall, subject to appropriation, and from the funds made available from the Victim and Witness Assistance Fund, as established in section nine of this chapter or from funds made available from any other public or private source, provide funding for the preparation, submission and approval of plans required under section six and for the operation of approved comprehensive victim and witness assistance programs pursuant to section five, as the board deems appropriate. Administrative costs related to the operation of the board including compensation for the executive director and staff shall be paid from the Victim and Witness Assistance Fund.

The board shall promulgate rules for the preparation, review, approval, and the implementation of program plans and annual reports, and for the administration and operation of programs approved under this section. Said rules shall include criteria to guide district attorneys in determining, for purposes of this chapter, whether a particular crime has a victim and who is the victim of such crime.

In addition to the foregoing, the board shall:

(a) have printed and shall make available to social service agencies, medical facilities, and law enforcement agencies, cards, posters, brochures or other materials explaining the victim and witness rights and services established under this chapter and the victim compensation program as provided under chapter two hundred and fifty-eight A of the General Laws;

(b) assist hospitals, clinics and other medical facilities, whether public or private, in disseminating information giving notice of the rights established under this chapter and the availability of compensation to victims of crime pursuant to chapter two hundred and fifty-eight A of the General Laws. This assistance may include providing informational materials including posters suitable to be displayed in emergency and waiting rooms;

(c) assist law enforcement agencies in familiarizing all of its [sic] officers and employees with the crime victims' rights as provided under this chapter, as well as victim compensation available under chapter two hundred and fifty-eight A of the General Laws. This assistance may include supplying informational literature on this subject to be utilized as part of the training curriculum for all trainee officers; and

(d) assist all local law enforcement agencies in establishing procedures whereby expedient notification is given to victims and witnesses, as defined under this chapter, of the rights provided under this chapter, as well as the compensation services provided under chapter two hundred and fifty-eight A of the General Laws. In municipalities which do not have a local law enforcement agency, the board shall establish procedures whereby it, in cooperation with the state police, shall give notice to victims of crimes as provided in this section.

**Section 5.** Each district attorney shall create and maintain, to the extent reasonably possible and subject to the available resources, a program to afford victims and witnesses of crimes the rights and services described in this chapter. Those services shall include but not be limited to the following:

(a) court appearance notification services, including cancellations of appearances;

(b) informational services relative to the availability and collection of witness fees, victim compensation and restitution;

(c) escort and other transportation services related to the investigation or prosecution of the case, if necessary;

(d) case process notification services;

(e) employer intercession services;

- (f) expedited return of property services;
- (g) protection services;
- (h) family support services including child and other dependent care services;
- (i) waiting facilities; and
- (j) social service referrals.

**Section 6.** Each district attorney shall submit to the board a program plan for [the judicial district] within the district attorney's jurisdiction not later than six months after the effective date of this chapter and annually thereafter during the month of August. The program plan shall include but not be limited to: a description of the services to be provided to victims and witnesses in each judicial district within the district attorney's jurisdiction; the personnel or agencies responsible for providing individual services and related administrative programs; proposed staffing for the program; proposed education, training and experience requirements for program staff and, where appropriate, the staff of agencies providing individual services and related administrative services; and a proposed budget for implementing the program. The district attorney shall include in the annual program plan a detailed report on the operation of the program during the preceding year.

**Section 7.** The district attorney, local law enforcement agencies, local social services agencies, and court shall cooperate to afford victims and witnesses of crimes, the rights and services described in this chapter.

**Section 8.** The court shall impose an assessment of twenty-five dollars against any person who has attained the age of seventeen years and who is convicted of a felony or against whom a finding of sufficient facts for a conviction is made on a complaint charging a felony. The court shall impose an assessment of fifteen dollars against any person who has attained the age of seventeen and who is convicted of a misdemeanor or against whom a finding of sufficient facts for a conviction is made on a complaint charging a misdemeanor. The court shall impose an assessment of fifteen dollars against any person who has attained the age of fourteen years and who is adjudicated a delinquent child or against whom a finding of sufficient facts for a finding of delinquency is made. When multiple offenses from a single incident are charged, the total assessment shall not exceed twenty-five dollars, provided however, that the total assessment against a person who has not attained seventeen years shall not exceed fifteen dollars. Where, in the discretion of the court, any assessment imposed pursuant to this section would cause the person against whom the assessment is imposed severe financial hardship, the court may reduce or waive said assessment.

All assessments made under the preceding paragraph shall be collected by the court and shall be transmitted monthly to the treasurer. The assessment from any conviction or adjudication of delinquency which is subsequently overturned on appeal shall be refunded by the court to the person whose conviction or adjudication of delinquency is overturned. Said court shall deduct such funds from the assessments transmitted to the treasurer. Assessments pursuant to this section shall be in addition to any other fines or restitution imposed in any disposition.

**Section 9.** There is hereby created the Victim and Witness Assistance Fund to be established on the books of the commonwealth in the state treasury. Any assessment imposed pursuant to section eight shall be made available, subject to appropriation, to the board which shall determine the amounts to be disbursed to the public programs described in section five and approved by the board which provides comprehensive services to victims and witnesses of all types of crimes and do not restrict services to victims and witnesses of a particular crime.

**Section 10.** Nothing in this chapter shall be construed as creating a cause of action on behalf of any person against any public employee, public agency, the commonwealth or any agency responsible for the enforcement of rights and provisions of services set forth in this chapter.

**SECTION 2.** Chapter 279 of the General Laws is hereby further amended by inserting after section four the following new section:—

**Section 4A.** (a) the provisions of this section shall govern the disposition for any violation of the provisions of paragraph (b) of section twenty-four G of chapter ninety of the General Laws and for any felony, excluding any crime for which a sentence of death may be imposed, in any case which involves an identified victim whose whereabouts are known.

(b) Before disposition in any case governed by this section, the district attorney shall give the victim an actual notice of the time and place of sentencing and of the victim's right to make a statement to the court, orally or in writing at the victim's option, as to the impact of the crime and as to a recommended sentence. Before disposition, the court shall allow any victim who elects to make such an oral statement the opportunity to do so in the presence of the defendant. Before disposition, the district attorney shall file any such written statement with the court and shall make it available to the defendant.

If the victim is unable to make an oral or written statement because of his mental, emotional, or physical incapacity or his age, his attorney or a designated family member shall be provided the notice and the opportunity to make a statement prescribed in this paragraph.

(c) Before disposition in any case governed by this section, the office of the district attorney shall cause to be prepared a written statement as to the impact of the crime on the victim, which shall be filed with the court as part of the pre-sentence report and made available to the defendant. The statement shall include the following: (1) the name of the victim; (2) documentation of any net financial loss suffered by the victim or a family member as a result of the crime; (3) in cases where the crime has had an impact on the victim's personal welfare or family relationship or has had a psychological impact on the victim or his family, a statement of such impact.

(d) The court shall, in the manner prescribed by rule of court, allow the defendant to have the opportunity to rebut the victim's oral or written statements and the district attorney's written statement if the court decides to rely upon such statements or parts thereof in imposing sentence.

(e) No sentence shall be invalidated because of failure to comply with the provisions of this section. This section shall not be construed to create any cause of action or any right to appeal on behalf of any person.

**SECTION 3.** If any provision or clause of this act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**SECTION 4.** A special commission, to consist of five members of the House of Representatives to be appointed by the Speaker thereof, three members of the Senate to [be] appointed by the President thereof, a justice of the District Court Department of the Trial Court to be appointed by the Chief Justice thereof, a justice of the Boston Municipal Court Department of the Trial Court to be appointed by the Chief Justice thereof, a justice of the Superior Court Department of the Trial Court to be appointed by the Chief Justice thereof and five members to be appointed by the Governor, one of whom shall be a District Attorney, one of whom shall be a law enforcement officer, and one of whom shall be a person who has been a victim of a violent crime is hereby established for the purpose of making an investigation and study of the affects of crime on the victims there. Said investigation shall include but not be limited to the adequacy and efficiency of: the programs of services to the victims and witnesses of crimes, as provided under this act; the programs of public information relative to victims' and witnesses' rights; the programs for victim restitution and compensation and the availability and sufficiency of funding mechanisms for said programs. The Chairman of the special commission shall be elected by a majority vote of the members thereof. Said commission shall report to the General Court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry out its recommendations into effect by filing the same with the Clerk of the House of Representatives on or before the last Friday in December, nineteen hundred and eighty-four.

# CRIME VICTIM'S RIGHTS ACT

P.A. 87, 1985

M.C.L. 780.751 et al.

(Includes amendments)

Introduced by Rep. Van Regenmorter

AN ACT to establish the rights of victims of crime; to provide for certain procedures; to establish certain immunities and duties; to limit convicted criminals from deriving profit under certain circumstances; to prohibit certain conduct of employers or employers' agents toward victims; and to provide for penalties and remedies.

*The People of the State of Michigan enact:*

## ARTICLE 1

Sec. 1. This act shall be known and may be cited as the "crime victim's rights act."

Sec. 2. (1) As used in this article:

(a) "Crime" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than 1 year, or an offense expressly designated by law to be a felony.

(b) "Defendant" means a person charged with or convicted of having committed a crime against a victim.

(c) "Final disposition" means the ultimate termination of the criminal prosecution of a defendant including, but not limited to, dismissal, acquittal, or imposition of sentence by the court.

(d) "Person" means an individual, organization, partnership, corporation, or governmental entity.\*

(e) "Prisoner" means a person who has been convicted and sentenced to imprisonment for having committed a crime against a victim.

(f) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, and a special prosecuting attorney.\*

(g) "Victim", except for purposes of section 16, means any of the following:

(i) An individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime, except as provided in subparagraph (ii), (iii), or (iv).

(ii) The following relations of a deceased victim if the relation is not the defendant:

(A) The spouse.

(B) A child 15 years of age or older\* if subparagraph (A) does not apply.

(C) A parent if subparagraphs (A) and (B) do not apply.

(D) A sibling if subparagraphs (A) to (C) do not apply.

(E) A grandparent if subparagraphs (A) to (D) do not apply.

\*Italicized language applies to crimes committed after 5/31/88.

(iii) A parent, guardian, or custodian of a victim who is less than 18 years of age if the parent, guardian, or custodian so chooses.\*

(iv) A parent, guardian, or custodian of a victim who is so mentally incapacitated that he or she cannot meaningfully understand or participate in the legal process.\*

(2) If a victim as defined in subsection (1)(g)(i) is physically unable to exercise the privileges and rights under this article, the victim may designate his or her spouse or a child 15 years of age or older, parent, sibling, or grandparent of the victim to act in place of the victim during the duration of the physical disability. During the physical disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

Sec. 3. Within 24 hours after the initial contact between the victim of a reported crime and the law enforcement agency having the responsibility for investigating that crime, that agency shall give to the victim the following information:

(a) The availability of emergency and medical services, if applicable.

(b) The availability of victim's compensation benefits and the address of the crime victims compensation board.

(c) The address and phone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.

(d) The following statement:

"If within 6 months, you are not notified of an arrest in your case, you may call [the law enforcement agency's telephone number] for the status of the case."

Sec. 4. (1) The law enforcement agency having responsibility for investigating a reported crime shall promptly return to the victim property belonging to that victim which is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property which is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the crime and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

Sec. 5. (1) Not later than 24 hours after the arraignment of the defendant for a crime, the law enforcement agency having responsibility for investigating the crime shall give to the victim *notice of the availability of pretrial release for the defendant*,\* the phone number of the sheriff, and notice that the victim may contact the sheriff to determine whether the defendant has been released from custody.

(2) Based upon the victim's affidavit asserting acts or threats of physical violence or intimidation by the defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the bond or personal recognizance of a defendant be revoked.

Sec. 6. (1) Not later than 7 days after the arraignment of the defendant for a crime, but not less than 24 hours before a preliminary examination, the prosecuting

*\*Italicized language applies to crimes committed after 5/31/88.*

attorney shall give to each victim a written notice in plain English of each of the following:

- (a) A brief statement of the procedural steps in the processing of a criminal case.
- (b) The rights and procedures under this article.
- (c) Details and eligibility requirements under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.
- (d) Suggested procedures if the victim is subjected to threats or intimidation.
- (e) The person to contact for further information.

(2) If requested by the victim, the prosecuting attorney shall give to the victim notice of any scheduled court proceedings and notice of any changes in that schedule.

(3) The prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about the disposition of a crime, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs.

(4) A victim who receives a notice under subsection (1) and who chooses to receive any other notice or notices under this article shall keep the following persons informed of the victim's current address and phone number:

(a) The prosecuting attorney, *until final disposition or completion of the appellate process, whichever occurs later.\**

(b) The department of corrections or the sheriff as directed by the prosecuting attorney if the defendant is imprisoned.

Sec. 7. The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with defendant, defendant's relatives, and defense witnesses during court proceedings.

Sec. 8. (1) Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the defendant or at defendant's direction against the victim or the victim's immediate family, the prosecutor may move that the victim or any other witness not be compelled to testify at pretrial proceedings or at trial for purposes of identifying the victim as to the victim's address, place of employment, or other personal identification without the victim's consent. A hearing on the motion shall be in camera.

(2) The address of the victim shall not be in the court file or ordinary court documents unless contained in a transcript of the trial or it is used to identify the place of the crime. The phone number of the victim shall not be in the court file or ordinary court documents except as contained in a transcript of the trial.

Sec. 9. (1) As provided in subsection (2), a speedy trial may be scheduled for any case in which the victim is averred by the prosecuting attorney to be either of the following:

- (a) A victim of child abuse, including sexual abuse or any other assaultive crime.

*\*Italicized language applies to crimes committed after 5/31/88.*

(b) A victim of criminal sexual conduct in the first, second, or third degree or of an assault with intent to commit criminal sexual conduct involving penetration or to commit criminal sexual conduct in the second degree.

(2) The chief judge, upon motion of the prosecuting attorney for a speedy trial for a case described in subsection (1), shall set a hearing date within 10 days of the date of the motion. Notice shall be made pursuant to the Michigan court rules. If the motion is granted, the trial shall not be scheduled earlier than 20 days from the date of the hearing.

Sec. 10. Upon request of the victim, the prosecuting attorney shall confer with the victim prior to the selection of the jury and prior to the trial of the defendant.

Sec. 11. The victim has the right to be present throughout the entire trial of the defendant, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, order the victim to be sequestered until the victim first testifies.

Sec. 12. An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor, and may be punished for contempt of court.

Sec. 13. (1) The prosecuting attorney, upon and in accordance with the request of the victim, shall give to the victim notice of the following:

- (a) The defendant's conviction.
  - (b) The crimes for which the defendant was convicted.
  - (c) The victim's right to make a written or oral impact statement for use in the preparation of a presentence investigation report concerning the defendant.
  - (d) The address and telephone number of the probation office which is to prepare the presentence investigation report.
  - (e) That a presentence investigation report and any statement of the victim included in the report will be made available to the defendant unless exempted from disclosure by the court.
  - (f) The victim's right to make an impact statement at sentencing.
  - (g) The time and place of the sentencing proceeding.
- (2) The notice given by the prosecuting attorney to the victim must be given by any means reasonably calculated to give prompt actual notice.
- (3) A notice given under subsection (1) shall inform the victim that his or her impact statement may include but shall not be limited to the following:
- (a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.
  - (b) An explanation of the extent of any economic loss or property damage suffered by the victim.
  - (c) An opinion of the need for and extent of restitution and whether the victim has applied for or received compensation for loss or damage.
  - (d) The victim's recommendation for an appropriate sentence.

**Sec. 14.** The victim has the right to submit or make a written or oral impact statement to the probation officer for use by that officer in preparing a presentence investigation report concerning the defendant pursuant to section 14 of chapter XI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 771.14 of the Michigan Compiled Laws. A victim's written statement shall, upon the victim's request, be included in the presentence investigation report.

**Sec. 15.** The victim shall have the right to appear and make an oral impact statement at the sentencing of the defendant.

**Sec. 16.** (1) For purposes of this section only, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime; and for purposes of subsections (2), (3), (4), (7), (9), (10), (11), and (15), "victim" includes a sole proprietorship, partnership, or corporation.

(2) The court, when sentencing a defendant convicted of a crime, may order, in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law, that the defendant make restitution to any victim of the defendant's course of conduct which gives rise to the conviction, or to the victim's estate.

(3) If the court does not order restitution, or orders only partial restitution under this section, the court shall state on the record the reasons for that action.

(4) If a crime results in damage to or loss or destruction of property of a victim of the offense, the order of restitution may require that the defendant do either of the following:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraphs (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(i) The value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of sentencing.

(5) If a crime results in physical or psychological injury to a victim, the order of restitution may require that the defendant do 1 or more of the following, as applicable:

(a) Pay an amount equal to the cost of actual medical and related professional services and devices relating to physical and psychological care.

(b) Pay an amount equal to the cost of actual physical and occupational therapy and rehabilitation.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the offense.

(d) Pay an amount equal to the cost of psychological and medical treatment for members of the victim's family which has been incurred as a result of the offense.

(6) If a crime resulting in bodily injury also results in the death of a victim, the order of restitution may require that the defendant pay an amount equal to the cost of actual funeral and related services.



(7) Instead of restitution under subsections (4) to (6), if the victim or victim's estate consents, the order of restitution may require that the defendant make restitution in services in lieu of money, or make restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the crime.

(8) If the court orders restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

(9) Any order of restitution shall be as fair as possible to the victim or victim's estate without unduly complicating or prolonging the sentencing process.

(10) The court shall not order restitution with respect to a loss for which the victim or victim's estate has received or is to receive compensation, including insurance, except that the court may, in the interest of justice, order restitution to the crime victims compensation board or to any *individuals, organizations, partnerships, corporations, or governmental entities\** that have compensated the victim or victim's estate for such a loss to the extent of the compensation paid. An order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person under that order is made.

(11) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victims compensation board made after an order of restitution under this section.

(12) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the defendant make restitution under this section within a specified period or in specified installments. The end of the period or the last installment shall not be later than the following:

(a) The end of the period of probation, if probation is ordered.

(b) Two years after the end of imprisonment or discharge from parole, whichever occurs later, if the court does not order probation.

(c) Three years after the date of sentencing in any other case.

(13) If the defendant is placed on probation or paroled, any restitution ordered under this section shall be a condition of that probation or parole. The court may revoke probation and the parole board may revoke parole if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole, the court or parole board shall consider the defendant's employment status, earning ability, financial resources, and the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

(14) A defendant who is required to pay restitution and who is not in willful default of the payment of the restitution, at any time, may petition the sentencing judge or his or her successor for a cancellation of any unpaid portion of restitution. If it appears to the satisfaction of the court that payment of the amount due will impose a manifest hardship on the defendant or his or her immediate family, the court may cancel all or part of the amount due in restitution or modify the method of payment.

(15) An order of restitution may be enforced by the prosecuting attorney or a victim or victim's estate named in the order to receive the restitution in the same manner as a judgment in a civil action.

*\*Italicized language applies to crimes committed after 5/31/88.*

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(16) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of parole or probation, or otherwise, for failure to pay restitution as ordered under this section unless the court determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

Sec. 17. (1) The court, in determining whether to order restitution under section 16 and the amount of that restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources and earning ability of the defendant, the financial needs of the defendant and the defendant's dependents, and such other factors as the court considers appropriate.

(2) The court may order the probation officer to obtain information pertaining to the factors set forth in subsection (1). The probation officer shall include the information collected in the presentence investigation report or in a separate report, as the court directs.

(3) The court shall disclose to both the defendant and the prosecuting attorney all portions of the presentence or other report pertaining to the matters described in subsection (1).

(4) Any dispute as to the proper amount or type of restitution shall be resolved by the court by a preponderance of the evidence. The burden of demonstrating the earning ability of the defendant and the amount of the loss sustained by a victim as a result of the offense shall be on the prosecuting attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and the defendant's dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

Sec. 18. (1) A person convicted of a crime shall not derive any profit from the sale of his or her recollections, thoughts, and feelings with regard to the offense committed by that person until the victim receives any restitution or compensation ordered for him or her against the defendant and expenses of incarceration are recovered as provided in subsection (3) and until the escrow account created under subsection (2) is terminated under subsection (4).

(2) Upon the conviction of a defendant for a crime involving a victim, and after notice to any interested party, an attorney for the county in which the conviction occurred or the attorney general may petition the court in which the conviction occurred to order that defendant forfeit all or any part of proceeds received or to be received by the defendant, or the defendant's representatives or assignees, from contracts relating to the depiction of the crime or the defendant's recollections, thoughts, or feelings about the crime, in books, magazines, media entertainment, or live entertainment. The proceeds shall be held in escrow for a period of not more than 5 years.

(3) During the existence of the escrow account, proceeds in the account shall be distributed in the following priority for the following purposes:

(a) To satisfy an order of restitution entered under sections 16 and 17.

(b) To satisfy any civil judgment in favor of the victim against that defendant.

(c) To satisfy any reimbursement ordered under the prisoner reimbursement to the county act, Act No. 118 of the Public Acts of 1984, being sections 801.81 to 801.93

of the Michigan Compiled Laws, or ordered under the state correctional facility reimbursement act, Act No. 253 of the Public Acts of 1935, being sections 800.401 to 800.406 of the Michigan Compiled Laws.

(4) Fifty percent of the balance remaining in the escrow account at the end of the escrow period shall be payable to the defendant and the remaining 50% of the balance shall be payable to the state general fund for use of the crime victims compensation board to pay compensation claims.

*Sec. 18a. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:*

*(a) That the defendant has filed an appeal of his or her conviction.*

*(b) A brief explanation in plain English of the appeal process, including the possible dispositions.*

*(c) Whether the defendant has been released on bail or other recognizance pending the disposition of the appeal.*

*(d) The time and place of any appellate court proceedings and any changes in the time or place of those proceedings.*

*(e) The result of the appeal.*

*(2) In the event the defendant's conviction is reversed and the case is returned to the trial court for further proceedings, the victim shall have the same rights previously requested during the proceedings which led to the appeal.\**

**Sec. 19. (1) Upon the written request of a victim of a crime, the sheriff or the department of corrections shall mail to the victim the following, as applicable, about a prisoner who has been sentenced to imprisonment under the jurisdiction of the sheriff or the department for commission of that crime:**

**(a) Within 30 days after the request, notice of the sheriff's calculation of the earliest release date of the prisoner, or the department's calculation of the earliest parole eligibility date of the prisoner, with all potential good time or disciplinary credits considered if the sentence of imprisonment exceeds 90 days. The victim may request 1-time only notice of the calculation described in this subdivision.**

**(b) Notice of the transfer or pending transfer of the prisoner to a minimum security facility and the address of that facility.**

**(c) Notice of the release or pending release of the prisoner in a community residential program, under extended furlough, or any other transfer of a prisoner to community status.**

**(d) Notice of any reduction in the minimum sentence resulting under the prison overcrowding emergency powers act, Act No. 519 of the Public Acts of 1980, being sections 800.71 to 800.79 of the Michigan Compiled Laws.**

**(e) Notice of the escape of the person accused, convicted, or imprisoned for committing a crime against the victim, as provided in section 20.**

**(f) Notice of the victim's right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole, as provided in section 21.**

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*\*Italicized language applies to crimes committed after 5/31/88.*

(g) Notice of the decision of the parole board, or any other panel having authority over the prisoner's release on parole, after a parole review, as provided in section 21(3).

(h) Notice of the release of a prisoner 90 days before the date of the prisoner's discharge from prison where practical, unless the notice has been otherwise provided under this article.

(i) Notice of a public hearing pursuant to section 44 of Act No. 232 of the Public Acts of 1953, being section 791.244 of the Michigan Compiled Laws, regarding a reprieve, commutation, or pardon of the prisoner's sentence by the governor.

(j) *Notice that a reprieve, commutation, or pardon has been granted.\**

(2) A victim's address and telephone number maintained by a sheriff or the department of corrections pursuant to a request for notice under subsection (1) shall be exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976 being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. 20. (1) As provided in subsection (2) or (3), a victim who requests notice of the escape and the prosecuting attorney who is prosecuting or has prosecuted the crime for which the person is detained or under sentence shall be given immediate notice of the escape of the person accused, convicted, or imprisoned for committing a crime against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice.

(2) If the escape occurs before the sentence is executed or before the defendant is delivered to the department of corrections, the chief law enforcement officer of the agency in charge of the person's detention shall give notice of the escape to the prosecuting attorney, who shall then give notice of the escape to a victim who requested notice.

(3) If the defendant is confined pursuant to a sentence, the notice shall be given by the chief administrator of the place in which the prisoner is confined.

Sec. 21. (1) A victim shall have the right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole.

(2) Not less than 30 days before a review of the prisoner's release, a victim who has requested notice under section 19(1)(f) shall be given written notice by the department of corrections informing the victim of the pending review and of victims' rights under this section. The victim, at his or her own expense, may be represented by counsel at the review.

(3) A victim shall receive notice of the decision of the board or panel and, if applicable, notice of the date of the prisoner's release on parole. Notice shall be mailed within a reasonable time after the board or panel reaches its decision but not later than 14 days after the board or panel has reached its decision.

Sec. 22. Upon the request of a victim, the prosecuting attorney shall, within 30 days of the final disposition of the case, notify the victim in writing of the final disposition of the case.

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*\*Italicized language applies to crimes committed after 5/31/88.*

Sec. 23. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of their agencies, or instrumentalities, or employees.

Sec. 24. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

Sec. 25. (1) This article shall take effect October 9, 1985.

(2) This article shall apply only to crimes committed on or after October 9, 1985.

## ARTICLE 2

Sec. 31. (1) As used in this article:

(a) "Court" means the juvenile division of the probate court.

(b) "Juvenile" means a child within the jurisdiction of the juvenile division of the probate court pursuant to section 2(a)(1) of chapter XIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, for an offense.

(c) "Offense" means 1 of the following:

(i) A violation of a penal law of this state for which a juvenile offender, if convicted as an adult, may be punished by imprisonment for more than 1 year, or an offense expressly designated by law to be a felony.

(ii) A violation of section 81, 81a, 115, 145a, 234, or 235 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81, 750.81a, 750.115, 750.145a, 750.234, and 750.235 of the Michigan Compiled Laws.

(iii) A violation of section 617a, or if the violation involves an accident resulting in injury to another's person, section 625 or 625b of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.617a, 257.625, and 257.625b of the Michigan Compiled Laws.

(iv) A violation of a local ordinance substantially corresponding to a violation enumerated in subparagraphs (i) to (iii).

(d) "Person" means an individual, organization, partnership, corporation, or governmental entity.

(e) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, and in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(f) "Victim", except for the purposes of section 44, means any of the following:

(i) A person who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of an offense, except as provided in subparagraph (ii), (iii), or (iv).

(ii) The following relations of a deceased victim if the relation is not the juvenile offender:

(A) The spouse.

(B) A child 15 years of age or older if subparagraph (A) does not apply.

(C) A parent if subparagraphs (A) and (B) do not apply.

(D) A sibling if subparagraphs (A) to (C) do not apply.

(E) A grandparent if subparagraphs (A) to (D) do not apply.

(iii) A parent, guardian, or custodian of a victim who is less than 18 years of age if the parent, guardian, or custodian so chooses.

(iv) A parent, guardian, or custodian of a victim who is so mentally incapacitated that he or she cannot meaningfully understand or participate in the legal process.

(2) If a victim as defined in subsection (1)(f)(i) is physically unable to exercise the privileges and rights under this article, the victim may designate his or her spouse or a child 15 years of age or older, parent, sibling, or grandparent of the victim to act in place of the victim during the duration of the physical disability. During the physical disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

Sec. 32. Within 24 hours after the initial contact between the victim of a reported offense and the law enforcement agency having the responsibility for investigating that offense, that agency shall give to the victim the following information:

(a) The availability of emergency and medical services, if applicable.

(b) The availability of victim's compensation benefits and the address of the crime victims compensation board.

(c) The address and phone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.

(d) The following statement: "If within 6 months you are not notified of an arrest in your case, you may call [the law enforcement agency's telephone number] for the status of the case."

Sec. 33. (1) The law enforcement agency having responsibility for investigating a reported offense shall promptly return to the victim property belonging to that victim that is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property that is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the offense and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

Sec. 34. The investigating agency that files a complaint or submits a petition seeking to invoke the court's jurisdiction for a juvenile offense shall file with the complaint or petition a separate statement listing any known victims of the juvenile offense and their addresses and phone numbers. This separate statement shall not be a matter of public record.

Sec. 35. (1) If the juvenile has been placed in a detention facility, not later than 24 hours after the preliminary hearing of that juvenile for a juvenile offense, the court shall give to the victim the phone number of the detention facility and notice that the

victim may contact the detention facility to determine whether the juvenile has been released from custody.

(2) Based upon the victim's affidavit asserting acts or threats of physical violence or intimidation by the juvenile or at the juvenile's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the juvenile be placed in detention.

Sec. 36. (1) Within 72 hours after the investigating agency files a complaint or submits a petition seeking to invoke the court's jurisdiction for a juvenile offense, the court shall give to each victim a written notice in plain English of each of the following:

(a) A brief statement of the procedural steps in the processing of a juvenile offense case, including the fact that a juvenile may be waived to the court of general criminal jurisdiction.

(b) The rights and procedures under this article.

(c) Details and eligibility requirements under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.

(d) Suggested procedures if the victim is subjected to threats or intimidation.

(e) The person to contact for further information.

(2) If requested by the victim, the court shall give to the victim notice of any scheduled court proceedings and notice of any changes in that schedule.

(3) If the prosecuting attorney makes an appearance in the case, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the victim's views about the disposition of a juvenile offense, including the victim's views about dismissal, waiver, and disposition negotiations.

(4) The victim who receives a notice under subsection (1) and who chooses to receive any other notice or notices under this article shall keep the following persons informed of the victim's current address and phone number:

(a) The court.

(b) If the juvenile is made a ward of the state, the department of social services.

Sec. 37. The court shall provide a waiting area for the victim separate from the juvenile, the juvenile's relatives, and the juvenile's witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with the juvenile, the juvenile's relatives, and the juvenile's witnesses during court proceedings.

Sec. 38. Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the juvenile or at the juvenile's direction against the victim or the victim's immediate family, the prosecuting attorney may move or, in the absence of a prosecuting attorney, the victim may request that the victim or any other witness not be compelled to testify at any court hearing for purposes of identifying the victim as to the victim's address, place of employment, or other personal identification without the victim's consent. A hearing on the motion shall be in camera.

Sec. 39. The victim has the right to be present throughout the entire contested adjudicative hearing or waiver hearing of the juvenile, unless the victim is going to

be called as a witness. If the victim is going to be called as a witness, the court, for good cause shown, may order the victim to be sequestered until the victim first testifies.

Sec. 40. An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor, and may be punished for contempt of court.

Sec. 41. (1) The court, upon and in accordance with the request of the victim, shall give to the victim notice of both of the following:

- (a) The offenses for which the juvenile was adjudicated.
- (b) The victim's right to make a written or oral impact statement at a disposition hearing.
- (c) The time and place of the disposition proceeding.

(2) If there is to be a report prepared for the purpose of disposition concerning the juvenile, the person preparing the report shall give notice to the victim of all of the following:

(a) The victim's right to make a written or oral impact statement for use in the preparation of the report.

(b) The address and telephone number of the person who is to prepare the report.

(c) That the report and any statement of the victim included in the report will be made available to the juvenile unless exempted from disclosure by the court.

(3) A notice given under subsections (1) and (2) shall inform the victim that his or her impact statement may include, but shall not be limited to, the following:

(a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.

(b) An explanation of the extent of any economic loss or property damage suffered by the victim.

(c) An opinion of the need for, and extent of, restitution and whether the victim has applied for or received compensation for loss or damage.

(d) The victim's recommendation for an appropriate disposition.

Sec. 42. If there is to be a report prepared for the purpose of disposition concerning the juvenile, the victim shall be permitted to submit a written or oral impact statement to the person preparing the report for use by that person in the preparation of the report. Upon the victim's request, a victim's written statement shall be included in the report.

Sec. 43. (1) The victim shall have the right to appear and make an oral impact statement at the disposition of the juvenile.

(2) Upon request, the victim shall be notified by the court of the disposition of the juvenile's offense not more than 14 days after the disposition is made.

Sec. 44. (1) For purposes of this section only, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the



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commission of an offense; and for purposes of subsections (2), (4), (7), (9), (10), (11), and (15), "victim" includes a sole proprietorship, partnership, or corporation.

(2) The court, at the dispositional hearing for a juvenile offense, may order, in addition to or in lieu of any other disposition authorized by law, that the juvenile make restitution to any victim or victim's estate of the juvenile's course of conduct which gives rise to the disposition.

(3) If the court does not order restitution, or orders only partial restitution under this section, the court shall state on the record the reasons for that action.

(4) If a juvenile offense results in damage to or loss or destruction of property of a victim of the offense, the order of restitution may require that the juvenile do either of the following:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraphs (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(i) The value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of disposition.

(5) If a juvenile offense results in physical or psychological injury to a victim, the order of restitution may require that the juvenile do 1 or more of the following, as applicable:

(a) Pay an amount equal to the cost of actual medical and related professional services and devices relating to physical and psychological care.

(b) Pay an amount equal to the cost of actual physical and occupational therapy and rehabilitation.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the offense.

(d) Pay an amount equal to the cost of psychological and medical treatment for members of the victim's family which has been incurred as a result of the offense.

(6) If a juvenile offense resulting in bodily injury also results in the death of a victim, the order of restitution may require that the juvenile pay an amount equal to the cost of actual funeral and related services.

(7) Instead of restitution under subsections (4) to (6), if the victim or victim's estate consents, the order of restitution may require that the juvenile make restitution in services in lieu of money, or make restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the offense.

(8) If the court orders restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

(9) Any order of restitution shall be as fair as possible to the victim or victim's estate without unduly complicating or prolonging the disposition process.

(10) The court shall not order restitution with respect to a loss for which the victim or victim's estate has received or is to receive compensation, including insurance, except that the court may, in the interest of justice, order restitution to the crime victims compensation board or to any individuals, organizations, partnerships, corporations, or governmental entities that have compensated the victim or victim's

estate for such a loss to the extent of the compensation paid. An order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person under that order is made.

(11) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victims compensation board made after an order of restitution under this section.

(12) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the juvenile make restitution under this section within a specified period or in specified installments. The end of the period or the last installment shall not be later than the following:

- (a) The end of the period of probation, if probation is ordered.
- (b) If the juvenile is made a state ward, when the department of social services' jurisdiction over the juvenile expires.
- (c) If the juvenile is made a ward of the court, when the court's jurisdiction over the juvenile expires.
- (d) Three years after the date of disposition or when the court's jurisdiction over the juvenile expires, whichever is later.

(13) If the juvenile is placed on probation, any restitution ordered under this section shall be a condition of that probation. The court may revoke probation if the juvenile fails to comply with the order and if the juvenile has not made a good faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the juvenile's employment status, earning ability, financial resources, and the willfulness of the juvenile's failure to pay, and any other special circumstances that may have a bearing on the juvenile's ability to pay.

(14) A juvenile who is required to pay restitution and who is not in willful default of the payment of the restitution, at any time, may petition the court for a cancellation of any unpaid portion of restitution. If it appears to the satisfaction of the court that payment of the amount due will impose a manifest hardship on the juvenile or his or her immediate family, the court may cancel all or part of the amount due in restitution or modify the method of payment.

(15) An order of restitution may be enforced by the prosecuting attorney or a victim or victim's estate named in the order to receive the restitution in the same manner as a judgment in a civil action.

(16) Notwithstanding any other provision of this section, a juvenile shall not be detained for a violation of probation, or otherwise, for failure to pay restitution as ordered under this section unless the court determines that the juvenile has the resources to pay the ordered restitution and has not made a good faith effort to do so.

(17) If the juvenile is unable to pay all of the restitution ordered, after notice to the juvenile's custodial parent and an opportunity for the parent to be heard, the court may order the custodial parent to pay all or part of the unpaid portion of the restitution ordered. The amount of restitution the parent is ordered to pay under this subsection shall not exceed \$2,500.00.

(18) If the court orders the custodial parent to pay restitution under subsection (17), the court shall take into account the financial resources of the parent and the burden that the payment of restitution will impose, with due regard to any other

moral or legal financial obligations that the parent may have. If a parent is required to pay restitution under subsection (17), the court shall provide for payment to be made in specified installments and within a specified period of time.

(19) A parent who has been ordered to pay restitution under subsection (17) may petition the court for a modification of the amount of restitution owed or for a cancellation of any unpaid portion of the restitution. The court shall cancel all or part of the amount of restitution due, if it appears to the satisfaction of the court that payment of the amount due will impose a manifest hardship on the parent.

Sec. 45. (1) The court, in determining whether to order restitution under section 44 and the amount of that restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources and earning ability of the juvenile, the financial needs of the juvenile and the juvenile's dependents, and such other factors as the court considers appropriate.

(2) The court may order the person preparing a report for the purpose of disposition to obtain information pertaining to the factors set forth in subsection (1). That person shall include the information collected in the disposition report or in a separate report, as the court directs.

(3) The court shall disclose to both the juvenile and the prosecuting attorney all portions of the disposition or other report pertaining to the matters described in subsection (1).

(4) Any dispute as to the proper amount or type of restitution shall be resolved by the court by a preponderance of the evidence. The burden of demonstrating the earning ability of the juvenile and the amount of the loss sustained by a victim as a result of the offense shall be on the prosecuting attorney. The burden of demonstrating the financial resources of the juvenile and the financial needs of the juvenile and the juvenile's dependents shall be on the juvenile. The burden of demonstrating such other matters as the court considers appropriate shall be upon the party designated by the court as justice requires.

Sec. 46. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:

(a) That the juvenile has filed an appeal of his or her adjudication.

(b) A brief explanation in plain English of the appeal process, including the possible dispositions.

(c) Whether the juvenile has been released on bail or other recognizance pending the disposition of the appeal.

(d) The time and place of any appellate court proceedings and any changes in the time or place of those proceedings.

(e) The result of the appeal.

(2) In the event the juvenile's adjudication is reversed and the case is returned to the trial court for further proceedings, the victim shall have the same rights previously requested during the proceedings which led to the appeal.

Sec. 47. (1) A juvenile adjudicated for an offense shall not derive any profit from the sale of his or her recollections, thoughts, and feelings with regard to the offense committed by that juvenile until the victim receives any restitution or compensation ordered for him or her against the juvenile and expenses of incarceration are

recovered as provided in subsection (3) and until the escrow account created under subsection (2) is terminated under subsection (4).

(2) Upon the disposition of a juvenile offense involving a victim, and after notice to any interested party, an attorney for the county in which the disposition occurred or the attorney general may petition the court in which the disposition occurred to order that juvenile forfeit all or any part of proceeds received or to be received by the juvenile, or the juvenile's representatives or assignees, from contracts relating to the depiction of the offense or the juvenile's recollections, thoughts, or feelings about the offense, in books, magazines, media entertainment, or live entertainment. The proceeds shall be held in escrow for a period of not more than 5 years.

(3) During the existence of the escrow account, proceeds in the account shall be distributed in the following priority for the following purposes:

(a) To satisfy an order of restitution entered under sections 44 and 45.

(b) To satisfy any civil judgment in favor of the victim against that juvenile.

(c) To satisfy any reimbursement ordered under section 18 of chapter XIA of Act No. 288 of the Public Acts of 1939, being section 712A.18 of the Michigan Compiled Laws.

(4) Fifty percent of the balance remaining in the escrow account at the end of the escrow period shall be payable to the juvenile and the remaining 50% of the balance shall be payable to the state general fund for use of the crime victims compensation board to pay compensation claims.

Sec. 48. (1) Upon request, the court or the department of social services shall make a good faith effort to notify the victim before either of the following occurs:

(a) The juvenile is dismissed from court jurisdiction or discharged from the department of social services jurisdiction.

(b) The juvenile is transferred from a secure detention or treatment facility to a nonsecure residential treatment facility located in the county in which the victim resides.

(2) If the court or department of social services is not successful in notifying the victim before subsection (1)(a) or (b) occurs, the court or department of social services shall notify the victim as soon as possible after the occurrence of subsection (1)(a) or (b).

(3) Upon the victim's request, the department of social services or the court shall give to the victim notice of a juvenile's escape from a secure detention or treatment facility. A victim who requests notice of an escape shall be given immediate notice of the escape by any means reasonably calculated to give prompt actual notice.

Sec. 49. If requested, a victim shall be provided with a certified copy of the order of an adjudicative hearing for purposes of obtaining relief pursuant to section 2913 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2913 of the Michigan Compiled Laws.

Sec. 50. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, or a municipality or any of their agencies, instrumentalities, or employees.

Sec. 51. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the juvenile to seek to have any proceeding set aside.

Sec. 52. (1) This article shall take effect June 1, 1988.

(2) This article shall apply only to offenses committed on or after June 1, 1988.

### ARTICLE 3

Sec. 61. (1) As used in this article:

(a) "Serious misdemeanor" means 1 of the following misdemeanors:

(i) A violation of section 81 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.81 of the Michigan Compiled Laws, assault and battery.

(ii) A violation of section 81a of Act No. 328 of the Public Acts of 1931, being section 750.81a of the Michigan Compiled Laws, assault; infliction of serious injury.

(iii) A violation of section 115 of Act No. 328 of the Public Acts of 1931, being section 750.115 of the Michigan Compiled Laws, breaking and entering or illegal entry.

(iv) A violation of section 145a of Act No. 328 of the Public Acts of 1931, being section 750.145a of the Michigan Compiled Laws, enticing a child for immoral purposes.

(v) A violation of section 234 of Act No. 328 of the Public Acts of 1931, being section 750.234 of the Michigan Compiled Laws, discharge of a firearm intentionally aimed at a person.

(vi) A violation of section 235 of Act No. 328 of the Public Acts of 1931, being section 750.235 of the Michigan Compiled Laws, discharge of an intentionally aimed firearm resulting in injury.

(vii) A violation of section 617a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.617a of the Michigan Compiled Laws, leaving the scene of a personal injury accident.

(viii) A violation of section 625 or 625b of Act No. 300 of the Public Acts of 1949, being sections 257.625 and 257.625b of the Michigan Compiled Laws, operating a vehicle while under the influence of or impaired by alcohol or a controlled substance, if the violation involves an accident resulting in injury to another's person.

(ix) A violation of a local ordinance substantially corresponding to a violation enumerated in subparagraphs (i) to (viii).

(b) "Defendant" means a person charged with or convicted of having committed a serious misdemeanor against a victim.

(c) "Final disposition" means the ultimate termination of the criminal prosecution of a defendant including, but not limited to, dismissal, acquittal, or imposition of a sentence by the court.

(d) "Person" means an individual, organization, partnership, corporation, or governmental entity.

(e) "Prisoner" means a person who has been convicted and sentenced to imprisonment for having committed a serious misdemeanor against a victim.

(f) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, and in

connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(g) "Victim", except for purposes of section 76, means any of the following:

(i) An individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a serious misdemeanor, except as provided in subparagraph (ii), (iii), or (iv).

(ii) The following relations of a deceased victim if the relation is not the defendant:

(A) The spouse.

(B) A child 15 years of age or older if subparagraph (A) does not apply.

(C) A parent if subparagraphs (A) and (B) do not apply.

(D) A sibling if subparagraphs (A) to (C) do not apply.

(E) A grandparent if subparagraphs (A) to (D) do not apply.

(iii) A parent, guardian, or custodian of a victim who is less than 18 years of age if the parent, guardian, or custodian so chooses.

(iv) A parent, guardian, or custodian of a victim who is so mentally incapacitated that he or she cannot meaningfully understand or participate in the legal process.

(2) If a victim as defined in subsection (1)(g)(i) is physically unable to exercise the privileges and rights under this article, the victim may designate his or her spouse or a child 15 years of age or older, parent, sibling, or grandparent of the victim to act in place of the victim during the duration of the physical disability. The victim shall inform the prosecuting attorney of who is to act in place of the victim. During the physical disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

(3) An individual who is charged with a serious misdemeanor or a crime as defined in article 1 arising out of the same transaction from which the charge against the defendant arose is not eligible to exercise the privileges and rights established for victims under this article.

Sec. 62. A law enforcement officer investigating a serious misdemeanor involving a victim shall include with the complaint, appearance ticket, or traffic citation filed with the court a separate written statement including the name, address, and phone number of each victim. This separate statement shall not be a matter of public record.

Sec. 63. Within 24 hours after the initial contact between the victim of a reported serious misdemeanor and the law enforcement agency having the responsibility for investigating that serious misdemeanor, that agency shall give to the victim the following information:

(a) The availability of emergency and medical services, if applicable.

(b) The availability of victim's compensation benefits and the address of the crime victims compensation board.

(c) The address and phone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.

(d) The following statement:

"If within 6 months, you are not notified of an arrest in your case, you may call [the law enforcement agency's telephone number] for the status of the case."

Sec. 64. (1) The law enforcement agency having responsibility for investigating a reported serious misdemeanor shall promptly return to the victim property belonging to that victim which is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property which is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the serious misdemeanor and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

Sec. 65. (1) Not later than 72 hours after the arrest of the defendant for a serious misdemeanor, the law enforcement agency having responsibility for investigating the serious misdemeanor shall give to the victim notice of the availability of pretrial release for the defendant, the phone number of the sheriff, and notice that the victim may contact the sheriff to determine whether the defendant has been released from custody.

(2) If the victim submits an affidavit asserting acts or threats of physical violence or intimidation by the defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney, based on the victim's affidavit, may move that the bond or personal recognizance of a defendant be revoked.

Sec. 66. (1) If a plea of guilty or nolo contendere is accepted by the court at the time of the arraignment of the defendant for a serious misdemeanor, the court shall notify the prosecuting attorney of the plea and the date of sentencing within 48 hours after the arraignment. If no guilty or nolo contendere plea is accepted at the arraignment and further proceedings will be scheduled, the court shall also notify the prosecuting attorney within 48 hours after the arraignment. A notice to the prosecuting attorney under this subsection shall include the name, address, and phone number of the victim. Within 48 hours after receiving this notice, the prosecuting attorney shall give to each victim a written notice in plain English of each of the following:

(a) A brief statement of the procedural steps in the processing of a misdemeanor case, including pretrial conferences.

(b) The rights and procedures under this article.

(c) Details and eligibility requirements under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.

(d) Suggested procedures if the victim is subjected to threats or intimidation.

(e) The person to contact for further information.

(2) If requested by the victim, the prosecuting attorney shall give to the victim notice of any scheduled court proceedings and notice of any changes in that schedule.

(3) If the defendant has not already entered a plea of guilty or nolo contendere at the arraignment, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about the disposition of the serious misdemeanor, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs.

(4) If the case against the defendant is dismissed at any time, the prosecuting attorney shall notify the victim of the dismissal within 48 hours.

(5) A victim who receives a notice under subsection (1) or (2) and who chooses to receive any other notice or notices under this article shall keep the following persons informed of the victim's current address and phone number:

(a) The prosecuting attorney, until final disposition or completion of the appellate process, whichever occurs later.

(b) The sheriff, if the defendant is imprisoned for more than 92 days.

Sec. 67. The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with defendant, defendant's relatives, and defense witnesses during court proceedings.

Sec. 68. Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the defendant or at defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the victim or any other witness not be compelled to testify at pretrial proceedings or at trial for purposes of identifying the victim as to the victim's address, place of employment, or other personal identification without the victim's consent. A hearing on the motion shall be in camera.

Sec. 69. An expedited trial may be scheduled for any case in which the victim is averred by the prosecuting attorney to be a child.

Sec. 70. Upon request of the victim, the prosecuting attorney shall confer with the victim prior to the trial of the defendant.

Sec. 71. The victim has the right to be present throughout the entire trial of the defendant, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, order the victim to be sequestered until the victim first testifies.

Sec. 72. An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor and may be punished for contempt of court.

Sec. 73. (1) The prosecuting attorney, upon and in accordance with the request of the victim, shall give to the victim notice of the following:

(a) The defendant's conviction.

(b) The offenses for which the defendant was convicted.

(c) If a presentence investigation report is to be prepared, the victim's right to make a written or oral impact statement for use in the preparation of the presentence investigation report concerning the defendant.

(d) The address and telephone number of the probation office which is to prepare the presentence investigation report.



(e) That a presentence investigation report and any statement of the victim included in the report will be made available to the defendant unless exempted from disclosure by the court.

(f) The victim's right to make an impact statement at sentencing.

(g) The time and place of the sentencing proceeding.

(2) The notice given by the prosecuting attorney to the victim must be given by any means reasonably calculated to give prompt actual notice.

(3) A notice given under subsection (1) shall inform the victim that his or her impact statement may include but shall not be limited to the following:

(a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.

(b) An explanation of the extent of any economic loss or property damage suffered by the victim.

(c) An opinion of the need for and extent of restitution and whether the victim has applied for or received compensation for loss or damage.

(d) The victim's recommendation for an appropriate sentence.

Sec. 74. If a presentence investigation report concerning the defendant is prepared, the victim has the right to submit or make a written or oral impact statement to the probation officer for use by that officer in preparing the report pursuant to section 14 of chapter XI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 771.14 of the Michigan Compiled Laws. A victim's written statement shall, upon the victim's request, be included in the presentence investigation report.

Sec. 75. If no presentence report is prepared, the court shall notify the prosecuting attorney of the date and time of sentencing at least 10 days prior to the sentencing. The victim shall have the right to submit a written impact statement and shall have the right to appear and make an oral impact statement at the sentencing of the defendant. The court shall consider the victim's statement in imposing sentence on the defendant.

Sec. 76. (1) As used in this section:

(a) "Victim" means an individual who suffers actual financial loss or expense as a result of the commission of a misdemeanor, and for purposes of subsections (2), (3), (4), (6), (8), (9), and (10), victim includes a sole proprietorship, partnership, or corporation.

(b) "Misdemeanor" means a violation of a law of this state, or of a local ordinance substantially corresponding to a law of this state, that is punishable by imprisonment for not more than 1 year or by a fine that is not a civil fine, but is not a felony.

(2) The court, when sentencing a defendant convicted of a misdemeanor, may order, in addition to or in lieu of any other penalty authorized by law, or in addition to any other penalty required by law, that the defendant make restitution to any victim of the defendant's course of conduct that gives rise to the conviction or to the victim's estate.

(3) If the court does not order restitution, or orders only partial restitution under this section, the court shall state on the record the reasons for that action.

(4) If a misdemeanor results in damage to or loss or destruction of property of a victim of the offense, the order of restitution may require that the defendant do either of the following:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraphs (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(i) The value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of sentencing.

(5) If a misdemeanor results in physical injury to a victim, the order of restitution may require that the defendant do 1 or more of the following, as applicable:

(a) Pay an amount equal to the cost of the victim's actual medical and related professional services and devices relating to the physical care.

(b) Pay an amount equal to the cost of the victim's actual physical and occupational therapy and rehabilitation.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the offense.

(6) Instead of restitution under subsections (4) and (5), if the victim or victim's estate consents, the order of restitution may require that the defendant make restitution in services in lieu of money, or make restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the misdemeanor.

(7) If the court orders restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

(8) Any order of restitution shall be as fair as possible to the victim or victim's estate without unduly complicating or prolonging the sentencing process.

(9) The court shall not order restitution with respect to a loss for which the victim or victim's estate has received or is to receive compensation, including insurance, except that the court may, in the interest of justice, order restitution to the crime victims compensation board or to any individuals, organizations, partnerships, corporations, or governmental entities that have compensated the victim or victim's estate for such a loss to the extent of the compensation paid. An order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person under that order is made.

(10) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victims compensation board made after an order of restitution under this section.

(11) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the defendant make restitution under this section within a specified period or in specified installments.

(12) In determining the amount of restitution, the court shall consider the defendant's earning ability, financial resources, and any other special circumstances that may have a bearing on the defendant's ability to pay.

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**Sec. 77.** Upon the request of a victim, the prosecuting attorney shall, within 30 days after the final disposition of the case, notify the victim in writing of the final disposition of the case.

**Sec. 78. (1)** Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:

- (a) That the defendant has filed an appeal of his or her conviction.
- (b) A brief explanation in plain English of the appeal process, including the possible dispositions.
- (c) Whether the defendant has been released on bail or other recognizance pending the disposition of the appeal.
- (d) The time and place of any appellate court proceedings and any changes in the time or place of those proceedings.
- (e) The result of the appeal.

(2) In the event the defendant's conviction is reversed and the case is returned to the trial court for further proceedings, the victim shall have the same rights previously requested during the proceedings which led to the appeal.

**Sec. 79. (1)** Upon the written request of the victim, the sheriff shall notify the victim of the earliest possible release date of the defendant if the defendant is sentenced to more than 92 days' imprisonment.

(2) The victim's written request for notice under this section shall include the victim's address.

**Sec. 80.** A victim's address and telephone number maintained by a court or a sheriff pursuant to this article is exempt from disclosure under the freedom of information act, Act No. 142 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

**Sec. 81. (1)** A person convicted of a serious misdemeanor shall not derive any profit from the sale of his or her recollections, thoughts, and feelings with regard to the offense committed by that person until the victim receives any restitution or compensation ordered for him or her against the defendant and expenses of incarceration are recovered as provided in subsection (3) and until the escrow account created under subsection (2) is terminated under subsection (4).

(2) Upon the conviction of a defendant for a serious misdemeanor involving a victim, and after notice to any interested party, an attorney for the county in which the conviction occurred or the attorney general may petition the court in which the conviction occurred to order that defendant forfeit all or any part of proceeds received or to be received by the defendant, or the defendant's representatives or assignees, from contracts relating to the depiction of the crime or the defendant's recollections, thoughts, or feelings about the crime, in books, magazines, media entertainment, or live entertainment. The proceeds shall be held in escrow for a period of not more than 5 years.

(3) During the existence of the escrow account, proceeds in the account shall be distributed in the following priority for the following purposes:

- (a) To satisfy an order of restitution entered under section 76.

(b) To satisfy any civil judgment in favor of the victim against that defendant.

(c) To satisfy any reimbursement ordered under the prisoner reimbursement to the county act, Act No. 118 of the Public Acts of 1984, being sections 801.81 to 801.93 of the Michigan Compiled Laws, or ordered under the state correctional facility reimbursement act, Act No. 253 of the Public Acts of 1935, being sections 800.401 to 800.406 of the Michigan Compiled Laws.

(4) Fifty percent of the balance remaining in the escrow account at the end of the escrow period shall be payable to the defendant and the remaining 50% of the balance shall be payable to the state general fund for use of the crime victims compensation board to pay compensation claims.

Sec. 82. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of their agencies, instrumentalities, or employees.

Sec. 83. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

Sec. 84. (1) This article shall take effect June 1, 1988.

(2) This article shall apply only to misdemeanors committed on or after June 1, 1988.



**Victim Impact Statement With  
Accompanying Sample Statement  
Sample Statute**

**Maryland**

Section 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 41 - Governor - Executive and Administrative Departments

SENATE BILL No. 145

124.

(a) Whenever any court shall suspend the sentence of any person convicted of crime, and shall direct such person, to continue, for a certain time, or until otherwise ordered, under the supervision of the Division, it shall be the duty of the said Division to supervise, when so requested by said court, the conduct of such person and to ascertain and report to said court whether or not the conditions of such probation or suspension of sentence are being faithfully complied with by such person.

(b) The parole and probation agents of the Division shall provide the judge of the court with presentence reports or other investigations in all cases when requested by any judge. The presentence reports are confidential and not available for public inspection except upon court order. However, presentence reports shall be made available, upon request, to the defendant's attorney, the State's Attorney, a correctional institution, a parole or probation, or pretrial release official of this State, any other state, the United States, or the District of Columbia, and a public or private mental health facility in any of those jurisdictions, if the individual who is the subject of the report has been committed or is being evaluated for commitment to the facility for treatment as a condition of probation. The agents shall also perform any other probationary services the judges may from time to time request.

(c) (1) Prior to the sentence by the circuit court of any county to the jurisdiction of the Division of Correction of any defendant convicted of a felony, or a misdemeanor which resulted in serious physical injury or death to the victim, or the referral of any defendant to the Pautuxent Institution, a presentence investigation shall be completed by the Division of Parole and Probation and considered by the court, unless the court specifically orders to the contrary in a particular case.

(2) (i) The presentence investigation shall include a victim impact statement, if:

1. The defendant, in committing a felony, caused physical, psychological, or economic injury to the victim; or

2. The defendant, in committing a misdemeanor, caused serious physical injury or death to the victim.

(ii) If the court does not order a presentence investigation, the State's attorney may prepare a victim impact statement to be submitted to the court and the defendant in accordance with the Maryland Rules of Procedure pertaining to presentence investigations.

(iii) The court shall consider the victim impact statement in determining the appropriate sentence, and in entering any order of restitution to the victim under Article 27, sec. 640 (c) of the Code.

(3) A victim impact statement shall:

(i) Identify the victim of the offense;

(ii) Itemize any economic loss suffered by the victim as a result of the offense;

(iii) Identify any physical injury suffered by the victim as a result of the offense; along with its seriousness and permanence;

(iv) Describe any change in the victim's personal welfare or familial relationships as a result of the offense;

(v) Identify any request for psychological services initiated by the victim or the victim's family as a result of the offense; and

(vi) Contain any other information related to the impact of the offense upon the victim that the court requires.

What else would you like the judge to know about the impact of this crime?

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The category under which this crime is classified has been marked on the table below. Please note it and read the explanation beneath the table before answering the next question.

CRIME	MAXIMUM SENTENCE
Class A Felony	Up to life in prison
Class B Felony	Up to 25 years in prison
Class C Felony	Up to 10 years, and/or \$10,000 fine
Class D Felony	Up to 5 years, and/or \$ 7,500 fine
Aggravated Misdemeanor	Up to 2 years, and/or \$ 5,000 fine
Serious Misdemeanor	Up to 1 year, and/or \$ 1,000 fine
Simple Misdemeanor	Up to 30 days, or \$ 100 fine

A defendant may also receive a suspended sentence, which consists of a period of probation during which he or she must report to the Department of Corrections. Another possible sentence is a deferred judgment, which can be given to first time offenders or under other special circumstances. A deferred judgment consists of a period of probation at the end of which the offense is removed from the defendant's criminal record. It cannot be given to anyone found guilty of a forcible felony. The sentencing judge has the right to impose any sentence within the limits set by the law. He or she may take into consideration the recommendations of the county attorney and the pre-sentence investigator, as well as the opinions of the victim, the defendant, and the defense attorney, but is not bound by them.

What kind of sentence would you consider fair for the defendant?

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These comments will be entered into the court file but will be placed in a separate envelope to make sure that they are kept confidential. They will be read by the judge, the defendant, the defense attorney, the pre-sentence investigator, the victim witness coordinator and the county attorney.

\_\_\_\_\_  
Date Signature

\_\_\_\_\_  
Print Name Here

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Copies To:

Defendant's Attorney  
County Attorney  
Dept. of Correctional Services

RESTITUTION INFORMATION

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: (home) \_\_\_\_\_ (work) \_\_\_\_\_

Case Name: State of Iowa Vs. \_\_\_\_\_

PROPERTY STOLEN OR DAMAGED

Describe property that was stolen or damaged. List its value and/or the cost of its repair. ATTACH COPIES OF BILLS, RECEIPTS, ETC.

	Description	Value/ Cost
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

Have you been or do you expect to be reimbursed by an insurance company for any property damages listed? Please list the line numbers from above which correspond to losses for which you have been or expect to be reimbursed, your deductible, if any, and the name of the insurance company and agent(s). ATTACH COPIES OF BILLS, RECEIPTS, ETC.,

Line No.   \$ Rec'd   \$ Expected   Deductible   Insurance Co, Address and Agent




### MEDICAL OR FUNERAL EXPENSES

Describe any medical or funeral expenses you may have incurred as a result of this crime. Include the name of the hospital or doctor and cost. ATTACH COPIES OF BILLS, RECEIPTS, ETC.

Date	Type of Expense	Hospital/Doctor	Cost
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			

Have you been or do you expect to be reimbursed by an insurance company for any medical or funeral expenses listed above? Please list the line number from above which corresponds to the expense for which you have been or expect to be reimbursed, your deductible, if any, and the name of the insurance company and agent(s). If you have received or expect an award from the Iowa Crime Victims Reparation Program, note this also. ATTACH COPIES OF BILLS, RECEIPTS, ETC.

Line No.   \$ Rec'd   \$ Expected   Deductible   Insurance Co., Address and Agent


### OTHER EXPENSES

If you have suffered any other expenses as a result of this crime, please list them here. This could include lost income, child care during court appearances, etc. Please be specific and ATTACH COPIES OF BILLS, RECEIPTS, ETC.

Description	Cost

## Restitution Sample Statute

### Utah

*Be it enacted by the Legislature of the State of Utah:*

Section 1. Section 76-3-201, Utah Code Annotated 1953, as amended by Chapter 69, Laws of Utah 1979 is amended to read:

(1) Within the limits prescribed by this chapter, a court may sentence a person adjudged guilty of an offense to any one of the following sentences or combination of such sentences:

- (a) To pay a fine; or
- (b) To removal from and/or disqualification of public or private office; or
- (c) To probation; or
- (d) To imprisonment; or
- (e) To death.

(2) This chapter shall not derive a court of authority conferred by law to forfeit property, dissolve a corporation, suspend, or cancel a license or permit, removal of a person from office, cite for contempt, or impose any other civil penalty. A civil penalty may be included in a sentence.

(3)(a) When a person is adjudged guilty of criminal activities which have resulted in pecuniary damages, in addition to any other sentence it may impose, the court shall order that the defendant make restitution to the victim, *unless the court is applying the criteria in section 3(b) of this chapter, finds that restitution is inappropriate. If the court determines that restitution is inappropriate, the court shall state in writing the reasons for the decision.*

(b) In determining whether to order restitution or restitution which is complete, partial or nominal, the court shall take into account:

(i) The financial resource of the defendant and the burden that payment of restitution will impose, with due regard to the other obligations of the defendant;

(ii) The ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court; and

(iii) The rehabilitative effect on the defendant of the payment of restitution and the method of payment.

(c) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall at the time of sentencing allow him a full hearing of such issue.

(4) As used in subsection (3) above

(a) "Criminal activities" means any offense with respect to which the defendant is convicted or any other criminal conduct admitted by the defendant;

(b) "Pecuniary damages" means all special damages, but not general damages, which a person could recover against the defendant in a civil action arising out of the facts or events constituting the defendant's criminal activities and shall include, but not be limited to, the money equivalent of property taken, destroyed, broken or otherwise harmed, and losses such as medical expenses;

(c) "Restitution" means full, partial or nominal payment of pecuniary damages to a victim;

(d) "Victim" means any person whom the court determines has suffered pecuniary damages as a result of the defendant's criminal activities; "victim" shall not include any coparticipant in the defendant's criminal activities.

Section 2. Section 76-3-201.3, Utah Code Annotated 1953, is enacted to read:

(1) 76-3-201.3 The victim or victims of any criminal activity which has resulted in pecuniary damages shall forward a written report detailing all pecuniary damages suffered by the victim or victims to the investigating law enforcement agency within fifteen days following the initial report of such criminal activity.

(2) The report, to be signed under oath, shall detail all pecuniary loss including estimates of the monetary values of any such loss. The signed report shall be made a part of the official report of any criminal investigation.

(3) When a person is adjudged guilty of criminal activities which have resulted in pecuniary damages, the court shall use the damage report filed by the victim or victims of such criminal activity in determining appropriate restitution.

(4) The Department of Public Safety shall prepare, and upon request supply to police departments, sheriffs and other suitable agencies, forms for such damage reports. The damage report forms shall be provided to the victim or victims of any criminal activity which has resulted in pecuniary damages by the investigation law enforcement officer.

Section 3. Section 77-18-1, Utah Code Annotated 1953, enacted by chapter 15, Laws of Utah 1980, is amended to read:

Section 77-18-1 (1) On a plea of guilty or no contest or conviction of any crime or offense, if it appears compatible with the public interest, the court may suspend the imposition or execution of sentence and place the defendant on probation for such period of time as it determines. The legal offender and the chief agent of the adult probation and parole section of the state division of corrections. In cases that do not involve an indeterminate sentence, the period of probation may exceed the length of time of the maximum sentence that could be imposed.

(2) Prior to imposing any sentence for an offense for which probation may be granted, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a pre-sentence report of the defendant. The contents of the report shall be confidential. The court may disclose all or parts of the report to the defendant or his counsel as the interest of justice requires. At the time of sentence, the court shall hear any testimony or information the defendant or the prosecuting attorney may wish to present concerning the appropriate sentence. Such testimony or information shall be presented in open court on record and in the presence of the defendant.

(3) After hearing, the court may increase or decrease the probation period and may revoke or modify any condition of probation. While on probation, and as a condition thereof, the defendant may be required to pay, in one or several sums, any fine imposed at the time of being placed on probation. While on probation and as a condition thereof, the defendant shall be required to make restitution or reparation to the aggrieved party or parties for pecuniary damages as provided in section 76-3-201 caused by the offense to which the defendant had pleaded guilty, no contest or for which a conviction was had, unless the court in applying the criteria stated in 76-3-201(3) finds that the restitution is inappropriate. If the court determines that restitution is inappropriate, the court shall state in writing the reasons for the decision. The defendant may be required to pay amounts required under provision of section 77-32a-1 through 77-32a-14. He may also be required to provide for the support of others for whose support he is legally liable, to participate in rehabilitation programs as may be available, and to serve a period of time in the county jail not to exceed one year.

(4)(a) Probation may not be revoked except upon a hearing in a court and a finding that the conditions of probation have been violated.

(b) Upon the filing of an affidavit alleging with particularity facts asserted to constitute violation of the conditions of probation, the court which authorized probation shall determine whether the affidavit establishes probable cause to believe that revocation or modification of probation may be justified. If the court determines that there is probable cause, it shall cause to be served on the defendant a copy of the affidavit and an order to show cause why his probation should not be revoked or modified.

(c) The order to show cause shall specify a time and place for the hearing, which shall be within seven days of the service upon the defendant unless he shows good cause for a continuance, and shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed for him if he is indigent. The order shall also inform the defendant of the right to present evidence as provided in the Utah Rules of Civil Procedure.

(d) At the hearing, the defendant shall admit or deny the allegations of the affidavit. If the defendant denies the allegations of the affidavit, the prosecuting attorney shall present evidence on the allegations, which need not be evidence admissible in trial. The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders. The defendant may call witnesses, appear and speak in his own behalf, and present evidence.

(e) After hearing, the court shall make findings of fact. Upon determining that the defendant violated the conditions of probation, the court may order the probation revoked, modified or continued. If probation is revoked, the defendant shall be sentenced or the sentence previously imposed shall be executed.

Section 4. Section 77-27-3, Utah Code Annotated 1953, as enacted by Chapter 15, Laws of Utah 1980, is amended to read:

77-27-3.(1). The board of pardons shall determine, by majority decision, when and under what conditions, subject to the provisions of this chapter, persons now or hereafter serving sentences, in all cases except treason or impeachment, or as otherwise limited by law, may be released upon parole, pardoned, or have their fines or forfeitures remitted, or their sentences commuted or terminated. No fines or forfeiture shall be remitted, no parole, pardon or commutation granted or sentence terminated, except after a full hearing before the board in open session and after appropriate prior notice of the time and place of the hearing has been given. The orders and decisions of the board of pardons and any dissent thereto shall be reduced to writing.

(2) The determinations and decisions of the board of pardons in cases involving approval or denial of any action whatsoever, of paroles, pardons, commutations or terminations of sentence, or remission of fines and forfeitures shall be final.

(3) Nothing herein shall be construed as a denial of or limitation on the governor's power to grant respites or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment; however, such respites or reprieves shall not extend beyond the next session of the board of pardons and the board, or it may commute the punishment, or pardon the offense as herein provided. In the case of conviction for treason, the governor has the power to suspend execution of the sentence, until the case shall be reported to the legislature at its next session, when the legislature shall either pardon or commute the sentence, or direct its execution.

*In determining when and where and under what conditions persons now or hereafter serving sentences may be released upon parole, pardoned or have their fines or forfeitures remitted, or their sentences commuted or terminated, the state board of pardons shall consider whether such persons have made or are prepared to make restitution as defined in section 76-3-201, as a condition of any parole, pardon, remission of fines or forfeitures, commutation or termination of sentence.*

*If the state board of pardons determines that restitution is inappropriate, the state board of pardons shall state in writing the reasons of the decision.*

When the state board of pardons orders the release on parole of an inmate who has been sentenced to make restitution pursuant to section 76-3-201, but with respect to whom payment of all or portion of the restitution was suspended until his release from imprisonment, the board [may] shall establish a schedule and supervising the paroled inmate's performance thereunder the board [may] shall consider the factors specified in section 76-3-201(3). The board [may] shall provide to the sentencing court a copy of the schedule and any modifications thereof.

\*The Utah Constitution presently grants autonomous powers to the state board of pardons in determining conditions for parole. Therefore, the provisions of subsection (d) would be in violation of the present Utah constitutional language.

## Intimidation Sample Statute

### American Bar Association Model

#### AMERICAN BAR ASSOCIATION MODEL

##### Section 1. DEFINITIONS

The following words have significance attached to them hereunder throughout this chapter.

- (a) "Malice" means an intent to vex, annoy, harm, or injure in any way another person, or to thwart or interfere in any manner with the orderly administration of justice.
- (b) "Witness" means any natural person.
  - (1) having knowledge of the existence or nonexistence of facts relating to any crime or
  - (2) whose declaration under oath is received or has been received as evidence for any purpose; or
  - (3) who has reported any crime to any peace officer, prosecutor, probation or parole officer, correctional officer or judicial officer or
  - (4) who has been served with a subpoena issued under the authority of any court in the state, or of any other state or of the United States, or
  - (5) who would be believed by a reasonable person to be an individual described in Subsections (1), (2), (3), or (4) hereof.
- (c) "Victim" means any natural person against whom any crime as defined under the laws of this state or any state or of the United States is being or has been perpetrated or attempted to be perpetrated.

##### Section 2. MISDEMEANOR—INTIMIDATION OF WITNESSES AND VICTIMS

Except as provided in Section 3, every person who knowingly and maliciously prevents or dissuades or attempts to so prevent or dissuade any witness or victim from attending or giving testimony at any trial, proceeding or inquiry authorized by law or who attempts to prevent or dissuade another person who has been the victim of a crime or who is a witness to a crime or a person acting on behalf of the victim of a crime from

- (a) making any report of such victimization to any peace officer or state or local or federal law enforcement officer or probation or parole or correctional officer or prosecuting agency or to any judge;
- (b) causing a complaint, indictment, information, probation or parole violation to be sought and prosecuted and assisting in the prosecution thereof;
- (c) arresting or causing or seeking the arrest of any person in connection with such victimization, is guilty of a misdemeanor.

##### Section 3. FELONIOUS INTIMIDATION OF WITNESSES AND VICTIMS

Every person doing any of the acts described in the misdemeanor section on intimidation of witnesses and victims in Section 2 knowingly and maliciously under any one or more of the following circumstances, is guilty of a felony:

- (a) Where such act is accompanied by an express or implied threat of force or violence, upon a witness or victim or any third person or the property of any victim, witness, or any third person,
- (b) Where such act is furtherance of a conspiracy,
- (c) Where such act is committed by any person who has been convicted of any violation of this chapter, any predecessor law hereto or any Federal statute or statute of any other state which, if the act prosecuted was committed in this state, would be a violation of this chapter, or
- (d) Where such act is committed by any person for pecuniary gain or for any other consideration acting upon the request of any other person. All parties to such a transaction are guilty of a felony.

##### Section 4. ATTEMPTS

Every person attempting the commission of any act described in the foregoing sections is guilty of the offense attempted without regard to success or failure of such attempt. The fact that no person was injured physically, or in fact intimidated, shall be no defense against any prosecution under the chapter.

##### Section 5. COURT ORDERS

Any court with jurisdiction over any criminal matter may in its discretion upon good cause (which may include but is not limited to credible hearsay or the declaration of the prosecutor or defense attorney) that intimidation or dissuasion of any person who is a victim or who is a witness has occurred or is reasonably likely to occur, issue orders including, but not limited to the following:

- (a) An order that a defendant not violate any provision of this chapter.
- (b) An order that a person before the court other than defendant, including, but not limited to, a subpoenaed witness or other person entering the courtroom of said court, not violate any provisions of this chapter.
- (c) An order that any person described in this subsection maintain a prescribed geographic distance from any specified witness or victim.
- (d) An order that any person described in this subsection have no communication whatsoever with any specified witness or any victim, except through an attorney under such reasonable restrictions as the court may impose.

(e) An order calling for a hearing to determine if an order as described in (a) through (d) should be issued.

(f) An order that a particular law enforcement agency within the jurisdiction of the court provide protection for a victim and/or witness.

#### Section 6. VIOLATIONS OF ORDERS

Any person violating any order made pursuant to Section 5 may be punished in any of the following ways:

(a) For any substantive offense described in this chapter, where such provision of an order is a violation of any provisions of Section 2 through 4

(b) As a contempt of the court making such order;

(1) No finding of contempt shall be a bar to prosecution for a substantive offense under this chapter, but

(i) any person so held in contempt shall be entitled to credit for any punishment imposed therein against any sentence imposed upon conviction of said and substantive offense and

(ii) any conviction or acquittal for any substantive offense under Section 2 through 5 shall be a bar to subsequent punishment for contempt arising out of the same act.

(c) By revocation of any form of pre-trial release and/or the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding him into custody, said revocation may, after a hearing and upon a showing by clear and convincing evidence, in the sound discretion of the court, be made whether the violation order complained of has been committed by the defendant, personally, or in any way caused or encouraged to have been committed by said defendant.

#### Section 7. PRE-TRIAL RELEASE

Any pre-trial release of any defendant, whether on bail or under any other form of recognizance, shall be deemed, as a matter of law, to include a condition that the defendant neither do, nor cause to be done, nor knowingly permit to be done on his behalf, any act proscribed by this chapter hereof and any willful violation of said condition is subject to sanction as prescribed in Section 6(c) whether or not the defendant was the subject of an order under Section 5 (i.e., the section relating to Court Orders).

(a) From and after the effective date of this chapter, any receipt for any bail or bond given by the clerk of any court, by any court, by any surety or bondsman and/or any written promise to appear one's own recognizance shall contain in a conspicuous location, notice of this Section 7.

**Counselor Confidentiality  
Sample Statute**

**PENNSYLVANIA**

**TITLE 42 PA CONSOLIDATED  
STATUTES ANNOTATED  
Section 5945.1  
Enacted 1981**

AMENDING TITLE 42 (JUDICIARY AND JUDICIAL PROCEDURE) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, PROVIDING FOR CONFIDENTIAL COMMUNICATIONS TO COUNSELORS OF SEXUAL ASSAULT VICTIMS.

THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA HEREBY ENACTS AS FOLLOWS:

**SECTION 1.** Title 42, act of November 25, 1970 (P.L. 707, No. 230), known as the Pennsylvania Consolidated Statutes, is amended by adding a section to read:

§ 5945.1. Confidential communications to sexual assault counselors.

(a) Definitions. — As used in this section the following words and phrases shall have the meanings given to them in this subsection:

*"Rape crisis center."* Any office, institution or center offering assistance to victims of sexual assault and their families through crisis intervention, medical and legal accompaniment and follow-up counseling.

*"Sexual assault counselor."* A person who is engaged in any office, institution or center defined as a rape crisis center under this section, who has undergone 40 hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling or assistance to victims of sexual assault.

*"Victim."* A person who consults a sexual assault counselor for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused by a sexual assault.

*"Confidential communication."* Information transmitted between a victim of sexual assault and a sexual assault counselor in the course of that relationship and in confidence by a means which, so far as the victim is aware, does not disclose the information to a third person other than those who are present to further the interests of the victim in the consultation or those to whom disclosure is reasonably necessary to the transmission of the information or an accomplishment of the purposes for which the sexual assault counselor is consulted. The term includes all information received by the sexual assault counselor in the course of that relationship.

(b) Privilege. — A sexual assault counselor has a privilege not to be examined as a witness in any civil or criminal proceeding without the prior written consent of the victim being counseled by the counselor as to any confidential communication made by the victim to the counselor or as to any advice, report or working paper given or made in the course of the consultation.



## **Court Attendance Sample Statute**

### **Alabama Act 83-508**

**BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:**

**SECTION 1.** This Act shall be known as and may be cited as "The Alabama Crime Victims Court Attendance Act."

**SECTION 2.** (a) The Legislature hereby finds and determines that it is essential to the fair and impartial administration of justice that a victim of a criminal offense be afforded a reasonable opportunity to attend any trial or hearing or any portion thereof conducted by any court which in any way pertains to such offense. (b) Further, the Legislature hereby finds and determines that it is essential to the fair and impartial administration of justice that a victim of a criminal offense not be excluded from any hearing or trial or any portion thereof conducted by any court which in any way pertains to such offense, merely because the victim has been or may be subpoenaed to testify at such hearing or trial or because of any arbitrary or invidious reason. (c) The provisions of this Act are to be construed so as to accomplish these purposes and to promote the same which are hereby declared to be the public policy of this state.

**SECTION 3.** Unless the context clearly requires otherwise or unless different meanings are expressly specified in subsequent provisions of this Act, wherever used in this Act, in the singular or plural case, the term:

(a) "person" shall mean: (1) a human being; (2) a public or private corporation, an unincorporated association, a partnership, or other entity established by law; (3) a government or a governmental instrumentality, including, but not limited to, the State of Alabama or any political subdivision thereof.

(b) "criminal offense" shall mean: (1) conduct which is alleged in any summons, complaint, warrant of arrest, information, presentment, or indictment and for which a sentence to a term of imprisonment, or the death penalty, or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state.

(c) "victim" shall mean: (1) a person who is a victim of the defendant's criminal offense.

**SECTION 4.** The victim of a criminal offense shall be entitled to be present in any court exercising any jurisdiction over such offense and therein to be seated at the counsel table of any prosecutor prosecuting such offense or other attorney representing the government or other persons in whose name such prosecution is brought.

**SECTION 5.** A victim of a criminal offense shall not be excluded from court or counsel table during the trial or hearing or any portion thereof conducted by any court which in any way pertains to such offense, provided, however, a judge may remove a victim from the trial or hearing or any portion thereof for the same causes and in same manner as the rules of court or law provides for the exclusion or removal of the defendant.

**SECTION 6.** A victim of a criminal offense shall be exempt from the operation of rule of court, regulation, or statute or other law requiring the separation or exclusion of witnesses from court in criminal trials or hearings.

**SECTION 7.** (a) Whenever a victim is unable to attend such trial or hearing or any portion thereof by reason of death; disability; hardship; incapacity; physical, mental, or emotional condition; age; or other inability, the victim, the victim's guardian or the victim's family may select a representative who shall be entitled to exercise any right granted to the victim, pursuant to the provisions of this Act. (b) Provided, however, in the event of a dispute, the court in its discretion may designate such representative.

**SECTION 8.** The failure of a victim or a person designated to represent the victim to exercise any right granted by the provisions of this Act shall not be cause or ground for an appeal of a conviction by a defendant or for any court to set aside, reverse or remand a criminal conviction.

**SECTION 9.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**SECTION 10.** All laws or parts of laws which conflict with this Act are hereby repealed.

**SECTION 11.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.





## **SPEEDY TRIAL**

### **NEW HAMPSHIRE**

#### **New Hampshire Criminal Code 632-A.9**

632-A.9 Speedy Trial. In any action under this chapter involving a victim 13 years of age or under or a victim 65 years of age or older, the court and the department of justice shall take appropriate action to ensure a speedy trial to minimize the length of time the victim must endure the stress of involvement in the proceeding. In ruling on any motion or request for a delay or continuance of proceedings, the court shall consider any adverse impact the delay or continuance may have on the well-being of the victim or any witness who is 13 years of age or under or 65 years of age or older. This provision establishes a right to a speedy trial for the victim and shall not be construed as creating any additional rights for the defendant.



**Children's Bill of Rights**  
**Sample Statute**  
**Wisconsin**  
**Substitute Amendment to 1983 AB 115**

AN ACT to renumber 950.02 (1); to amend 48.31 (2), 57.06 (3), and 970.03 (11); and to create 950.02 (1), 950.08, 950.09, 967.04 (7), 970.03 (11) (b), 971.10 (5) and 973.10 (2m) of the statutes, relating to rights of child victims and witnesses of crimes.

THE PEOPLE OF THE STATE OF WISCONSIN, REPRESENTED IN SENATE AND ASSEMBLY,  
DO ENACT AS FOLLOWS:

**SECTION 1.** 48.31 (2) of the statutes is amended to read:

48.31 (2) The hearing shall be to the court unless the child, parent, guardian or legal custodian exercises the right to a jury trial by demanding a jury trial at any time before or during the plea hearing. Chapters 756 and 805 shall govern the selection of jurors except that ss. 972.03 and 972.04 shall apply in cases in which the juvenile is alleged to be delinquent under s. 48.12. If the hearing involves a child victim or witness, the court and the district attorney shall comply with s. 950.09 (2). At the conclusion of the hearing, the court or jury shall make a determination of the facts. If the court finds that the child is not within the jurisdiction of the court or the court or jury finds that the facts alleged in the petition or citation have not been proved, the court shall dismiss the petition or citation with prejudice.

**SECTION 2.** 57.06 (3) of the statutes is amended to read:

57.06 (3) Every paroled prisoner remains in the legal custody of the department unless otherwise provided by the department. If the department alleges that any condition or rule of parole has been violated by the prisoner, the department may take physical custody of the prisoner for the investigation of the alleged violation. If the department is satisfied that any condition or rule has been violated it shall afford the prisoner such administrative hearings as are required by law. The final administrative hearing shall be held before a hearing examiner who is licensed to practice law in this state. The hearing examiner shall enter an order revoking or not revoking parole which order shall be, upon request by either party, reviewed by the secretary. The hearing examiner may order the taking of a videotaped deposition under s. 967.04 (7). If the examiner or the secretary upon review finds that the prisoner has violated the rules or conditions of parole, the examiner, or the secretary upon review, may order the prisoner returned to prison to continue serving his or her sentence, or to continue on parole, and in either case, may order that the prisoner forfeit good time as provided in s. 53.11 (2a). If the prisoner claims or appears to be indigent, the department shall refer the prisoner to the authority for indigency determinations specified under s. 977.07 (1).

**SECTION 3.** 950.02 (1) of the statutes is renumbered 950.02 (1m).

**SECTION 4.** 950.02 (1) of the statutes is created to read:

950.02 (1) "Child" means a person who is less than 18 years of age.

**SECTION 5.** 950.08 of the statutes is created to read:

950.08 **CHILD VICTIMS AND WITNESSES: RIGHTS AND SERVICES.** In addition to all rights afforded to victims and witnesses under s. 950.04 and services provided under s. 950.05, counties are encouraged to designate one or more persons to provide the following additional services on behalf of children who are involved in criminal proceedings as victims or witnesses.

(1) To explain, in language understood by the child, all legal proceedings in which the child will be involved.

(2) To act, as a friend of the court, to advise the judge, whenever appropriate, of the child's ability to understand and cooperate with any court proceedings.

(3) To assist the child and child's family in coping with the emotional impact of the crime and subsequent criminal proceedings in which the child is involved.

(4) To advise the district attorney concerning the ability of a child witness to cooperate with the prosecution and the potential effects of the proceedings on the child.

(5) To advise judges who would be involved in determinations concerning the taking of videotaped dispositions.

**SECTION 6.** 950.09 of the statutes is created to read:

950.09 **CHILD VICTIMS AND WITNESSES: INTENT AND PROCEDURE.**

(1) **LEGISLATIVE INTENT.** The legislature finds that it is necessary to provide child victims and witnesses with additional consideration and different treatment than that usually required by adults. The legislature intends, in ss. 950.08 and 950.09, to provide these children with additional rights and protections during their involvement with the criminal justice system. The legislature urges the news media to use restraint in revealing the identity of child victims or witnesses, especially in sensitive cases.

(2) **DUTY TO EXPEDITE PROCEEDINGS.** In all criminal cases and juvenile fact-finding hearings under s. 48.31 involving a child victim or witness, the court and the district attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of his or her involvement in the proceeding. In ruling on any motion or other re-

quest for a delay or continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.

(3) **VIDEOTAPED DEPOSITIONS.** If a court in a criminal case determines that a video taped deposition may be taken of a child victim or witness, the procedure under s. 967.04 (7) shall be followed.

(4) **PROGRAM RESPONSIBILITY.** In each county, the county board is responsible for the enforcement of rights and the provision of services under ss. 950.08 and 950.09. If the county board seeks reimbursement for a county program under s. 950.06, the county board may submit a program plan to the department for the provision of services to children under ss. 950.08 and 950.09, and the department shall review, approve, monitor and authorize state reimbursement for the programs as provided in s. 950.06.

**SECTION 7.** 967.04 (7) of the statutes is created to read:

967.04 (7) (a) In this subsection:

1. "Child" has the meaning specified in s. 950.02 (1).
2. "Victim" has the meaning specified in s. 950.02 (4).
3. "Witness" has the meaning specified in s. 950.02 (5).

(b) In any prosecution involving a child victim or witness, the court, on its own motion or the motion of the district attorney, for good cause shown, may order the taking of a videotaped deposition of the victim or witness. The court may allow the videotaped deposition to be used at any proceeding in lieu of or in addition to the direct testimony of the child. The judge may specify where the deposition is taken and who may be present when the deposition is taken. The court may exclude persons whose presence is not necessary for the taking of the deposition. If at the time of taking the deposition the district attorney anticipates using the deposition of the child at trial, examination and cross-examination of the child shall proceed in the same manner as permitted at trial. In any proceeding under s. 57.06 (3) or 973.10 (2), the hearing examiner may order the taking of a videotaped deposition as provided in this subsection which may be used in lieu of the direct testimony of the child.

**SECTION 8.** 970.03 (11) of the statutes is amended to read:

970.03 (11) The court may admit a statement which is hearsay and which is not excluded from the hearsay rule under ss. 908.02 to 908.045:

(a) To prove ownership of property or lack of consent to entry to or possession or destruction of property.

**SECTION 9.** 970.03 (11) (b) of the statutes is created to read:

970.03 (11) (b) If the declarant is alleged to be a victim or witness of a crime and is younger than 18 years old.

**SECTION 10.** 971.10 (5) of the statutes is created to read:

971.10 (5) If a criminal action involves a child victim or witness, the court and district attorney shall comply with s. 950.09 (2).

**SECTION 11.** 973.10 (2m) of the statutes is created to read:

973.10 (2m) In any administrative hearing under sub. (2), the hearing examiner may order the taking of a videotaped deposition under s. 967.04 (7).

**SECTION 12. CROSS-REFERENCE CHANGES.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
103.87	950.02 (1)	950.02 (1m)

**Children's Bill of Rights  
Sample Statute  
Iowa  
Victim and Witness Protection  
House File 462**

Additions in text are indicated by *italic type*; deletions by ~~strikeouts~~.

AN ACT relating to the protection of victims and witnesses in judicial proceedings, and providing penalties.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

**SECTION 1.** Section 235A.15, subsection 2, Code 1985, is amended by adding the following new paragraph:

**NEW PARAGRAPH. 1.** To the department of public safety for the sole purpose of the filing of a claim for reparation pursuant to section 910A.5 and section 912.4, subsections 3, 4, and 5.

**SECTION 2. NEW SECTION. 802.2 SEXUAL ABUSE OF CHILD.**

An information or indictment for sexual abuse in the first, second or third degree committed on or with a child under the age of ten years shall be found within four years after its commission.

**SECTION 3.** Section 802.3, Code 1985, is amended to read as follows:

**802.3 FELONY—AGGRAVATED OR SERIOUS MISDEMEANOR.**

In all cases, except those enumerated in ~~section~~ sections 802.1 and 802.2, an indictment or information for a felony or aggravated or serious misdemeanor shall be found within three years after its commission.

**SECTION 4. NEW SECTION. 910A.1 TITLE.**

This chapter shall be known and may be cited as the "Victim and Witness Protection Act."

**SECTION 5. NEW SECTION. 910A.2 PROTECTION OF CHILD VICTIM'S PRIVACY.**

1. Prior to an arrest or the filing of an information or indictment, whichever occurs first, against a person charged with a violation of chapter 709, section 726.2, or section 728.12, committed with or on a child, as defined in section 702.5, the identity of the child or any information reasonably likely to disclose the identity of the child shall not be released to the public by any public employee except as authorized by the court of jurisdiction.

2. In order to protect the welfare of the child, the name of the child and identifying biographical information shall not appear on the information or indictment or any other public record. Instead, a nondescriptive designation shall appear on all public records. The nonpublic records containing the child's name and identifying biographical information shall be kept by the court. This subsection does not apply to the release of information to an accused or accused's counsel; however, the use or release of this information by the accused or accused's counsel for purposes other than the preparation of defense constitutes contempt.

3. A person who willfully violates this section or who willfully neglects or refuses to obey a court order made pursuant to this section commits contempt.

4. A release of information in violation of this section does not bar prosecution or provide grounds for dismissal of charges.

**SECTION 6. NEW SECTION. 910A.3 RECORDED EVIDENCE.**

1. A court may, upon its own motion or upon motion of any party, order that testimony of a child, as defined in section 702.5, be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court. Only the judge, parties, counsel, persons necessary to operate the equipment, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the child may be present in the room with the child during the child's testimony.

The court may require a party be confined to an adjacent room or behind a screen or mirror that permits the party to see and hear the child during the child's testimony, but does not allow the child to see or hear the party. However, if a party is so confined, the court shall take measures to insure that the party and counsel can confer during the testimony and shall inform the child that the party can see and hear the child during testimony.

2. The court may upon motion of a party order that the testimony of a child, as defined in section 702.5, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 12(2)(b).

3. The court may upon motion of a party admit into evidence the recorded statements of a child, as defined in section 702.5, describing sexual contact performed with or on the child, not otherwise admissible in evidence by statute or court rule if the court determines that the recorded statements substantially comport with the requirements for admission under Iowa rules of evidence 803(24) or 804(5).

**SECTION 7. NEW SECTION. 910A.4 GUARDIAN AD LITEM FOR PROSECUTING WITNESSES.**

A prosecuting witness who is a child, as defined in section 702.5, in a case involving a violation of chapter 709 or section 726.2, 726.3, 726.6, or 728.12, is entitled to have the witness' interests represented by a guardian ad litem at all stages of the proceedings arising from such violation. The

guardian ad litem may but need not be a practicing attorney and shall be designated by the court after due consideration is given to the desires and needs of the child and the compatibility of the child and the child's interests with the prospective guardian ad litem. However, a person who is also a prosecuting witness in the same proceeding shall not be designated guardian ad litem. The guardian ad litem shall receive notice of and may attend all depositions, hearings and trial proceedings to support the child and advocate for the protection of the child but shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses.

**SECTION 8. NEW SECTION. 910A.5 CHILD VICTIM SERVICES.**

1. "Victim" means a child under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony.

2. A professional licensed or certified by the state to provide immediate or short-term medical services or mental health services to a victim may provide the services without the prior consent or knowledge of the victim's parents or guardians. Such a professional shall not deny initial services to a victim due to the fact that the victim is personally unable to pay for the services at the time the services are provided.

3. Such a professional shall notify the victim if the professional is required to report an incidence of child abuse involving the victim pursuant to section 232.69.

**SECTION 9. Section 912.4, subsection 1, Code 1985, is amended to read as follows:**

1. To claim a reparation under the crime victim reparation program, a person shall apply in writing on a form prescribed by the commissioner and file the application with the commissioner within one hundred eighty days after the date of the crime, or of the discovery of the crime, or within one hundred twenty days after the date of death of the victim.

**SECTION 10. Section 912.4, Code 1985, is amended by adding the following new subsections:**

**NEW SUBSECTION. 3.** Notwithstanding subsection 2, a victim under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony is not required to report the crime to the local police department or county sheriff department to be eligible for reparation if the crime was allegedly committed upon a child by a person responsible for the care of a child, as defined in section 232.68, subsection 6, and was reported to an employee of the department of human services and the employee verifies the report to the commissioner.

**NEW SUBSECTION. 4.** When immediate or short-term medical services or mental health services are provided to a victim under section 910A.5, the department of human services shall file the claim for reparation as provided in subsection 3 for the victim and the provisions of section 912.7, subsection 2, paragraphs "b" and "c" do not apply.

**NEW SUBSECTION. 5.** When immediate or short-term medical services to a victim are provided pursuant to section 910A.5 by a professional licensed or certified by the state to provide such services, the professional shall file the claim for reparation, unless the department of human services is required to file the claim under this section, and the provisions of section 912.7, subsection 2, paragraphs "b" and "c" do not apply. The requirement to report the crime to the local police department or county sheriff department under subsection 2 does not apply to this subsection.

**SECTION 11. NEW SECTION. 912.13 RULEMAKING.**

The department shall adopt rules pursuant to chapter 17A to implement the procedures for reparation payments with respect to section 910A.5 and section 912.4, subsections 3, 4, and 5.

**SECTION 12. Rule of criminal procedure 3, subsection 4, Iowa court rules, second edition, is amended by adding the following new lettered paragraph:**

**NEW LETTERED PARAGRAPH. k.** A person under the age of ten years shall not be required to personally appear before a grand jury to testify against another person related to the person or another person who resided with the person at the time of the action which is the subject of the grand jury's investigation, unless there exists a special order of the court finding that the interests of justice require the person's appearance and that the person will not be disproportionately traumatized by the appearance.

**SECTION 13. Rule of criminal procedure 8.1, Iowa court rules, second edition, is amended by adding the following new numbered subsection:**

**NEW NUMBERED SUBSECTION. 3. PRIORITY ASSIGNMENT.**

Prosecutions for violations of sections 709.2, 709.3, 709.4 and 726.2 shall, as practicable, be given priority on a court's criminal docket.

**SECTION 14. Rule of criminal procedure 12, section 2, Iowa court rules, second edition, is amended to read as follows:**

**2. SPECIAL CIRCUMSTANCES.**

a. Whenever the interests of justice and the special circumstances of a case make necessary the taking of the testimony of a prospective witness not included in subsection 1 or 3 of this rule; for use at trial, the court may upon motion of a party and notice to the other parties order that the testimony of the witness be taken by deposition and that any designated book, paper, document, record, recording, or other material, not privileged, be produced at the same time and place. For purposes of this subsection, special circumstances shall be deemed to exist and the court shall order that depositions be taken only upon a showing of necessity arising from either of the following:

a. (1) The information sought by way of deposition cannot adequately be obtained by a bill of particulars or voluntary statements.

b. (2) Other just cause necessitates the taking of the deposition.

b. The court may upon motion of a party and notice to the other parties order that the testimony of a victim or witness who is a child, as defined in section 702.5, Code 1985, be taken by deposition for use at trial. Only the judge, parties, counsel, persons necessary to record the deposition, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the child may be present in the room with the child during the child's deposition.

The court may require a party be confined to an adjacent room or behind a screen or mirror that permits the party to see and hear the child during the child's deposition, but does not allow the child to see or hear the party. However, if a party is so confined, the court shall take measures to insure that the party and counsel can confer during the deposition and shall inform the child that the party can see and hear the child during deposition.

**SECTION 15.** Rule of criminal procedure 20, subsection 3, Iowa court rules, second edition, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Corroboration of the testimony of victims shall not be required.

**SECTION 16.** Rule of evidence 601, Iowa court rules, second edition, is amended by striking the rule and inserting in lieu thereof the following:

**RULE 601. GENERAL RULES OF COMPETENCY.**

A person of sufficient capacity to understand the obligation of an oath or affirmation is competent to be a witness except as otherwise provided by rule or statute.

However, a child, as defined in section 702.5, Code 1985, is presumed to be competent. If the child's competency is questioned the court shall determine whether the child is mentally capable of understanding the nature of the questions put to the child, whether the child is able to formulate intelligent answers and communicate impressions and recollections regarding the incident about which the child is to testify, and whether the child can understand the responsibility to tell the truth. In making these determinations, the court may do any or all of the following:

1. In consultation with counsels, conduct a voir dire of the child outside the courtroom. If the judge elects to conduct a voir dire of the child outside the courtroom, the judge shall allow only the court reporter, counsels, parties and those persons necessary for the welfare of the child to be present during voir dire. The judge may require a party be confined to an adjacent room or behind a screen or mirror that permits the party to see and hear the child during voir dire, but does not allow the child to see or hear the party. However, if a party is so confined, the judge shall take measures to insure that the party and counsel can confer during the voir dire.

2. Review recorded or nonrecorded evidence.

3. Receive expert testimony.

4. Take any other action permitted by Iowa rules of evidence 611 or 104.

Approved May 23, 1985.





## **MANDATORY ARREST**

### **IOWA CHAPTER 236 DOMESTIC ABUSE**

#### **Sec. 236.12 Prevention of further abuse - notification of rights - arrest - liability.**

1. If a peace officer has reason to believe that domestic abuse has occurred, the officer shall use all reasonable means to prevent further abuse including but not limited to the following:

a. If requested, remaining on the scene as long as there is a danger to an abused person's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain on the scene, assisting the person in leaving the residence.

b. Assisting an abused person in obtaining medical treatment necessitated by an assault, including providing assistance to the abused person in obtaining transportation to the emergency room of the nearest hospital.

c. Providing an abused person with immediate and adequate notice of the person's rights. The notice shall consist of handing the person a copy of the following statement written in English and Spanish, asking the person to read the card and whether the person understands the rights:

"You have the right to ask the court for the following help on a temporary basis:

(1) Keeping your attacker away from you, your home and your place of work.

(2) The right to stay at your home without interference from your attacker.

(3) Getting custody of children and obtaining support for yourself and your minor children if your attacker is legally required to provide such support.

(4) Professional counseling.

You have the right to file criminal charges for threats, assaults, or other related crimes.

You have the right to seek restitution against your attacker for harm to yourself or your property.

If you are in need of medical treatment, you have the right to request that the officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and other affected parties can leave or until safety is otherwise ensured."

The notice shall also contain the telephone numbers of safe shelters, support groups, or crisis lines operating in the area.

2. The peace officer shall make a reasonable inquiry of the person upon whom the harm has been inflicted and of any witnesses. If, after inquiry, the officer has probable cause to believe that domestic abuse has been committed, the peace officer shall arrest the abuser.

3. A peace officer is not civilly or criminally liable for actions pursuant to this section taken in good faith.



**Standards of Training  
for Victim Advocates  
Sample Statute**

**CALIFORNIA**

13835.10. [Legislative findings and declarations; statewide victim-assistance training program]

(a) The Legislature finds and declares all of the following:

(1) That the provision of quality services for victims of crime is of high priority.

(2) That existing victim service programs do not have sufficient financial resources to consistently recruit and employ fully trained personnel.

(3) That there is no consistency in the training provided to the various agencies serving victims.

(4) That comprehensive training for victim service agencies is geographically limited or unavailable.

(5) That there is currently no statewide comprehensive training system in place for the state to insure that all service providers receive adequate training to provide quality services to victims of crime.

(6) It is the intention of the Legislature to establish a statewide training program within the Office of Criminal Justice Planning to provide comprehensive standardized training to victim service providers.

(b) The Office of Criminal Justice Planning shall establish a statewide victim-assistance training program, the purpose of which is to develop minimum training and selection standards, certify training courses, and provide funding to enable local victim service providers to acquire the required training.

(c) (1) For the purpose of raising the level of competence of local victim service providers, the office shall adopt guidelines establishing minimum standards of training for employees of victim-witness and sexual assault programs funded by the office to provide services to victims of crime. The office shall establish an advisory committee composed of recognized statewide victim service organizations, representatives of local victim service programs, and others selected at the discretion of the executive director to consult on the research and development of the training, selection, and equivalency standards.

(2) Any local unit of government, community-based organization, or any other public or private nonprofit entity funded by the office as a victim-witness or sexual assault program to provide services to victims of crime shall adhere to the training and selection standards established by the office. The standards for sexual assault victim service programs developed by the advisory committee established pursuant to Section 13836 shall be the standards for purposes of this section. With the exception of the sexual assault standards, the office shall conduct or contract with an appropriate firm or entity for research on validated standards pursuant to this section in consultation with the advisory committee established pursuant to paragraph (1). The office may defer the adoption of the selection standards until the necessary research is completed; until the standards are adopted, affected victim service programs may receive state funding from the office upon certification of their willingness to adhere to the training standards adopted by the office.

(3) Minimum training and selection standards may include, but shall not be limited to, basic entry, continuation, supervisory, management, and specialized curricula.

(4) Training and selection standards shall apply to all victim service and management personnel of the victim-witness and sexual assault agencies funded by the office to provide services to victims of crime. Exemptions from this requirement may be made by the office. An agency, which, despite good faith efforts, is unable to meet the standards established pursuant to this section, may apply to the office for an exemption. For the purpose of exemptions, the office may establish procedures that allow for partial adherence. The office may develop equivalency standards which recognize professional experience, education, training, or a combination of the above, for personnel hired before July 1, 1987.

(5) Nothing in this section shall prohibit an agency, funded by the office to provide services to victims of crime, from establishing training and selection standards which exceed the minimum standards established by the office pursuant to this section.

(d) For purposes of implementing this section, the office has all of the following powers:

(1) To approve or certify, or both, training courses selected by the office.

(2) To make such inquiries as may be necessary to determine whether every local unit of government, community-based organization, or any other public or private entity receiving state aid from the office as a victim-witness or sexual assault program for the provision of services to victims of crime, is adhering to the standards for training and selection established pursuant to this section.

(3) To adopt such guidelines as are necessary to carry out the purposes of this section.

(4) To develop or present, or both, training courses for victim service providers, or to contract with coalitions, councils, or other designated entities, to develop or present, or both, those training courses.

(5) To perform such other activities and studies necessary to carry out the intent of this section.

(e) In order for the Legislature to determine the need to continue or modify the standards and training programs for local victim service providers, the office shall report to the Legislature on October 1, 1990, and biannually thereafter, regarding the progress and effectiveness of the training program.

(f) (1) The office may utilize any funds that may become available from the Victim-Witness Assistance Fund to fund the cost of training staff of victim service agencies which are funded by the office from the fund. The office may utilize federal or other state funds that may become available to fund the cost of training staff of victim service agencies which are not eligible for funding from the Victim-Witness Assistance Fund.

(2) Peace officer personnel whose jurisdictions are eligible for training subvention pursuant to Chapter 1 (commencing with Section 13500) of Title 4 of this part and correctional or probation personnel whose jurisdictions are eligible for state aid pursuant to Article 2 (commencing with Section 6035) of Chapter 5 of Title 7 of Part 3 are not eligible to receive training reimbursements under this section unless the person receiving training is assigned to provide victim services in accordance with a grant award agreement with the office and is attending training to meet the established standards.

**Victims' Constitutional Amendment Network  
Recommended Wording  
For a Constitutional Amendment**

The victim of crime or his or her representative shall have the right to be informed of, to be present at, and to be heard at all criminal justice proceedings at which the defendant has such rights, subject to the same rules of evidence which govern the defendants rights.



Question 8

STATE OF RHODE ISLAND  
IN CONSTITUTIONAL CONVENTION  
JANUARY SESSION, A.D. 1986

Resolution No. 86-00002 (Sub. A), As Amended

Title: A RESOLUTION RELATING TO RIGHTS OF THE PEOPLE

**RESOLVED:** The Rhode Island Constitutional Convention of 1986 hereby approves Resolution Nos. 00002 (Sub A), 86-00008, 86-00032, 86-00033, 86-00140, and 86-00171 as herein amended, to be included in the proposed constitutional rewrite, Resolution No. 86-00042 (Sub B), as amended, as follows:

SECTION 1. (A) Resolution No. 86-00002 (Sub A) and Resolution No. 86-00008 are hereby merged, and incorporated into a single resolution numbered Resolution No. 86-00002 (Sub B).

(B) Resolution No. 86-00032 and Resolution Nos. 86-00008 and 86-00002 (Sub A), as merged, shall take their place in Article 1, Section 2 of the proposed rewrite, as follows:

Section 2. All free governments are instituted for the protection, safety and happiness of the people. All laws, therefore, should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens. No person shall be deprived of life, liberty of property without due process of law, nor shall any person be denied equal protection of the laws. No otherwise qualified person shall, solely by reason of race, gender or handicap be subject to discrimination by the state, its agents or any person or entity doing business with the state. Nothing in the section shall be construed to grant or secure any right relating to abortion or the funding thereof.

(C) If the proposed rewritten constitution is not approved, then said Resolution Nos. 86-00002 (Sub A), 86-00008 and 86-00032 shall be added to the existing Constitution as an article of amendment thereto, taking the place of Article 1, Section 2, which said section, and all provisions of the Constitution inconsistent therewith would be annulled.

SECTION 2. (A) Resolution No. 86-00033 shall take its place in Article 1, Section 21 of the proposed rewrite, as follows: The citizens have a right in a peaceable manner to assemble for their common good, and to apply to those invested with the powers of government, for redress of grievances, or for other purposes, by petition, address, or remonstrance. No law abridging the freedom of speech shall be enacted.



(B) If the proposed rewritten constitution is not approved, then said Resolution No. 86-00033 shall be added to the existing Constitution as an article of amendment thereto, taking the place of Article 1, Section 21, which said section, and all provisions of the Constitution inconsistent therewith would be annulled.

**SECTION 3.** (A) Resolution No. 86-00140 shall take its place in Article 1 as a new Section 23, with the present Section 23 renumbered as Section 24, of the proposed rewrite, as follows:

"Section 23. A victim of crime shall, as a matter of right, be treated by agents of the state with dignity, respect and sensitivity during all phases of the criminal justice process. Such person shall be entitled to receive, from the perpetrator of the crime, financial compensation for any injury or loss caused by the perpetrator of the crime, and shall receive such other compensation as the state may provide. Before sentencing, a victim shall have the right to address the court regarding the impact which the perpetrator's conduct has had upon the victim."

(B) If the proposed rewritten constitution is not approved, then said Resolution No. 86-00140 shall be added to the existing Constitution as an article of amendment thereto, and all provisions of the Constitution inconsistent therewith would be annulled.

**SECTION 4.** (A) Resolution No. 86-00171 shall take its place in Article 1, Section 23 (as such section has been renumbered Section 24) of the proposed rewrite, as follows:

Section 24 The enumeration of the foregoing rights shall not be construed to impair or deny others retained by the people. The rights guaranteed by this constitution are not dependent on those guaranteed by the Constitution of the United States.

(B) If the proposed rewritten constitution is not approved, then said Resolution No. 86-000171 shall be added to the existing Constitution as an article of amendment thereto, taking the place of Article 1, Section 23, which said section, and all provisions of the Constitution inconsistent therewith would be annulled.

**SECTION 5.** This Resolution shall take effect upon voter approval.



## HOUSE JOINT RESOLUTION P

Introduced by Rep. Van Regenmorter

Cosponsors: Perry Bullard, Gubow, Stabenow, Clack, Fitzgerald, Kosteva, Connors, Stopczynski, Willis Bullard, Stacey, Ciaramitaro, Ouwinga, Hoffman, Nye, Honigman, Hertel, Emerson, Wartner, Bankes, Emmons, Hoekman, Sparks, Gire, DeBeaussaert, Mathieu, Bennane, Palamra, Murphy, Farhat, Spaniola and Niederstadt.

A joint resolution proposing an amendment to the state constitution of 1963, by adding section 24 to article I, to maintain the rights of victims of crime.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to maintain the rights of victims of crime, is proposed, agreed to, and submitted to the people of the state:

### ARTICLE I

Sec. 24. (1) Crime victims, as defined by law, shall have the following rights, as provided by law:

The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.

The right to timely disposition of the case following arrest of the accused.

The right to be reasonably protected from the accused throughout the criminal justice process.

The right to notification of court proceedings.

The right to attend trial and all other court proceedings the accused has the right to attend.

The right to confer with the prosecution.

The right to make a statement to the court at sentencing.

The right to restitution.

The right to information about the conviction, sentence, imprisonment, and release of the accused.

(2) The legislature may provide by law for the enforcement of this section.

(3) The legislature may provide for an assessment against convicted defendants to pay for crime victims' rights.

Resolved further, That the foregoing amendment shall be submitted to the people of the state at the next general election in the manner provided by law.

## VICTIMS OF CRIME AMENDMENT

The final version of VOCA, SJR 135, passed by both Senate and House, is as follows (Article I, Section 16(b)):

On motion by Senator Lahtinen, by two-thirds vote SJR 135 as amended was read the third time in full as follows:

**SJR 135**—A joint resolution proposing an amendment to Section 16, Article I of the State Constitution, relating to rights of victims of crime.

*Be It Resolved by the Legislature of the State of Florida:*

That the following amendment to Section 16 of Article I of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the general election to be held in November 1988:

**ARTICLE I  
DECLARATION OF RIGHTS**

**SECTION 16. Rights of accused and of victims.—**

(a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation against him, and shall be furnished a copy of the charge, and shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both, and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the county is not known, the indictment or information may charge venue in two or more counties conjunctively and proof that the crime was committed in that area shall be sufficient; but before pleading the accused may elect in which of those counties he will be tried. Venue for prosecution of crimes committed beyond the boundaries of the state shall be fixed by law.

(b) Victims of crime or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused.

**BE IT FURTHER RESOLVED** that the following statement be placed on the ballot:

**CONSTITUTIONAL AMENDMENT  
ARTICLE I, SECTION 16**

**RIGHTS OF VICTIMS OF CRIME.**—Proposing an amendment to the State Constitution to grant victims of crime, and the next of kin of homicide victims, the qualified right to be informed, to be present, and to be heard at all crucial stages of criminal proceedings.

—and as amended passed by the required constitutional three-fifths vote of the membership, was ordered engrossed and then certified to the House. The vote on passage was:

This proposed amendment will be on the ballot in the general election, November, 1988.



## Federal "Victim and Witness Protection Act of 1982"

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Omnibus Victims Protection Act of 1982."*

### FINDINGS AND PURPOSES

Sec. 2 (a) The Congress finds and declares that:

(1) Without the cooperation of victims and witnesses, the criminal justice system would cease to function; yet with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

(2) All too often the victim of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of contact with a criminal justice system unresponsive to the real needs of such victim.

(3) Although the majority of serious crimes falls under the jurisdiction of State and local law enforcement agencies, the Federal Government, and in particular the Attorney General, has an important leadership role to assume in ensuring that victims of crime, whether at the Federal, State, or local level, are given proper treatment by agencies administering the criminal justice system.

(4) Under current law, law enforcement agencies must have cooperation from a victim of crime and yet neither the agencies nor the legal system can offer adequate protection or assistance when the victim, as a result of such cooperation, is threatened or intimidated.

(5) While the defendant is provided with counsel who can explain both the criminal justice process and the rights of the defendants, the victim or witness has no counterpart and is usually not even notified when the defendant is released on bail, the case is dismissed, a plea to a lesser charge is accepted, or a court date is changed.

(6) The victim and witness who cooperate with the prosecutor often find that the transportation, parking facilities, and child care services at the court are unsatisfactory and they must often share the pretrial waiting room with the defendant or his family and friends.

(7) The victim may lose valuable property to a criminal only to lose it again for long periods of time to Federal law enforcement officials, until the trial and sometimes the appeals are over; many times that property is damaged or lost which is particularly stressful for the elderly or poor.

(b) The Congress declares that the purposes of this Act are—

(1) to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process.

(2) to ensure that the Federal Government does all that is possible within limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the defendant; and

(3) to provide a model for legislation for State and local governments.

### VICTIM IMPACT STATEMENT

Sec. 3 Paragraph (2) of rule 32(c) of the Federal Rules of Criminal Procedure is amended to read as follows:

"Report.—The presentence report shall contain—

"(A) any prior criminal record of the defendant;

"(B) a statement of the circumstances of the commission of the offense and circumstances affecting the defendant's behavior.

"(C) information concerning any harm, including financial, social, psychological, and physical harm, done to or loss suffered by any victim of the offense, and

"(D) any other information that may aid the court in sentencing, including the restitution needs of any victim of the offense."

### PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

Sec. 4. (a) Chapter 73 of title 18 of the United States Code is amended by adding at the end the following new sections:

1512. Tampering with a witness, victim, or an informant.

(a) Whoever knowingly uses intimidation or physical force, or threatens another person, or attempts to do so, or engages in misleading conduct towards another person with intent to—

"(1) influence the testimony of any person in an official proceeding;

"(2) cause or induce any person to—

"(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding.

"(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding.

"(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

"(D) be absent from an official proceeding to which such person has been summoned by legal process; or

(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be fined not more than \$250,000 or imprisoned not more than ten years, or both.

"(b) whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

"(1) attending or testifying in an official proceeding;

"(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

"(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

"(4) causing a criminal prosecution or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding; or attempts to do, shall be fined not more than \$25,000 or imprisoned not more than one year, or both.

"(c) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

"(d) For the purposes of this section—

"(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

"(2) the testimony, or the record, document, or other object need not be admissible in evidence or free of claim of privilege.

"(e) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—

"(1) that the official proceeding before a judge, court, magistrate, grand jury, or government agency is before a judge or court of the United States, a United States magistrate, a bankruptcy judge, a Federal grand jury, or a Federal Government agency, or

"(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

"(f) There is extraterritorial Federal jurisdiction over an offense under this section.

"1513. Retaliating against a witness, victim, or an informant.

"(a) Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for—

"(1) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding or

"(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceeding given by a person to a law enforcement officer;

or attempts to do so, shall be fined not more than \$250,000 or imprisoned not more than ten years, or both.

"(b) There is extraterritorial Federal Jurisdiction over an offense under this section.

"1514. Civil action to restrain harassment of a victim or witness

"(a)(1) A United States district court, upon application of the attorney for the Government, shall issue a temporary restraining order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

"(2)(A) A temporary restraining order may be issued under this section without written or oral notice to the adverse party or such party's attorney in a civil action under this section if the court finds, upon written certification of facts by the attorney for the Government, that such notice should not be required and that there is a reasonable probability that the Government will prevail on the merits.

"(B) A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed forthwith in the office of the clerk of the court issuing the order.

"(C) a temporary restraining order issued under this section shall expire at such time, not to exceed 10 days from issuance, as the court directs; the court, for good cause shown before expiration of such order, may extend the expiration date of the order for up to 10 days or for such longer period agreed to by the adverse party.

"(2) by adding at the end of the following:

"1512. Tampering with a witness, victim, or an informant.

"1513. Retaliating against a witness, victim, or an informant.

"1514. Civil action to restrain harassment of a victim or witness.

"1515. Definitions for certain provisions."

"(1) in the heading of such section, by striking out "juror or witness" and inserting of lieu thereof "or juror";

"(2) by striking out "witness" the first place it appears after "impede any" and all that follows through "or any grand" and inserting "grand" in lieu thereof; and

"(3) by striking out "injuries any party or witness" and all that follows through "matter pending therein, or"

"(d) Section 1505 of title 18 of the United States Code is amended by—

(1) striking out paragraphs (1) and (2);

(2) striking out "such" the first place it appears in the fourth paragraph and inserting in lieu thereof "any pending";

(3) striking out "such" the second place it appears in the fourth paragraph and inserting in lieu thereof "any"; and

(4) striking out "such inquiry" in the fourth paragraph and inserting in lieu thereof "any inquiry".

(e) Section 1510(a) of title 18 of the United States Code is amended—

(1) by striking out the comma immediately following "bribery" and all that follows through "thereof";

(2) by striking out the semicolon immediately following "investigator" the first place it appears and all that follows through "Shall be fined" and inserting "shall be fined" in lieu thereof.

## RESTITUTION

Sec. 4 (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end the following:

"3579. Order of restitution

"(a)(1) The court, when sentencing a defendant convicted of an offense under this title or under subsection (h), (i), (j), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of the offense.

"(2) If the court does not order restitution, or orders only partial restitution, under this section, the court shall state on the record the reasons therefor.

"(b) The order may require that such defendant—

"(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

"(A) return the property to the owner of the property or someone designated by the owner; or

"(B) if return of the property, under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of—

"(1) the value of the property on the date of the damage, loss, or destruction, or

"(ii) the value of the property on the date of sentencing,

less the value (as of the date the property is returned) of any part of the property that is returned;

"(2) in the case of an offense resulting in bodily injury to a victim

"(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

"(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

"(C) reimburse the victim for income lost by such victim as a result of such offense;

"(3) in the case of an offense resulting in bodily injury also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services; and

"(4) in any case, if the victim (or if the victim is deceased, the victim's estate) consents, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate.

"(c) If the court decides to order restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

"(d) The court shall impose an order of restitution to the extent that such order is as fair as possible to the victim and the imposition of such order will not unduly complicate or prolong the sentencing process.

"(e)(1) The court shall not impose restitution with respect to a loss for which the victim has received or is to receive compensation, except that the court may, in the interest of justice, order restitution to any person who has compensated the victim for such loss to the extent that such person paid the compensation. An order of restitution shall require that all restitution to victims under such order be made before any restitution to any other person under such order is made.



"(D) When a temporary restraining order is issued without notice, the motion for a protective order shall be set down from the hearing at the earliest possible time and takes precedence over all matters except older matters of the same character, and when such motion comes on for hearing, if the attorney for the Government does not proceed with the application for a protective order, the court shall dissolve the temporary restraining order.

"(E) If on two days notice to the attorney for the Government or on such shorter notice as the court may prescribe, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

"(F) A temporary restraining order shall set forth the reasons for the issuance of such order, be specific in terms, and describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

"(b)(1) A United States district court, upon motion of the attorney for the Government, shall issue a protective order prohibiting harassment of a victim or witness in a Federal criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

"(2) At the hearing referred to in paragraph (1) of this subsection, any adverse party named in the complaint shall have the right to present evidence and cross-examine witnesses.

"(3) A protective order shall set forth the reasons for the issuance of such order, be specific in terms, describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

"(4) The court shall set the duration of effect of the protective order for such period as the court determines necessary to prevent harassment of the victim or witness but in no case for a period in excess of three years from the date of such order's issuance. The attorney for the Government may, at any time within 90 days before the expiration of such order, apply for a new protective order under this section.

"(c) As used in this section—

"(1) the term 'harassment' means a course of conduct directed at a specific person that—

"(A) causes substantial emotional distress in such a person; and

"(B) serves no legitimate purpose; and

"(2) the term 'course of conduct' means a series of acts over a period time, however short, indicating a continuity of purpose.

"1515. Definitions for certain provisions

"As used in sections 1512 and 1513 of this title and in this section—

"(1) the term 'official proceeding' means—

"(A) a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, or a Federal grand jury;

"(B) a proceeding before the Congress; or

"(C) a proceeding before a Federal Government agency which is authorized by law;

"(2) the term 'physical force' means physical action against another, and includes confinement;

"(3) the term 'misleading conduct' means—

"(A) knowingly making a false statement;

"(B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement;

"(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

"(D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

"(E) knowingly using a trick, scheme, or device with intent to mislead;

"(4) the term 'law enforcement officer' means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant—

"(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

"(B) serving as a probation or pretrial service officer under this title; and

"(5) the term 'bodily injury' means—

"(A) a cut, abrasion, bruise, burn, or disfigurement;

"(B) physical pain;

"(C) illness;

"(D) impairment of the function of a bodily member, organ, or mental faculty; or

"(E) any other injury to the body, no matter how temporary

"(b) The table of sections at the beginning of chapter 73 of title 18 of the United States Code is amended—

"(1) so that the item relating the section 1503 reads as follows

"1503. Influencing or injuring officer or juror generally" and

**FEDERAL GUIDELINES FOR FAIR TREATMENT OF CRIME VICTIMS  
AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM**

Sec. 6 a) Within 270 days after the date of enactment of this Act, the Attorney General shall develop and implement guidelines for the Department of Justice consistent with the purposes of this Act. In preparing the guidelines the Attorney General shall consider the following objectives:

(1) **SERVICES TO VICTIMS OF CRIME**—Law enforcement personnel should ensure that victims routinely receive emergency social and medical services as soon as possible and are given information on the following—

“(A) availability of crime victim compensation (where applicable);

“(B) community-based victim treatment programs;

“(C) the role of the victim in the criminal justice process, including what they can expect from the system as well as what the system expects from them; and

“(D) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained.

(2) **NOTIFICATION OF AVAILABILITY OF PROTECTION**.—A victim or witness should routinely receive information on steps that law enforcement officers and attorneys for the Government can take to protect victims and witnesses from intimidation.

(3) **SCHEDULING CHANGES**.—All victims and witnesses who have been scheduled to attend criminal justice proceedings should either be notified as soon as possible of any scheduling changes which will affect their appearances or have available a system for alerting witnesses promptly by telephone or otherwise.

(4) **PROMPT NOTIFICATION TO VICTIMS OF MAJOR SERIOUS CRIMES**.—Victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims should, if such persons provide the appropriate official with a current address and telephone number, receive prompt advance notification, if possible, of judicial proceedings relating to their case, including—

“(B) the initial appearance of an accused before a judicial officer;

“(C) the release of the accused pending judicial proceedings; and

“(D) proceedings in the prosecution of the accused (including entry of a plea of guilty, trial, sentencing, and, where a term of imprisonment is imposed, the release of the accused from such imprisonment).

(5) **CONSULTATION WITH VICTIM**.—The victim of a serious crime, or in the case of a minor child or a homicide, the family of the victim, should be consulted by the attorney for the Government in order to obtain the views of the victim or family about the disposition of any Federal criminal case brought as a result of such crime, including the views of the victim or family about—

“(A) dismissal;

“(B) release of the accused pending judicial proceedings;

“(C) plea negotiations; and

“(D) pretrial diversion program.

(6) **SEPARATE WAITING AREA**.—Victims and other prosecution witnesses should be provided prior to court appearance a waiting area that is separate from all other witnesses.

(7) **PROPERTY RETURN**.—Law enforcement agencies and prosecutors should promptly return victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it.

(8) **NOTIFICATION TO EMPLOYER**.—A victim or witness who so requests should be assisted by law enforcement agencies and attorneys for the Government in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of cooperation with law enforcement agencies or attorney for the Government, is subjected to serious financial strain, should be assisted by such agencies and attorneys in explaining to creditors the reason for such serious financial strain.

(9) **TRAINING BY FEDERAL LAW ENFORCEMENT TRAINING FACILITIES**.—Victim assistance education and training should be offered to persons taking courses at Federal law enforcement training facilities and attorneys for the Government so that victims may be promptly, properly, and completely assisted.

(10) **GENERAL VICTIM ASSISTANCE**.—The guidelines should also ensure that any other important assistance to victims and witnesses, such as the adoption of transportation, parking, and translator services for victim in court be provided.

(b) Nothing in this title shall be construed as creating a cause of action against the United States.

(c) The Attorney General shall assure that all federal law enforcement agencies outside of the Department of Justice adopt guidelines consistent with subsection (a) of this section.

"(2) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by such victim in—

"(A) any Federal civil proceeding; and

"(B) any state civil proceeding, to the extent provided by the law of that State.

"(f)(1) The court may require that such defendant make restitution under this section within a specified period or in specified installments.

"(2) The end of such period or the last such installment shall not be later than—

"(A) the end of the period of probation, if probation is ordered;

"(B) five years after the end of the term of imprisonment imposed, if the court does not order probation; and

"(C) five years after the date of sentencing in any other case.

"(3) If not otherwise provided by the court under this subsection, restitution shall be made immediately.

"(g) If such defendant is placed on probation or paroled under this title, any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation and the Parole Commission may revoke parole if the defendant fails to comply with such order. In determining whether to revoke probation or parole, the court or Parole Commission shall consider the defendant's employment status, earning ability, financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

"(h) An order of restitution may be enforced by the United States or a victim named in the order to receive the restitution in the same manner as a judgement in a civil action.

"3580. Procedure for issuing order of restitution:

"(a) The court, in determining whether to order restitution under section 3579 of this title and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

"(b) The court may order the probation service of the court to obtain information pertaining to the factors set forth in subsection (a) of this section. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs.

"(c) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of the section.

"(d) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and such defendant's dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

"(e) A conviction of a defendant for an offense involving the act giving rise to restitution under this section shall stop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding to the extent consistent with State law, brought by the victim."

(b) The table of sections at the beginning of chapter 227 of title 18 of the United States Code is amended by adding at the end the following new items:

"3579. Nature of order of restitution.

"3580. Procedure for issuing order of restitution."

### **PROFIT BY A CRIMINAL FROM SALE OF HIS STORY**

**Sec. 7** Within one year after the date of enactment of this Act, the Attorney General shall report to Congress regarding any laws that are necessary to ensure that no Federal felon derive any profit from the sale of the recollection, thoughts, and feelings of such felon with regards to the offense committed by the felon until any victim of the offense receives restitution.

### **BAIL**

**Sec. 8** Section 3146(a) of Chapter 207 of title 18 United States Code, is amended in the matter preceding paragraph (1)—

(1) by inserting after "judicial officer," the second place it appears the following: "subject to the condition that such person not commit an offense under Section 1503, 1512, or 1513 of this title"; and

(2) by inserting after "impose" the following: "a condition of release that such person not commit an offense under section 1503, 1512, or 1513 of this title and impose".





Office of the Attorney General  
Washington, D. C. 20530

JUL 13 REC'D

GUIDELINES FOR VICTIM AND WITNESS ASSISTANCE

I. GENERAL CONSIDERATIONS

A. Background

The Victim and Witness Protection Act of 1982 (VWPA), Public Law 97-291, was enacted "to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process; to ensure that the federal government does all that is possible within limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of defendants; and to provide a model for legislation for state and local governments." Section 6 of the VWPA requires the Attorney General to develop and implement guidelines for the Department of Justice consistent with the purposes of the Act.

These guidelines set forth procedures to be followed in responding to the needs of crime victims and witnesses. They are intended to ensure that responsible officials, in the exercise of their discretion, treat victims and witnesses fairly and with understanding. The guidelines are also intended to enhance the assistance which victims and witnesses provide in criminal cases and to assist victims in recovering from their injuries and losses to the fullest extent possible consistent with available resources.

Finally, in addition to implementing Section 6 of the VWPA, these guidelines also reflect the view of the Department of Justice that the needs and interests of victims and witnesses have not received appropriate consideration in the federal criminal justice system. Thus, these guidelines incorporate victim and witness assistance concepts beyond those set out in the VWPA, in particular, pertinent recommendations of the President's Task Force on Victims of Crime.

#### B. Application

These guidelines apply to those components of the Department of Justice engaged in the detection, investigation or prosecution of crimes. They are intended to apply in all cases in which individual victims are adversely affected by criminal conduct or in which witnesses provide information regarding criminal activity. Of course, these guidelines do not apply to individuals involved or reasonably believed to have been involved in the criminal offense. Under these guidelines, special attention should be paid to victims and witnesses who have suffered physical, financial or emotional trauma as a result of violent criminal activity. The amount and degree of assistance provided will, of course, vary according to the individual's needs and circumstances.

#### C. Definitions

1. A "victim" is generally defined as someone who suffers direct or threatened physical, emotional or financial harm as the result of the commission of a crime. The term "victim" also includes the immediate family of a minor or a homicide victim.

Federal departments and agencies shall not be considered a "victim" for purposes of Part II of these guidelines.

It should be noted that, because of the nature of federal criminal cases, it will often be difficult to identify the victim or victims of the offense. In many cases, there will be multiple victims. The provision of assistance in such circumstances must be determined on a case-by-case basis.\* In some cases, extension of the full range of victim services would be inappropriate because of the nature of the victim. Sound judgment will, therefore, be required to make intelligent decisions as to the degree of victim services and assistance given. Department personnel should always err on the side of providing rather than withholding assistance.

2. A "witness" is defined as someone who has information or evidence concerning a crime, and provides information regarding his knowledge to a law enforcement agency. Where the witness is a minor, the term "witness" includes an appropriate family member. The term "witness" does not include defense witnesses or those individuals involved in the crime as a perpetrator or accomplice.

3. A "serious crime" is defined as a criminal offense that involves personal violence, attempted or threatened personal violence or significant property loss.

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\* Victim assistance should not be denied solely because there are multiple victims of an offense. For example, in a federal case involving a large-scale fraud scheme, it may be possible to extend victim services and assistance to a representative or representatives of the many victims of the crime.



#### D. Responsibility

The responsibility to decide whether the provisions discussed in Part II of these guidelines should be applied initially or should be continued in a particular case is shared between that component of the Department responsible for investigating violations of federal law and the United States Attorneys' offices or Department attorneys who are responsible for prosecuting the perpetrators when they are identified. In cases where the United States or the public generally are the victims, victim services will normally be inappropriate (e.g., tax evasion and narcotics trafficking); but in virtually all cases there will be witnesses who will be entitled to witness services.

For cases in which the United States Attorney's office has become involved, the responsible official shall be the United States Attorney in whose district the prosecution is pending. For cases in which a litigating division of the Department of Justice is solely responsible, the responsible official shall be the chief of the section having responsibility for the case. The Department attorney handling the case shall perform the same duties under these guidelines as are required of an Assistant United States Attorney.

For cases under investigation, but in which the United States Attorney's office or Department of Justice litigating division has not assumed responsibility, application of these guidelines will be the responsibility of the following officials:

1. With respect to offenses under investigation by the Federal Bureau of Investigation, the responsible official shall be the Special Agent in Charge of the Division having primary responsibility for conducting the investigation;

2. With respect to offenses under investigation by the Drug Enforcement Administration, the responsible official shall be the Special Agent in Charge of the office having primary responsibility for the investigation; and

3. With respect to offenses under investigation by the Immigration and Naturalization Service, the responsible official shall be the District Director or Chief Patrol Agent of the office having primary responsibility for conducting the investigation.

The responsibility for deciding that the provisions of Part II should be applied or continued may be delegated. The component of the Department making the decision that the provisions of Part II should apply or continue to be applied must ensure that they are in fact applied either through its own resources or through coordination with other components of the Department or other agencies.

United States Attorneys' offices, litigating divisions and investigative agencies shall designate or employ one or more persons specifically for the purpose of carrying out the provisions of Part II. Smaller offices or components may have no need for such a victim-witness coordinator on a full-time basis. In every office, however, each responsible official shall designate one individual as the primary contact for victim-witness services.

All components of the Department shall cooperate with one another to the maximum extent possible in providing the services described in Part II. All components of the Department shall keep on file a written description of the procedures and materials used to provide assistance to victims and witnesses in individual cases. All components of the Department shall work with appropriate components of other federal agencies that investigate violations of federal law to assist them in providing services to victims and witnesses consistent with those described in Part II. Finally, all components of the Department shall take all steps necessary to coordinate their victim-witness service efforts with State and local law enforcement officials. Coordination of these efforts will take place, at minimum, through the Law Enforcement Coordinating Committees (LECC).

Where a victim or witness resides outside the judicial district in which the case is being prosecuted, the United States Attorney in the prosecuting district (or section chief of the litigating division) may, if necessary, seek the assistance of the United States Attorney's office in the district of residence in counseling, assisting or consulting with the victim or witness.

## II. SERVICES TO VICTIMS AND WITNESSES

The responsible official should ensure that the following services are provided and that personal contact is initiated with victims and witnesses whenever possible.

### A. Referral Services

Victims should receive information by the most appropriate and timely means, regarding available assistance. Depart-

ment personnel should assist victims in contacting, where appropriate, the specific person or office which will provide the following:

1. Emergency medical and/or social services;
2. Compensation for which the victim may be entitled under applicable law and how to begin the process of applying for it; and
3. The availability of appropriate public or private programs that provide counseling, treatment, or support.

Victim witness assistance coordinators should develop and maintain accurate resource materials that identify available counseling and treatment programs in their jurisdictions.

#### B. Information Services

Victims and witnesses of serious crimes who provide a current address or telephone number should be advised of the following information in a timely manner. As a general rule, investigative components will be responsible for points 1 and 2, and prosecutive components for points 3 through 11.

1. Steps that may, if warranted, be taken to protect the victim, his family, and witnesses from intimidation;
2. The arrest or formal charging of the accused;
3. Scheduling changes and/or continuances affecting their appearance or attendance at judicial proceedings;
4. The release or detention status of the accused;
5. The acceptance of a plea of guilty or nolo contendere or the results of a trial;

6. The date set for sentencing if the defendant is found guilty;

7. The sentence imposed including the date on which the defendant may be eligible for parole; and

8. For victims, the opportunity to address the court at the time of sentencing.

If the victim or witness has requested notice and has provided the responsible official with a current address or telephone number, he or she shall be advised in advance of the defendant's release from custody. In the event of an escape by the defendant, such victim or witness shall be apprised as soon as practicable. Moreover, a victim should be notified in advance of any parole hearing under the procedures specified above.

#### C. Consultation Services

Consistent with the interests of justice, Department officials should consult victims of serious crimes to obtain their views and provide explanations regarding the following:

1. The release of the accused pending judicial proceedings and the conditions thereof;

2. The decision not to seek an indictment or otherwise commence a prosecution;

3. The proposed dismissal of any or all charges, including dismissal in favor of State prosecution;

4. Any continuance of a judicial proceeding;

5. The proposed terms of any negotiated plea including any sentencing recommendation to be made by the prosecutor;

6. The proposed placement of the accused in a pretrial diversion program;

7. The proposed proceeding against the accused as a juvenile defendant;

8. Restitution as described in Part IV; and

9. Presentation to the court of the victim's views regarding sentencing.

It is recognized that consultation services must be limited in some cases to avoid endangering the life or safety of a witness, jeopardizing an ongoing investigation or official proceeding or disclosing classified or privileged information.

D. Other Services

In addition to the services described above, additional assistance should be extended as follows:

1. Department officials should avoid, to the extent possible, disclosing the addresses of victims and witnesses. Prosecutors should resist attempts by the defense to obtain the addresses of victims and witnesses;

2. To the extent possible, victims and other witnesses for the prosecution who are called as witnesses in any judicial or administrative proceeding should be afforded a waiting area, removed from and out of sight and earshot of the defendant and defense witnesses;

3. Property of any victim or witness which is held for evidentiary purposes should be maintained in good condition and promptly returned. If the property is not to be returned promptly, an explanation should be given to the victim or witness

as to the property's significance in any criminal prosecution;

4. Upon request by a victim or witness, the responsible official should assist in notifying:

a. The employer of the victim or witness if his cooperation in the investigation or prosecution of the crime causes his absence from work; and

b. The creditors of the victim or witness, where appropriate, if the crime or his cooperation in its investigation or prosecution affects his ability to make timely payments;

5. Responsible officials should establish programs to assist Department employees who are victims of crime;

6. Victims and witnesses should be provided information or assistance with respect to transportation, parking, translator services and related services; and

7. Responsible officials shall ensure that sexual assault victims are not required to assume the cost of physical examinations and materials used to obtain evidence; if a victim is billed for such an examination or materials, the victim shall be reimbursed therefor by the appropriate component of the Department.

### III. Victim Impact Statement

The responsible official should ensure that the appropriate U. S. Probation Officer is fully advised of the information in his possession pertinent to preparation of the victim impact statement required by Rule 32(c)(2) of the Federal Rules of Criminal Procedure so that the report will fully reflect the effects of the crime upon victims as well as the appropriateness

and amount of restitution. The victim should be apprised that the Probation Officer is required to prepare a victim impact statement which includes a provision on restitution. The victim should be advised as to how to communicate directly with the Probation Officer if he or she so desires. Consistent with available resources and their other responsibilities, federal prosecutors should advocate the interests of victims at the time of sentencing.

#### IV. Restitution

Restitution may be ordered under 18 U.S.C. 3579. Consistent with available resources and their other responsibilities, federal prosecutors should advocate fully the rights of victims on the issue of restitution unless such advocacy would unduly prolong or complicate the sentencing proceeding.

#### V. Obstruction of Justice

Victims or witnesses should routinely receive information on the prohibition against victim or witness intimidation and harassment and the remedies therefor. The responsible official should, if warranted, advise the component of the Department having the enforcement responsibilities as set forth in 28 C.F.R. 0.179a, of instances involving intimidation or harassment of any victim or witness.

#### VI. Training

All components of the Department of Justice covered by the provisions of these guidelines should, beginning not later than 30 days after the issuance of these guidelines, provide training to existing and new employees concerning their responsibilities



in carrying out these guidelines and provide written instructions to appropriate subcomponents to ensure that the provisions of this part are implemented.

Further, all training units conducted or supported by the Department of Justice shall develop programs which address victim assistance from the perspective of the personnel they train. These units include the FBI Academy at Quantico, the Attorney General's Advocacy Institute, and field training conducted by the FBI and DEA. Through agreements between the Departments of Justice and Treasury, similar efforts shall be undertaken at the Federal Law Enforcement Training Center at Glynco, Georgia.

#### VII. Non-Litigability

These guidelines provide only internal Department of Justice guidance. They are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any person in any matter civil or criminal. Nor are any limitations hereby placed on otherwise lawful litigative prerogatives of the Department of Justice. Rather, these guidelines are intended to ensure that responsible officials, in the exercise of their discretion, treat victims and witnesses fairly and with understanding.

Approved this 9<sup>th</sup> day of July, 1983.



William French Smith

Attorney General

**THE VICTIMS OF CRIME ACT OF 1984**  
**Public Law 98-473, Title II, Chapter XIV**  
**42 U.S.C. 10601, et seq.**

**As Amended By**

**THE CHILDREN'S JUSTICE AND ASSISTANCE ACT OF 1986**  
**Public Law 99-401**  
**100 Statutes at Large 903**

**and**

**The Anti-Drug Abuse Act of 1988**  
**Public Law 100-690, Title VII, Subtitle D**  
**—Statutes at Large—**

**AN ACT**

**To provide financial assistance to the States for the purpose of compensating and otherwise assisting victims of crime, and to provide funds to the Department of Justice for the purpose of assisting victims of Federal crime.**

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**CHAPTER XIV--VICTIM COMPENSATION AND ASSISTANCE****CRIME VICTIMS FUND**

42 U.S.C. 10601

Sec. 1402.(a) There is created in the Treasury a separate account to be known as the Crime Victims Fund (hereinafter in this chapter referred to as the "Fund").

(b) Except as limited by subsection (c), there shall be deposited in the Fund--

(1) all fines that are collected from persons convicted of offenses against the United States except--

(A) fines available for use by the Secretary of the Treasury pursuant to--

(i) section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)); and

(ii) section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)); and

(B) fines to be paid into--

(i) the railroad unemployment insurance account pursuant to the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.);

(ii) the Postal Service Fund pursuant to sections 2601(a)(2) and 2003 of title 39 of the United States Code and for the purposes set forth in section 404(a)(8) of such title 39;

(iii) the navigable waters revolving fund pursuant to section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); and

(iv) county public school funds pursuant to section 3613 of title 18 of the United States Code;

(2) penalty assessments collected under section 3013 of title 18 of the United States Code;

(3) the proceeds of forfeited appearance bonds, bail bonds, and collateral collected under section 3146 of title 18 of the United States Code; and

(4) any money ordered to be paid into the Fund under section 3671(c)(2) of title 18 of the United States Code.

~~(c)(1) If the total deposited in the Fund during a particular fiscal year reaches the sum of \$110 million, the excess over that sum shall be deposited in the general fund of the Treasury and shall not be a part of the Fund.~~

~~(2) No deposits shall be made in the Fund after September 30, 1988.~~

(c)(1)(A) If the total deposited in the Fund during a particular fiscal year reaches the ceiling sum described in subparagraph (B), the excess over the ceiling sum shall not be part of the Fund. The first \$2,200,000 of such excess shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code, and the remaining excess shall be deposited in the general fund of the Treasury.

(B) The ceiling sum referred to in subparagraph (A) is-

(i) \$125,000,000 through fiscal year 1991; and

(ii) \$150,000,000 thereafter through fiscal year 1994.

(2) No deposits shall be made in the Fund after September 30, 1994.

(d)(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this title without fiscal year limitation.

(2) The Fund shall be available as follows:

(A) Of the first \$100,000,000 deposited in the Fund in a particular fiscal year--

(i) 49.5% shall be available for grants under Sec. 1403;

(ii) 45% shall be available for grants under Sec. 1404(a);

(iii) 1% shall be available for grants under Sec. 1404(c); and

(iv) 4.5% shall be available for grants as provided in Sec. 1404A.

(B) The next \$5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 1404A.

(C) Any deposits in the Fund in a particular fiscal year in excess of \$105,500,000, but not in excess of \$110,000,000, shall be available for grants under section 1404(a).

(D) Any deposits in the Fund in a particular fiscal year in excess of \$110,000,000 shall be available as follows:

(i) 47.5 percent shall be available for grants under section 1403;

(ii) 47.5 percent shall be available for grants under section 1404(a); and

(ii)\* 5 percent shall be available for grants under section 1404(c)-(1)(B).

(e) (1) Except as provided in paragraph (2), any sums awarded as part of a grant under this chapter that remain unspent at the end of a fiscal year in which such grant is made may be expended for the purpose for which such grant is made at any time during the next succeeding fiscal year, at the end of which year any remaining unobligated sums shall be returned to the general fund of the Treasury.

(2) For the purposes of the application of paragraph (1) to any grant under this chapter with respect to fiscal year 1985, there shall be substituted in such paragraph "two succeeding fiscal years" for "succeeding fiscal year" and "which period" for "which year".

(f) As used in this section, the term "offenses against the United States" does not include--

(1) a criminal violation of the Uniform Code of Military Justice (10 U.S.C. 801 et seq.);

(2) an offense against the laws of the District of Columbia; and

(3) an offense triable by an Indian tribal court or Court of Indian Offenses.

(g)(1) The Attorney General, acting through the Director, shall use 15 percent of the funds available under subsection (d)(2)(A)(-iv) to make grants for the purpose of assisting Native American Indian tribes in developing, establishing, and operating programs designed to improve--

(A) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and

\*As in House-passed copy.

(B) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

(2) As used in this subsection, the term "tribe" has the meaning given that term in section 4(b) of the Indian Self-Determination and Education Assistance Act.

#### CRIME VICTIM COMPENSATION

42 U.S.C. 10602

Sec. 1403.(a)(1) Except as provided in paragraph (2), the ~~Attorney General~~ Director shall make an annual grant from the Fund to an eligible crime victim compensation program of ~~35 percent~~ 40 percent of the amounts awarded during the preceding fiscal year, other than amounts awarded for property damage. A grant under this section shall be used by such program only for awards of compensation.

(2) If the sums available in the Fund for grants under this section are insufficient to provide grants of ~~35 percent~~ 40 percent as provided in paragraph (1), the ~~Attorney General~~ Director shall make, from the sums available, a grant to each eligible crime victim compensation program so that all such programs receive the same percentage of the amounts awarded by such program during the preceding fiscal year, other than amounts awarded for property damage.

(b) A crime victim compensation program is an eligible crime victim compensation program for the purposes of this section if--

~~(1) such program is operated by a State and offers compensation to victims of crime and survivors of victims of crime for--~~

(1) such program is operated by a State and offers compensation to victims and survivors of victims of criminal violence, including drunk driving and domestic violence, [for--]

(A) medical expenses attributable to a physical injury resulting from compensable crime, including expenses for mental health counseling and care;



(B) loss of wages attributable to a physical injury resulting from a compensable crime; and

(C) funeral expenses attributable to a death resulting from a compensable crime;

(2) such program promotes victim cooperation with the reasonable requests of law enforcement authorities;

(3) such State certifies that grants received under this section will not be used to supplant State funds otherwise available to provide crime victim compensation;

(4) such program, as to compensable crimes occurring within the State, makes compensation awards to victims who are nonresidents of the State on the basis of the same criteria used to make awards to victims who are residents of such State;

~~(5) such program provides compensation to victims of crimes occurring within such State that would be compensable crimes, but for the fact that such crimes are subject to Federal jurisdiction, on the same basis that such program provides compensation to victims of compensable crimes; and~~

(5) such program provides compensation to victims of Federal crimes occurring within the State on the same basis that such program provides compensation to victims of State crimes;

(6) such program provides compensation to residents of the State who are victims of crimes occurring outside the State if-

(A) the crimes would be compensable crimes had they occurred inside that State; and

(B) the places the crimes occurred in are States not having eligible crime victim compensation programs;

(7) such program does not, except

pursuant to rules issued by the program to prevent unjust enrichment of the offender, deny compensation to any victim because that victim's familial relationship to the offender, or because of the sharing of a residence by the victim and the offender; and

(6 8) such program provides such other information and assurances related to the purposes of this section as the Attorney General Director may reasonably require.

~~(e) A State crime victim compensation program in effect on the date grants may first be made under this section shall be deemed an eligible crime victim compensation program for the purposes of this section until the day after the close of the first regular session of the legislature of that State that begins after such date.~~

(d)\*" As used in this section--

(1) the term "property damage" does not include damage to prosthetic devices, eyeglasses or other corrective lenses, or dental devices;

(2) the term "medical expenses" includes, to the extent provided under the eligible crime victim compensation program, expenses for eyeglasses and other corrective lenses, for dental services and devices and prosthetic devices, and for services rendered in accordance with a method of healing recognized by the law of the State;

(3) the term "compensable crime" means a crime the victims of which are eligible for compensation under the eligible crime victim compensation program, and includes driving while intoxicated and domestic violence; and

(4) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

\*\*AS in House passed copy. Technical Amendment needed to redesignate (d) as (c).

## CRIME VICTIM ASSISTANCE

42 U.S.C. 10603

Sec. 1404.(a)(1) Subject to the availability of money in the Fund, the ~~Attorney General Director~~ shall make an annual grant from any portion of the Fund made available by Section 1402(d)(2) for the purpose of grants under this subsection, or for the purpose of grants under Section 1403 but not used for that purpose to the chief executive of each State for the financial support of eligible crime victim assistance programs.

(2) Such chief executive shall--

(A) certify that priority shall be given to eligible crime victim assistance programs providing assistance to victims of sexual assault, spousal abuse, or child abuse;

(B) certify that funds shall be made available for grants to programs which serve previously underserved populations of victims of violent crime. The Director, after consultation with State and local officials and representatives from private organizations, shall issue guidelines to implement this section that provide flexibility to the States in determining the populations of victims of violent crimes that may be underserved in their respective States.

(BC) certify that funds awarded to eligible crime victim assistance programs will not be used to supplant State and local funds otherwise available for crime victim assistance; and

(ED) provide such other information and assurances related to the purposes of this section as the ~~Attorney General Director~~ may reasonably require.

(3) The amounts of grants under paragraph (1) shall be--

(A) ~~\$100,000~~ the base amount to each State; and

(B) that portion of the then remain-

ing available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

(4) If the amount available for grants under paragraph (1) is insufficient to provide ~~\$100,000~~ the base amount to each State, the funds available shall be distributed equally among the States.

(5) As used in this subsection, the term "base amount" means--

(A) \$150,000 for fiscal years 1989 through 1991; and

(B) \$200,000 thereafter through fiscal year 1994.

(b)(1) A victim assistance program is an eligible crime victim assistance program for the purposes of this section if such program--

(A) is operated by a public agency or a nonprofit organization, or a combination of such agencies or organizations or of both such agencies and organizations, and provides services to victims of crime;

(B) demonstrates--

(i) a record of providing effective services to victims of crime and financial support from sources other than the Fund; or

(ii) substantial financial support from sources other than the Fund;

(C) utilizes volunteers in providing such services, unless and to the extent the chief executive determines that compelling reasons exist to waive this requirement;

(D) promotes within the community served coordinated public and private efforts to aid crime victims; and

(E) assists potential recipients in

seeking crime victim compensation benefits.

(2) An eligible crime victim assistance program shall expend sums received under subsection (a) only for providing services to victims of crime.

(c) (1) ~~The Attorney General, acting through the Assistant Attorney General for the Office of Justice Programs, Director~~ shall make grants--

(A) for training and technical assistance services to eligible crime victim assistance programs; and

(B) for the financial support of services to victims of Federal crime by eligible crime victim assistance programs.

(2) Of the amount available for grants under this subsection--

(A) not more than 50% shall be used for grants under Paragraph 1(A); and

(B) not less than 50% shall be used for grants under Paragraph 1(B).

(3) ~~The Assistant Attorney General for the Office of Justice Programs Director~~ shall--

(A) be responsible for monitoring compliance with guidelines for fair treatment of crime victims and witnesses issues under section 6 of the Victim and Witness Protection Act of 1982 (Public Law 97-291);

(B) consult with the heads of Federal law enforcement agencies that have responsibilities affecting victims of Federal crimes;

(C) coordinate victim services provided by the Federal Government with victim services offered by other public agencies and nonprofit organizations; and

(D) perform such other functions related to the purposes of this title as the ~~Attorney General may assign Director~~

deems appropriate.

(4) The ~~Attorney General~~ Director may reimburse other instrumentalities of the Federal Government and contract for the performance of functions authorized under this subsection.

(d) As used in this section--

(1) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and, except for the purposes of paragraphs (3)(A) and (4) of subsection (a) of this section, any other territory or possession of the United States; and

(2) the term "services to victims of crime" includes--

(A) crises intervention services;

(B) providing, in an emergency, transportation to court, short-term child care services, and temporary housing and security measures;

(C) assistance in participating in criminal justice proceedings; and

(D) payment of all reasonable costs for a forensic medical examination of a crime victim, to the extent that such costs are otherwise not reimbursed or paid;

(3) the term "services to victims of Federal crime" means services to victims of crime with respect to Federal crime, and includes--

(A) training of law enforcement personnel in the delivery of services to victims of Federal crime;

(B) preparation, publication, and distribution of information materials--

(i) setting forth services offered to victims of crime; and

(ii) concerning services to victims of Federal crime for use by Federal law enforcement personnel; and

(C) salaries of personnel who provide services to victims of crime, to the extent that such personnel provide such services;

(4) the term "crises intervention services" means counseling to provide emotional support in crises arising from the occurrence of crime; and

(5) the term "chief executive" includes a person designated by a chief executive to perform the functions of the chief executive under this section.

#### CHILD ABUSE PREVENTION AND TREATMENT GRANTS

42 U.S.C. 10603A

Sec. 1404A. Amounts made available by Section 1402(d)(2) for the purposes of this section shall be obligated and expended by the Secretary of Health and Human Services for grants under section 4(d) of the Child Abuse Prevention and Treatment Act. Any portion of an amount which is not obligated by the Secretary by the end of the fiscal year in which funds are made available for allocation, shall be reallocated for award under section 1404(a), except that with respect to funds deposited during fiscal year 1986 and made available for obligation during fiscal year 1987, any unobligated portion of such amount shall remain available for obligation until September 30, 1988.

#### ADMINISTRATIVE PROVISIONS

42 U.S.C. 10604

Sec. 1407. (a) The ~~Attorney General~~ Director may establish such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the ~~Attorney General~~ Director under this chapter ~~and may delegate to any officer or employee of the Department of Justice any such function as the Attorney General deems appropriate.~~

(b) Each recipient of sums under this chapter shall keep such records as the ~~Attorney General~~ Director shall prescribe, including records that fully disclose the amount and disposition by such recipient of such sums, the total cost of the undertaking for which such sums are used, and that portion of the cost of the undertaking supplied by other sources, and such other records as will

facilitate an effective audit.

(c) ~~The Attorney General or any duly authorized representative of the Attorney General~~ Director shall have access, for purpose of audit and examination, to any books, documents, papers, and records of the recipient of sums under this chapter that, in the opinion of the ~~Attorney General or any duly authorized representative of the Attorney General~~ Director may be related to the expenditure of funds received under this chapter.

(d) Except as otherwise provided by Federal law, no officer or employee of the Federal Government, and no recipient of sums under this chapter, shall use or reveal any research or statistical information furnished under this chapter by any person and identifiable to any specific private person for any purpose other than the purpose for which such information was obtained in accordance with this chapter. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding.

(e) No person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under this chapter.

(f) If, after reasonable notice and opportunity for a hearing on the record, the ~~Attorney General~~ Director finds that a State has failed to comply substantially with any provision of this chapter or a rule, regulation, guideline, or procedure issued under this chapter, or an application submitted in accordance with this chapter or the provisions of any other applicable law, the ~~Attorney General~~ Director shall--

(1) terminate payments to such State;

(2) suspend payments to such State until the ~~Attorney General~~ Director is satisfied that such noncompliance has ended; or

(3) take such other action as the ~~Attorney~~



General Director deems appropriate.

(g) The Attorney General Director shall, no later than December 31, 1987 on December 31, 1990, and on December 31 every 2 years thereafter, report to the President and to the Congress on the revenue derived from each source described in section 1402 and on the effectiveness of the activities supported under this chapter. The Attorney General Director may include in such report recommendations for legislation to improve this chapter.

#### ESTABLISHMENT OF OFFICE FOR VICTIMS OF CRIME

Sec. 1411. (a) There is established within the Department of Justice an Office for Victims of Crime (hereinafter in this chapter referred to as the "Office").

(b) The Office shall be headed by a Director referred to in this chapter as the "Director", who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant Attorney General for the Office of Justice Programs and shall have final authority for all grants, cooperative agreements, and contracts awarded by the Office. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other agreement under this part.

(c) The Director shall have the following duties:

(1) Administering funds made available by section 1402.

(2) Providing funds to eligible States pursuant to sections 1403 and 1404.

(3) Establishing programs in accordance with section 1404(c) on terms and conditions determined by the Director to be consistent with that subsection.

(4) Cooperating with and providing

technical assistance to States, units of local government, and other public and private organizations or international agencies involved in activities related to crime victims.

(5) Such other functions as the Attorney General may delegate.

(Note: New sections to be codified.)

Sec. 7129. Transition Rule.

The amendments made by this chapter shall not apply with respect to a State compensation program that was an eligible State crime victim compensation program on the date of the enactment of this Act until October 1, 1990.

Sec. 7130. Retroactive Transfer To Fund.

An amount equivalent to those sums which would have been placed in the Fund under section 1402(b) of the Victims of Crime Act, but for the effect of section 1402(c)(2) of such Act, is hereby transferred to the Fund from any sums not appropriated from the general treasury.

RELATED STATUTORY PROVISIONS

SPECIAL ASSESSMENT ON CONVICTED PERSONS

18 U.S.C. 3013

(a) The court shall assess on any person convicted of an offense against the United States--

(1) in the case of a misdemeanor--

(A) the amount of \$25 if the defendant is an individual; and

(B) the amount of \$100 if the defendant is a person other than an individual; and

(2) in the case of a felony--

(A) the amount of \$50 if the defendant is an individual; and

(ii) a fine imposed by a court of the United States; and

(B) if ordered by the court in the interest of justice, be used to-

(i) satisfy a money judgment rendered in any court in favor of a victim of any offense for which such defendant has been convicted, or a legal representative of such victim; and

(ii) pay for legal representation of the defendant in matters arising from the offense for which such defendant has been convicted, but no more than 20 percent of the total proceeds may be so used.

(2) The court shall direct the disposition of all such proceeds in the possession of the Attorney General at the end of such five years and may require that all or any part of such proceeds be released from escrow and paid into the Crime Victims Fund in the Treasury.

(d) As used in this section, the term "interested party" includes the defendant and any transferee of proceeds due the defendant under the contract, the person with whom the defendant has contracted, and any person physically harmed as a result of the offense for which the defendant has been convicted.

#### NOTICE TO VICTIMS OF ORDER OF SPECIAL FORFEITURE

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The United States attorney shall, within thirty days after the imposition of an order under this chapter and at such other times as the Attorney General may require, publish in a newspaper of general circulation in the district in which the offense for which a defendant was convicted occurred, a notice that states--

(1) the name of, and other identifying information about, the defendant;

(2) the offense for which the defendant was convicted; and

(3) that the court has ordered a special forfeiture of certain proceeds that may be used to satisfy a judgment obtained against the defendant by a victim of an offense for which the defendant has been convicted.

(NOTE: 18 U.S.C. 3681 and 3682 were enacted originally under the Victims of Crime Act of 1984.)

## APPENDIX

LEGISLATIVE HISTORYVICTIMS OF CRIME ACT OF 1984. Pub. L. 98-473LEGISLATIVE HISTORY S. 2423

Senate Report No. 98-497 accompanying S.2423, May 14, 1984, ordered printed May 25, 1984 (Committee on the Judiciary).

- 130 Cong. Rec. S 2632 (daily ed. March 13, 1984).
- 130 Cong. Rec. S 2635 (daily ed. March 13, 1984).
- 130 Cong. Rec. S 2638 (daily ed. March 13, 1984).
- 130 Cong. Rec. S 10531 (daily ed. August 10, 1984).

LEGISLATIVE HISTORY H.R. 5124

- 130 Cong. Rec. H 1608 (daily ed. March 14, 1984).

LEGISLATIVE HISTORY COMPROMISE BILL

- 130 Cong. Rec. H 10720 (daily ed. October 2, 1984). 130 Cong. Rec. H 10806 (daily ed. October 2, 1984). 130 Cong. Rec. S 13086 (daily ed. October 4, 1984).

LEGISLATIVE HISTORY CONFERENCE BILL

- 130 Cong. Rec. H 11912 (daily ed. October 10, 1984). 130 Cong. Rec. H 12083 (daily ed. October 10, 1984). 130 Cong. Rec. S 14207 (daily ed. October 11, 1984).

LEGISLATIVE HISTORY H.R. 5124

- 129 Cong. Rec. E 3332 (daily ed. June 30, 1983).

CHILDREN'S JUSTICE ACT OF 1986. Pub.L. 99-401  
(Amendments to Victims of Crime Act)

LEGISLATIVE HISTORY S.140

Senate Report No. 99-123 accompanying S.140, July 31, 1985 (Committee on Labor and Human Resources).

- 131 Cong. Rec. S 10673 (daily ed. August 1, 1985).
- 132 Cong. Rec. H 5356 (daily ed. August 4, 1986).

CRIMINAL LAW AND PROCEDURE TECHNICAL AMENDMENTS ACT OF 1986.  
Pub. L. 99-646 (Amendments to Victims of Crime Act)

LEGISLATIVE HISTORY S.1236

Senate Report No. 99-278 accompanying S.1236, April 4, 1986  
 (Committee on the Judiciary).

132 Cong. Rec. S 4470 (daily ed. April 17, 1986).  
 132 Cong. Rec. H 11290 (daily ed. October 17, 1986).  
Cong. Rec. S 17303 (daily ed. October 18, 1986).