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Victims' Rights Laws in the States



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VICTIMS' RIGHTS LAWS IN THE STATES

By
Sarah Brown Hammond



NATIONAL CONFERENCE of STATE LEGISLATURES

The Forum for America's Ideas

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PREFACE AND ACKNOWLEDGMENTS

Victims' Rights Laws in the States is the product of the National Conference of State Legislatures (NCSL) State Legislators' Victim Education Project, an initiative designed to provide information and training to members and staff of state legislatures as they review and revise laws that respond to the needs of victims of crime.

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ABOUT THE AUTHOR

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Before joining NCSL, she worked in Washington, D.C., for five years as a legislative assistant to a U.S. Senator. She has been admitted to the Colorado Bar.

EXECUTIVE SUMMARY

Victims' Rights Laws in the States, is the product of NCSL research and analysis of laws on victims' rights and services in the 50 states, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands and America Samoa, through 2004. The areas of law covered include administration and organization of victims' services in state government; how statutes define a victim; victims' bill of rights provisions in statutory law and state constitutions; victim rights to notice, participation and protection, including employment, confidentiality, restitution and compensation; and provisions on notoriety for profit. The document also summarizes statutory rights of individuals who are victims of crimes committed by juveniles and state services and protections extended to witnesses.

In addition to NCSL's inventory and description of state laws in each of these areas, state-specific summaries were shared with the statewide agency or office that administers victims services in each state, for their review and refinement.

This document is organized into two sections. The first section is organized by topic. It contains a short summary of state laws in each topic area analyzed and described, and often includes state-by-state comparative information about what is contained in state laws in these areas. In the second section, a complete snapshot of each states' victims' rights laws in the areas described is provided. State descriptions are organized alphabetically. The author summarized each state's victims' provisions codified in law. The topic summaries, charts and tables were created by the author's interpretation and analysis of the individual state summaries in section two. The author relied on state statutory victims' bills of rights and on other related laws found outside each state's basic victims' bill of rights in the state's code.

The only exception to state codes as sources of information is the victim compensation information. For that, information was obtained solely from the *Crime Victim Compensation Program Directory* prepared by the National Association of Crime Victims Compensation Boards, 2004.

It should be noted that this document summarizes only state statutory codes and state constitutions as related to victim rights and services. No administrative regulations or the effects of case law in refining and applying these laws were included in this research, but are available from other sources. Other related areas of statutory law for special categories of victims or employment laws also exist that may affect victims; these also are not included in this general overview.

NCSL remains a resource for further information on topics covered in this publication and details or related law that are not covered in this publication.

INTRODUCTION

During the past 30 years, there has been an important shift in criminal justice systems to recognize the needs and support the rights of victims of crime. State legislatures are responsible for enacting policies that create and expand these rights and services, and lawmakers have addressed these issues as a priority concern of their constituents.

As a result of state legislative actions, crime victims now broadly have rights to receive notice of and participate in the criminal justice process and to be compensated for losses. They also now typically have rights to reasonably distance themselves from the offender and often to have their employment unaffected by crime victimization. In addition to transforming criminal justice systems to recognize victims, state legislatures also have put in place civil remedies and privacy measures for crime victims.

Victims' rights laws, even in their relatively short existence, are not static but are constantly being expanded and improved as legislators learn more from victims, from criminal justice officials and from each other. This evolution has included ongoing expansion of victim compensation laws, extension of rights to victims of crimes committed by juvenile offenders, and policies to allow victims the right to confer with the prosecutor regarding plea bargains. In addition, laws in many states now safeguard a crime victim's employment when he or she is exercising rights in the criminal justice system. Lawmakers also are elevating the importance of victim restitution and finding means to improve its enforcement and collection.

The information about state laws compiled for and presented in this document demonstrates the diligent efforts of state legislatures and illustrates the possibilities under state law to address victims' needs. Produced under NCSL's partnership with the federal Office for Victims of Crime, the book is designed to assist state legislatures as they review and refine state laws related to victims' rights and services.

SECTION 1. ORGANIZATION AND ADMINISTRATION OF VICTIM SERVICES

Most states have established a state office to administer and oversee services to victims of crime. Often, such offices are within the state attorney general's office. These offices generally are responsible for providing information and services, such as assisting victims with the state victim compensation fund; advising victims of their rights under law; restitution collection; protection and assistance in preparing and making court appearances; and victim impact statements. Some offices also often help appropriate agencies in the state develop and coordinate guidelines for the treatment of victims and witnesses.

Several states also have created advisory commissions to study victim services in the state and subsequently make recommendations to the legislature or the designated office of victim services for improving services to victims of crime. Collaboration among those in the criminal justice system has become a key element in carrying out the spirit and intent of victims' provisions. For example, South Carolina's State Victim/Witness Program works with the solicitors of South Carolina (state constitutional officers designated in each judicial circuit), the Attorney General's Office, and relevant professional organizations to develop guidelines for solicitors to follow in serving victims and ensuring the effectiveness of victim services. A solicitor, a state constitutional officer, directs the operation of the Solicitor's Office in a designated judicial circuit.

States also have established victim services within their state Department of Corrections (DOC). For example, Mississippi established the Division of Victim Services (DVS) in 2000 to assist crime victims and survivors of homicide victims whose offender is under the jurisdiction of the *corrections department*.

Other states—such as Massachusetts—have established an independent state agency (Office for Victim Assistance (MOVA) whose primary mission is to advocate for crime victims. MOVA also works closely with other state agencies to effectively implement victim rights laws, ensure coordination of services, and collaborate at the local level to *network and build coalitions* among community groups that also are concerned about victim rights and services.

The evaluation of victim services is another important function of state agencies. One responsibility of Illinois' Violent Crime Advisory Commission, for example, is to coordinate, monitor and evaluate the activities of victims' rights program under Illinois law.

Similarly, Washington created a task force to measure and evaluate the state-funded, community-based organizations in the state that provide services to the victim population. As victims' rights laws expand, states continue to study and evaluate their crime victim services offices to ensure appropriate treatment to victims, collaboration and effective services.

The summary of each state's victims' laws in section two includes a Web address of the principal agency with statewide responsibility for victims' rights and services.

DEFINING THE VICTIM

Law in each state defines a “victim” in order to provide the rights, also spelled out in law, that must be afforded to victims in the criminal justice system. This distinction is important because such statutory definitions give victims the legal status required to assert their rights. Beyond the obvious requirement that a crime must first have been committed, a victim is then usually defined as the individual harmed by the criminal act. In homicides, the victim is universally the surviving family member. At least 20 states also include family members of victims who are minor or incompetent.

More than one definition of “victim” exists in each state, ranging from the constitutional definition, the victims’ right statutory definition, to those found in compensation provisions. The definitions explored and relied on here are those found in state victims’ rights statutes.

More variation is seen among states in the specific crimes for which there is a legally recognized victim for purposes of providing victims’ rights and services. Nine states specifically list each criminal offense for which rights apply, while one state, Utah, generally states that victims’ rights apply to victims of “felonies.” Other states cover the definition by simply stating that rights apply to “felonies and misdemeanors,” while approximately seven states provide that rights apply only to certain specified violent felonies.

In regard to victims’ rights, definitions of “crime,” in eight states apply to “all crimes” committed. Two states, Michigan and North Carolina, include only felonies and serious misdemeanors. Eighteen states define a “crime” in terms of the specific harm. For example, Alabama defines crime as a felony offense involving physical injury, threat of physical injury, sexual offense or domestic violence.

Table 1 provides state-by-state information about how statutory law defines the victim and the crime for purposes of providing victims’ rights and services.

Table 1. Who Is A Victim?

State/Jurisdiction ¹	State Statutory Definition of "Victim"	State Statutory Definition of "Crime"
Alabama	A person against whom the criminal offense has been committed or, if the person is killed or incapacitated, the spouse, sibling, parent, child, or guardian of the person, except if the person is in custody for an offense or is the accused. Ala. Code §15-23-60(19)	A "criminal offense" is conduct that gives a law enforcement officer or prosecutor probable cause to believe that a felony involving physical injury, the threat of physical injury, or a sexual offense, or any offense involving spousal abuse or domestic violence has been committed. Ala. Code §15-23-60(7)
Alaska	A person against whom an offense has been perpetrated. If the crime victim is a minor, incompetent or incapacitated, rights also are extended to a person living in a spousal relationship with victim; or a parent, adult child, guardian or custodian of the person. If the victim is dead, victim rights include a person living in a spousal relationship with the deceased immediately before the death, or an adult child, parent, brother, sister, grandparent or grandchild of the deceased or any other interested person, as may be designated by a person having authority in law to do so. Alaska Stat. §12.55.185(17)	Victims' rights apply to all crimes. Alaska Stat. §12.55.185(1)
Arizona	A person against whom the criminal offense has been committed, or if the person is killed or incapacitated, the person's spouse, parent, child or other lawful representative, except if the person is in custody as an offender or is the accused. Ariz. Rev. Stat. Ann. §13-4401(19).	Rights apply to victims of felonies or misdemeanors involving physical injury, threat of physical injury, or sexual offense. Ariz. Rev. Stat. Ann. §13-4401(6).
Arkansas	Defined as a direct victim or in the case that a victim is a minor or is incapacitated, incompetent, or deceased, a member of the victim's family may exercise the rights of the victim under Arkansas law. Ark. Stat. Ann. §16-90-1101(8)	Victims' rights apply to all crimes. Ark. Stat. Ann. §16-90-1101(1)
California	A person who is the direct victim of a misdemeanor or felony. However, most rights also apply to homicide survivors and parents or guardians of minor victims. Cal. Penal Code §679.01(b).	Crime is an act committed in the state of California which, if committed by a competent adult, would constitute a misdemeanor or felony. Cal. Penal Code §679.01(a).

Table 1. Who Is A Victim? (continued)

State/Jurisdiction ¹	State Statutory Definition of "Victim"	State Statutory Definition of "Crime"
Colorado	Any person against whom any crime has been perpetrated or attempted, unless the person is accountable for the crime. If such person is deceased or incapacitated, the person's spouse, parent, child, sibling, grandparent, significant other or other lawful representative is considered the victim. Colo. Rev. Stat. §24-4.1-302(5)	(Whether committed by an adult or a juvenile): murder in the first or second degree; manslaughter; criminally negligent homicide; vehicular homicide; assault in first, second or third degree; menacing; kidnapping in first or second degree; sexual assault in first, second or third degree; sexual assault on child; robbery or aggravated robbery; incest; child abuse, sexual exploitation of a child; crimes against at-risk adults or at-risk juveniles; vehicular assault; unlawful sexual conduct; stalking; ethnic intimidation; careless driving that resulted in the death of a person; failure to stop at the scene of an accident where accident resulted in death of another person; retaliation against a witness or victims; tampering with a witness or victim; and any crime determined to include domestic violence. Colo. Rev. Stat. §24-4.1-302
Connecticut	A victim is a person who suffers personal injury or death as the result of a crime which is a felony or misdemeanor involving personal injury and includes any crime committed by a juvenile. Conn. Gen. Stat. §§54-201(1) and 54-209	A felony or misdemeanor involving personal injury; includes any crime committed by a juvenile. Conn. Gen. Stat. §§54-201(5)
Delaware	The person, organization, partnership, business, corporation, agency or governmental entity identified as the victim of a crime in a police report, a criminal complaint or warrant, an indictment, or information or other charging instrument. Includes a parent, guardian or custodian of a victim who is unable to meaningfully understand or participate in the legal process due to physical, psychological or mental impairment. Includes the following relations of a deceased victim if the relation is not the defendant, codefendant or conspirator: the spouse, an adult child or stepchild, parent or sibling. Specifically includes qualifying neighborhood or homeowner associations. Del. Code Ann, tit. 11, §9401(5)	An act or omission committed by a person, whether or not competent or an adult, which, if committed by a competent adult, is punishable by incarceration and which violates one or more of the sections of Title 11 (66 offenses listed). Del. Code Ann, tit. 11, §9401(1)

Table 1. Who Is A Victim? (continued)

State/Jurisdiction ¹	State Statutory Definition of "Victim"	State Statutory Definition of "Crime"
Florida	A person who suffers personal physical injury or death as a direct result of a crime. Includes a person younger than age 16 who was present at the scene of a crime, saw or heard the crime, and suffered a psychiatric or psychological injury because of the crime, but who was not physically injured. May also be a person against whom a forcible felony was committed and who suffers a psychological injury as a direct result of that crime but who does not sustain personal physical injury or death. Fla. Stat. §960.03 (13)(a-c)	A felony or misdemeanor offense committed by either an adult or a juvenile, which results in physical injury or death. The term also includes any such criminal act that is committed within this state but that falls exclusively within federal jurisdiction. Fla. Stat. §960.03 (3)(a)
Georgia	A person against whom a crime has been perpetrated or, in the event of the death of the crime victim, the following relations if the relation is not either in custody for an offense or the defendant: (i) I spouse; (ii) an adult child if there is no spouse; (iii) a parent if (i) and (ii) do not apply; (iv) a sibling if divisions (i) through (iii) do not apply; or (v) a grandparent if divisions (i) through (iv) do not apply. Also includes a parent, guardian or custodian of a crime victim who is a minor or a legally incapacitated except if such person is in custody for an offense or is the defendant. Ga. Code §17-17-3(11)	An act committed in Georgia ... crimes against the person, murder, sexual offenses, burglary, arson, theft, armed robbery, the sexual exploitation of children, homicide by vehicle, feticide by vehicle or serious injury by vehicle. Ga. Code §17-17-3(4)
Hawaii	A person against whom a crime has been committed by either an adult or a juvenile; includes surviving immediate family members of a homicide victim. Hawaii Rev. Stat. §351-2	An act or omission committed by an adult or juvenile that would constitute an offense against the person under law. Hawaii Rev. Stat. §351-2
Idaho	An individual who suffers direct or threatened physical, emotional or financial harm. Idaho Code §19-5306(5)(a)	Felonies or misdemeanors involving physical injury, threat of physical injury or a sexual offense. Idaho Code §19-5306(5)(b)
Illinois	A person physically injured in the state of Illinois as a result of a violent crime perpetrated or attempted against that person. Also a person who suffers injury to or loss of property as a result of a violent crime perpetrated or attempted against that person. Includes a single representative who may be the spouse, parent, child or sibling of a person killed as a result of a violent crime against the person killed or the spouse, parent, child or sibling of any person granted rights under law who is physically or mentally incapable of exercising such rights, except where the person is also the defendant or prisoner. 725 Ill. Comp. Stat. §120/3(a)	Violent crime. 725 Ill. Comp. Stat §120/3(a)

Table 1. Who Is A Victim? (continued)

State/Jurisdiction ¹	State Statutory Definition of "Victim"	State Statutory Definition of "Crime"
Indiana	A person who has suffered harm as a result of a crime that was perpetrated directly against the person. Does not include a person charged with a crime arising out of the same occurrence. Ind. Code §35-40-4-8	Crime includes a delinquent act. Ind. Code §35-40-4-3
Iowa	A person who has suffered physical, emotional or financial harm as the result of a public offense or a delinquent act, other than a simple misdemeanor, committed in this state. Includes the immediate family members of a victim who died or was rendered incompetent as a result of the offense or who was under age 18 at time of the offense. Iowa Code §915.10(3)	A forcible felony, as defined, and includes any other felony or aggravated misdemeanor which involved the actual or threatened infliction of physical or emotional injury on one or more persons. Iowa Code §915.10(5)
Kansas	A person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime. Kan. Stat. Ann. §19-4802(h)	Rights apply to victims of all crimes. Kan. Stat. Ann. §19-4802(b)
Kentucky	An individual who suffers harm as a result of a crime. Includes the parent, guardian, custodian or court-appointed special advocate for minor or legally incapacitated victims or the spouse or family member of a deceased victim, if that person is not the defendant. Ky. Rev. Stat. §415.500(1)	Homicide, robbery, rape, assault, stalking, unlawful imprisonment, terrorist threatening, use of minor in sexual performance, intimidating a witness, sodomy, kidnapping, harassing communications, burglary in the first or second degree, sexual abuse, wanton endangerment, criminal abuse or incest. Ky. Rev. Stat. §415.500(1)
Louisiana	A person against whom any of the following offenses have been committed: any homicide, or any felony offense defined under law; any sexual offense; or the offenses of vehicular negligent injuring and first degree vehicular negligent injuring. The definition includes the family of a homicide victim. La. Rev. Stat. Ann. 46:1842(9)	Rights apply when the crime is a felony under state law. La. Rev. Stat. Ann. 46: 1842(1)
Maine	A person who is the victim of a crime and the immediate family of a victim of a crime if the underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or due to death, age, physical or mental disease, disorder or defect, the victim is unable to participate. Me. Rev. Stat. Ann. tit. 17-A, ch. 48 §1171(2)	Crime is defined as a criminal offense in which, as defined, there is a victim. Those crimes include: crimes against the person (list of 16 crimes ranging from murder to reckless conduct) sexual assault, acts of terrorism, operating under the influence of intoxicating liquor or drugs or an excessive blood-alcohol level, robbery, kidnapping, leaving scene of a motor vehicle accident involving personal injury or death, and crimes where victim of family has serious physical trauma or financial loss. Me. Rev. Stat. Ann. tit. 17-A, ch. 48, §1171(1)

Table 1. Who Is A Victim? (continued)

State/Jurisdiction ¹	State Statutory Definition of "Victim"	State Statutory Definition of "Crime"
Maryland	Individual who suffers direct or threatened physical, emotional or financial harm as result of crime, includes family members of minor, incompetent, or homicide victim. Md. Crim. Procedure Code §11-501(b)	Conduct that is any crime under the law Maryland or under federal law. Md. Crim. Procedure Code §11-501(a)
Massachusetts	Any natural person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime or delinquency offense, as demonstrated by the issuance of a complaint or indictment. Includes the family members of such person if the person is a minor, incompetent or deceased. Mass. Gen. Laws Ann. ch. 258B: §1	An act committed in the Commonwealth that would constitute a crime if committed by a competent adult, including any act that may result in an adjudication of delinquency. Mass. Gen. Laws Ann. ch. 258B: §1
Michigan	Victims' rights in Michigan apply to victims of felonies and serious misdemeanors and to victims of juvenile offenses that would be felonies or serious misdemeanors if committed by adults. Mich. Comp. Laws §780.752(1)(j))	Felonies and serious misdemeanors. Mich. Comp. Laws §780.751(1)(b)
Minnesota	A natural person who incurs loss or harm as the result of a crime, includes good faith efforts to prevent crime. A "victim" also includes surviving spouse or the next of kin of a deceased victim. Minn. Stat. 611A.01(b)	Conduct prohibited by local ordinance that results in bodily harm or conduct prohibited by statute for which the actor may be sentenced to imprisonment, with or without a fine. Minn. Stat. 611A.01(a)
Mississippi	Any person against whom a felony has been committed or attempted. Miss. Code Ann. §99-36-3(a)	Rights apply to victims, close relative of a deceased victim, or guardian of victim who is a minor or physically or mentally incompetent. Miss. Code Ann. §99-36-3(a)
Missouri	A person who suffers direct or threatened physical, emotional or financial harm, or a family member of a minor, incompetent or homicide victim. Mo. Ann. Stat. §595.010. 1	Crime is defined as "an act which would constitute a violation of any criminal statute including any act which may result in an adjudication of delinquency." Mo. Ann. Stat. §595.200
Montana	A person who suffers loss of property or bodily injury as a result of: (i) the commission of an offense; (ii) the good faith effort to prevent the commission of an offense; or (iii) the good faith effort to apprehend a person reasonably suspected of committing an offense. The definition of victim includes a member of the immediate family of a homicide victim. Mont. Code Ann. §46-18-243(2)(a)	"Criminally injurious conduct" means conduct that: occurs or is attempted in this state or an act of international terrorism against a resident of this state; (b) results in bodily injury or death; and (c) is punishable by fine, imprisonment, or death. Mont. Code Ann. §53-9-103

Table 1. Who Is A Victim? (continued)

State/Jurisdiction ¹	State Statutory Definition of "Victim"	State Statutory Definition of "Crime"
Nebraska	<p>A person who, as a result of a crime has had personal confrontation with the offender. Also includes a person who as suffered serious bodily injury as a result of a motor vehicle accident when the driver was charged with driving under the influence of drugs or alcohol.</p> <p>In the case of a homicide, "victim" means at least one family representative but does not include the alleged perpetrator of the homicide.</p> <p>In the case of a sexual assault of a child, "victim" means the child victim and the parents, guardians or duly appointed legal representative of the child victim but does not include the alleged perpetrator of the sexual assault Neb. Rev. Stat. §29-119</p>	<p>A homicide, a first degree sexual assault, a first degree assault, a sexual assault of a child, a second degree assault, a first degree false imprisonment, a second degree sexual assault, or a robbery. Neb. Rev. Stat. §2930.01(A)</p>
Nevada	<p>A relative of a person against whom a crime has been committed, or who has been injured or killed as a direct result of the commission of a crime. Nev. Rev. Stat. §217.070</p>	<p>Any crime. Nev. Rev. Stat. §217.035</p>
New Hampshire	<p>A person who suffers direct or threatened physical, emotional, psychological or financial harm as a result of commission or attempted commission of a crime. Includes immediate family of minor, incompetent or immediate family of a homicide victim. N.H. Rev. Stat. Ann. §21-M:8-k)(1)(a)</p>	<p>A violation of a penal law in the state of New Hampshire for which the punishment is imprisonment for more than one year. A crime also is an offense expressly designated by law to be a felony. N.H. Rev. Stat. Ann. §21-M:8-k)(1)(b)</p>
New Jersey	<p>A person who suffers personal, physical or psychological injury or death or incurs loss of or injury to personal or real property as a result. In the event of death, "victim" means the surviving spouse or next of kin. NJ Rev. Stat. §52-4B-37</p>	<p>Not defined.</p>

Table 1. Who Is A Victim? (continued)

State/Jurisdiction ¹	State Statutory Definition of "Victim"	State Statutory Definition of "Crime"
New Mexico	An individual against whom a criminal offense is committed. Victim also means a family member or a victim's representative when the individual against whom a criminal offense was committed is a minor, is incompetent or a homicide victim. N.M. Stat. Ann. §31-26-3(F)	Negligent arson resulting in death or bodily injury, aggravated arson, aggravated assault, aggravated battery, dangerous use of explosives, negligent use of a deadly weapon, murder, voluntary and involuntary manslaughter, kidnapping, criminal sexual penetration, criminal sexual contact with a minor, armed robbery, homicide by a vehicle, great bodily injury by vehicle, abandonment or abuse of a child, stalking or aggravated stalking, aggravated assault against a household member, assault against a household member with intent to commit a violent felony, battery against a household member or aggravated battery against a household member. N.M. Stat. Ann. §31-26-3(B)
New York	A victim of a crime who has sustained a personal physical injury. N.Y. Ex. Law §646a	Not defined.
North Carolina	A person against whom there is probable cause to believe a crime has been committed. N.C. Gen. Stat. §15A-824(3)	A felony or serious misdemeanor as determined in the sole discretion of the district attorney, except the following (Class A, B1, B2, C, D, E felony or Class F, G, H, I felonies if they violate certain statutory provisions). Also includes any act committed by a juvenile that, if committed by a competent adult, would constitute a felony or serious misdemeanor. N.C. Gen. Stat. §15A-824(1)
North Dakota	A natural person who has suffered direct or threatened physical, emotional or financial harm where there is probable cause to believe that the harm has been caused by the criminal act. Includes the family members of a minor, incompetent, incapacitated or deceased person. N.D. Cent. Code §12.1-34.01(8)	Includes all felony offenses and class A misdemeanors (excluding issuing a check or draft without an account). Crime also includes any of the above offenses that may result in adjudication of delinquency. ND Cent. Code §12.1-34.01(2)
Ohio	A person identified as victim of crime or delinquent act in police report, complaint, indictment, or information charging the commission of crime, and that provides the basis for the criminal prosecution or delinquency proceedings and subsequent proceedings. Ohio Rev. Code Ann. §2930.01(H)	Any felony or violation of Ohio law regarding assault, negligent homicide, vehicular homicide, sexual imposition, intimidation of crime victim of witness, menacing or aggravated menacing or domestic violence. Ohio Rev. Code Ann. §2930.01(A)
Oklahoma	A person who is a victim of crime and members of the immediate families of homicide victims. Okla. Stat. §21-142.3(14)	The definition of crime is not defined for most rights. Okla. Stat. §21-142.3(5(a))

Table 1. Who Is A Victim? (continued)

State/Jurisdiction ¹	State Statutory Definition of "Victim"	State Statutory Definition of "Crime"
Oregon	A person who is killed or injured in Oregon as a result of a compensable crime committed against the victim. Or. Rev. Stat. §147.005(13)	"Compensable crime" means an intentional, knowing or reckless act by a person resulting in serious bodily injury or death of another person that would be punishable as a crime in Oregon. Or. Rev. Stat. §147.005(4)
Pennsylvania	A person against whom crime is being or has been perpetrated. Includes direct victim; parent or legal guardian of child direct victim, except when the parent or legal guardian of the child is the offender; or family member of homicide victim, including stepbrothers or stepsisters, stepchildren, stepparents or fiancé, who is identified to receive communication as provided for in law, except where the family member is offender. 37 P.A. Code §191.1	An act, including an act resulting in injury intentionally inflicted through the use of a motor vehicle, which was committed in Pennsylvania by a person, without regard to legal exemption or defense that would constitute a crime under Pennsylvania law. 37 P.A. Code §191.1
Rhode Island	A person who has had a criminal offense committed against them. Includes victims and immediate family members of homicide victims or immediate family members of victim who is incapacitated due to crime. R.I. Gen. Laws §11-32-4(2)	Rights apply to victims of all criminal offenses, including both felonies and misdemeanors. R.I. Gen. Laws §11-47-2(2)
South Carolina	One who suffers direct or threatened physical, emotional or financial harm as a result of a crime. Victim includes family member of a minor, incompetent, person incapacitated as result of a crime, or a homicide victim. S.C. Code Ann. §16-3-1510(1)	Crime. S.C. Code Ann. §16-3-1510(5)
South Dakota	Any person who is the direct subject of an alleged act, which would constitute a crime of violence, simple assault between family or household members, stalking, or a driving under the influence vehicle accident under South Dakota or U.S. laws. If victim does not survive such act or is unable to comment, "victim" means the members of the immediate family of the primary victim. S.D. Codified Laws Ann. §23A-28C-4	Crime of violence under 22-1-2(9), simple assault between family or household members defined under 25-10-1(2), violation of chapter 22-22, or driving under the influence. S.D. Codified Laws Ann. §23A-28C-4

Table 1. Who Is A Victim? (continued)

State/Jurisdiction ¹	State Statutory Definition of "Victim"	State Statutory Definition of "Crime"
Tennessee	A natural person against whom a crime was committed. If the victim is a minor, then the parent or legal guardian of the minor is "the victim"; or if the victim is deceased or is physically or emotionally unable to exercise the victim's rights, then the following people or their designees are considered "victims" in the order of preference in which they are listed: a family member or a person who resided with the victim. Does not include person charged with an alleged crime or who has some form of criminal responsibility for the crime. Tenn. Code Ann. §40-38-302(4)(A)	Any offense for which the punishment is a Class A, B, C, D, E felony, first degree murder or assault. Tenn. Code Ann. §40-38-302(1)
Texas	A person who is victim of sexual assault, kidnapping or aggravated robbery or who has suffered bodily injury or death as a result of the criminal conduct. A victim, guardian of a victim, or close relative of a deceased victim is entitled to the victims' rights prescribed by the constitutional Victim Bill of Rights and Texas law. Tex. Crim. Proc. Code Ann. §56.01(3)	Sexual assault, kidnapping, aggravated robbery, crime involving bodily injury or death. Tex. Crim. Proc. Code Ann. §56.01(3)
Utah	Any natural person against whom the charged crime or conduct is alleged to have been perpetrated or attempted by the defendant. A victim includes a minor personally or as a party to the offense or conduct or, in the discretion of the court, against whom a related crime or act is alleged to have been perpetrated or attempted, unless the natural person is the accused or appears to be accountable. Utah Code Ann. §77-37-2(3)	Felonies. Utah Code Ann. §77-37-2(3)
Vermont	A person who sustains physical, emotional or financial injury or death as a direct result of the commission or attempted commission of a crime or act of delinquency. Includes the family members of a minor, incompetent or a homicide victim. Vt. Stat. Ann., tit 13, ch. 167, §5351(7)	Crime is defined as "crime or "attempted crime." Vt. Stat. Ann., tit 13, ch. 167, §5301(7)

Table 1. Who Is A Victim? (continued)

State/Jurisdiction ¹	State Statutory Definition of "Victim"	State Statutory Definition of "Crime"
Virginia	A person who has suffered physical, psychological or economic harm as a direct result of the crime. Includes a spouse or child of such a person; a parent or legal guardian of such a person who is a minor; or a spouse, parent, sibling or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide. Does not mean a parent, child, spouse, sibling or legal guardian who commits a felony or other enumerated criminal offense against a victim. Va. Code §19.2-11.01(B)	A felony of assault and battery, stalking, sexual battery, attempted sexual battery, maiming or driving while intoxicated. Va. Code §19.2-368.2
Washington	A victim is defined as person against whom a crime has been committed or the representative of a person against whom a crime has been committed. Wash. Rev. Code §7.69.020(3)	A crime is defined as an act punishable as a felony, gross misdemeanor, or misdemeanor under the laws of this state or equivalent federal or local law. Wash. Rev. Code §7.69.020(1)
West Virginia	Direct victims of crime or any members of a victim's immediate family have victims' rights. W.Va. Code §14-2A-3(k)	Conduct that occurs which by its nature poses a substantial threat of personal injury or death and is punishable by fine or imprisonment or death. Also includes an act of terrorism. W.Va. Code §14-2A-3(c)
Wisconsin	A person against whom a crime has been committed; if the victim is a child, "victim" includes a parent, guardian or legal custodian of the child; if a victim is physically or emotionally unable to exercise the rights, "victim" means a person designated by the victim or a family member. If the victim is deceased, the victim is a family member or a person who resided with the deceased. If the victim has been determined to be incompetent, "victim" means the appointed guardian. A victim does not include the person charged with or alleged to have committed the crime. Wis. Stat. §950.02(4)(a)	An act committed in Wisconsin which, if committed by a competent adult, would constitute a conduct prohibited by state law and punishable by fine or imprisonment or both. Conduct punishable only by a forfeiture is not a crime. Wis. Stat. §950.02(1m)
Wyoming	An individual who has suffered direct or threatened harm as a result of a crime; also includes a family member who is minor or incompetent or a surviving family member of a homicide victim. Wyo. Stat. §7-21-101(a)(iii)	Crime is defined as "felonies," which may be punished by death or by imprisonment for more than one year. Wyo. Stat. §7-21-101(a)(i) and §6-10-101.
District of Columbia	A person who or entity which has suffered direct physical, emotional or pecuniary harm as a result of the commission of any felony or violent misdemeanor. DC Code Ann. §23-1905(2)(A)	Any felony or violent misdemeanor in violation of any criminal statute in the District of Columbia. DC Code Ann. §23-1905(2)(A)(i)

Table 1. Who Is A Victim? (continued)

State/Jurisdiction ¹	State Statutory Definition of "Victim"	State Statutory Definition of "Crime"
Guam	A person who is a victim of a criminal offense. Guam Code Ann. §160.30	No definition available.
Virgin Islands	A person who suffers direct or threatened physical, emotional, or financial harm as the result of the commission or attempted commission of a crime against him. The term "victim" also includes the immediate family members of a crime victim who is a minor or who is physically or emotionally incapacitated as a result of the crime. 34 V.I.C. §202	No definition available.

Note:

1. States or jurisdictions that are not included have no such provisions.

Source: National Conference of State Legislatures, 2004.

STATE VICTIMS' RIGHTS CONSTITUTIONAL AMENDMENTS AND STATUTORY BILL OF RIGHTS

Every state provides some legal rights to victims in their state codes; however, recognition by citizens and legislators of the importance of elevating the rights and needs of victims has led 33 states to amend their constitutions to include rights for victims. The victims' rights constitutional amendments are intended to ensure that the rights and protections afforded to victims of crime are on par with those of the criminal defendant. Most state amendments articulate the right of victims to be informed, present and heard at important criminal justice proceedings, as well as the right to be treated with fairness and respect. Others also give the victim the right to restitution from the offender or include the right to reasonable protection from the accused.

Although historically victims are relied upon to report the crime, testify and facilitate prosecution, constitutional victims' rights amendments have been put in place to recognize the importance of victim rights and services in that process without denying defendants any fundamental constitutional rights to a fair trial and fair treatment throughout.

As shown in table 2, 33 states have amended their constitutions to include rights for crime victims. These Victims' Rights Amendments generally are distinguished from similar statutory provisions, which often are codified as a "victims' bill of rights." In other states, the sum of victims' rights provisions that have been enacted in statutory law are comparable in language and spirit to a victims' bill of rights, but may not carry that title.

Whether state constitutional victims' rights amendments or statutory victims' bill of rights, both vehicles illustrate state commitments to providing victims with an appropriate role and much-needed procedural rights in the criminal justice process.

Table 2. Constitutional State Victims' Rights Amendments

State/Jurisdiction ¹	Constitutional State Victims Rights Amendments	State/Jurisdiction ¹	Constitutional State Victims Rights Amendments
Alabama	√	Nebraska	√
Alaska	√	Nevada	√
Arizona	√	New Jersey	√
California	√	New Mexico	√
Colorado	√	North Carolina	√
Connecticut	√	Ohio	√
Florida	√	Oklahoma	√
Idaho	√	Oregon	√
Illinois	√	Rhode Island	√
Indiana	√	South Carolina	√
Kansas	√	Tennessee	√
Louisiana	√	Texas	√
Maryland	√	Utah	√
Michigan	√	Virginia	√
Mississippi	√	Washington	√
Missouri	√	Wisconsin	√
Montana	No broad constitutional victims' right amendment, but Montana voters approved a constitutional amendment that broadens the purposes of the criminal justice system to include restitution to victims.	Wyoming	√

Note:

1. States or jurisdictions that are not included have no such provisions.

Source: National Conference of State Legislatures, 2004.

VICTIM NOTIFICATION

A victim's right to receive notice of what is happening with the case and the offender throughout the criminal justice process is one of the crucial components of victim rights law. The right to be notified includes both the right to information that is of likely interest to a crime victim and the right to know that various key proceedings in the case are scheduled. Ensuring notification affords victims the choice to actively participate in criminal proceedings or to stay removed if they so desire.

Basic victim notification provisions are codified in law in all states. Notice rights typically include notice of status of the case at each point in the criminal justice system, including court hearings; and of available financial assistance and medical, emergency and community services. Many states also require that victims receive a general statement of their rights in the criminal justice system and sometimes an explanation of the steps in the criminal justice process. Legislatures have built upon this base by enacting measures that expand or expedite notice.

An important development in recent years is use of technology to improve notice and therefore facilitate victim participation in the criminal justice process. Automated victim notification systems in many states provide victims with a toll-free number to call to receive basic information about their offender. Systems automatically call to notify of any change in status.

States also are expanding notification to include victims of crimes in which the offender is being handled in the mental health system rather than in the criminal justice system. States—including Arizona, Alabama, Indiana, Minnesota, North Dakota, Pennsylvania and Tennessee—provide for notice to the victim if the offender escapes or is transferred to a mental health institution or treatment agency.

Tables 3 and table 4 show the many types of notice provided to victims in state law. As detailed in table 3, many states require that victims be provided with information about medical or social services, and most states have provisions that require victims to receive a statement of their constitutional or statutory rights as a victim. Information about the compensation programs that may be available to victims for qualifying claims also is required to be provided in most states. In 18 states, victims must receive notice of the charges being filed against the offender; a few states also require that the pre-sentence investigation report be disclosed to the victim. Some states require such notice only when the victim has specifically requested it. In

VINE

The VINE (Victim Information and Notification Everyday) automated information system can provide victims with immediate and direct access to information. VINE was developed in Kentucky in 1994 after a woman was murdered in Louisville by her ex-boyfriend after he was released from jail without her knowledge.

VINE is an anonymous free 24 hours per day, 365 days per year telephone service that provides victims with access to inmate custody information and the ability to verify the custody of an offender. Further, victims who register with VINE can be automatically notified of any change in an inmate's custody, such as a release, escape, transfer or even death. It is a fully automated computer service that electronically links inmate custody data at the state prison or local jail to the VINE Call Center. VINE's around-the clock capability now is being used in more than half the states.

Arizona, Connecticut and Florida require that the judge announce from the bench each day to the courtroom the basic rights for victims.

almost all states, victims are to receive notice when the offender is released from custody or if he or she escapes.

In nearly half the states, victim notification must include an explanation of the various steps and proceedings that take place in the criminal justice system. Many state laws also require that victims receive notice of the scheduling of the many procedural events, as detailed in table 4. When schedule changes occur, as they often do in criminal proceedings, many states provide that victims be kept informed of the changes, postponement and rescheduling. Such notification rights give the victim the ability participate, if they so desire, in the criminal justice process.

Table 3. Victim Notice of Information

Victims are required by law or statute to receive notice of information the following:

State/Jurisdiction	Victims' Rights under Law or Constitution	Victim Services (social, medical, etc).	Availability of Victim Compensation	Steps in the Criminal Justice Process	Charges Filed Against Offender	Pre-Sentence Report	Escape or Release	Death of Offender
Alabama	√	√	√	√	1	1	1	1
Alaska							√	
Arizona		√	√		√	√	√	
Arkansas	√	√	√				√	√
California							√	
Colorado	√	√	√	√	√	√	1	
Connecticut	√	√	√				1	
Delaware	√	√	√	√	√		√	
Florida	√	√	√	√	√		√	
Georgia	√	√	√	√			√	
Hawaii		√	√				√	
Idaho	√					√	√	
Illinois		√	√				5	
Indiana	√	√	√			1	√	
Iowa		√	√	√			√	
Kansas	√	√	√			√	√	
Kentucky		√	√		√		√	
Louisiana	√	√	√					
Maine				√			√	
Maryland	√	√	√	√			√	
Massachusetts	√	√	√				√	
Michigan	√	√	√	√	√	√	√	

Table 3. Victim Notice of Information (continued)

State/Jurisdiction	Victims' Rights under Law or Constitution	Victim Services (social, medical, etc).	Availability of Victim Compensation	Steps in the Criminal Justice Process	Charges Filed Against Offender	Pre-Sentence Report	Escape or Release	Death of Offender
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	√	√	√	√			√	

Table 3. Victim Notice of Information (continued)

State/Jurisdiction	Victims' Rights under Law or Constitution	Victim Services (social, medical, etc).	Availability of Victim Compensation	Steps in the Criminal Justice Process	Charges Filed Against Offender	Pre-Sentence Report	Escape or Release	Death of Offender
Washington	6	√		√				
West Virginia		√	√	√			√	
Wisconsin	√	√	√				√	
Wyoming	√	√			√	√	√	
American Samoa								
District of Columbia			√		√	√		√
Guam		√	√				√	
Puerto Rico					√			
Virgin Islands		√	√	√	√		√	

Notes:

1. Upon request.
2. Parole hearing.
3. Parole hearing and decision.
4. Pardon or parole hearing and decision.
5. Upon written request.
6. Only for victims of sexual offenses or attempted murder or family of homicide victims.
7. Whenever practicable.
8. A written statement of rights.

Source: National Conference of State Legislatures, 2004.

Table 4. Victim Notice of Rights of Events in Criminal Proceedings
Victims are required by law or statute to receive notice of the following events in the process:

State/Jurisdiction	Notice of Court Proceedings	Arraignment	Any Schedule Changes	Sentencing Hearing	Notice of Final Disposition	Pardon or Parole (hearings and decisions)	Post-Conviction Proceeding or Appeal
Alabama	1	√	5	√	√	4	√
Alaska	√	√	√	√		2	√
Arizona	√	√		√	√	3	√
Arkansas	√					3	√
California	√		√	√	1	1, 3	
Colorado	√	√	√	√	√	1	1
Connecticut	√	√		√		1, 2	
Delaware	√	√		√	√	4	√
Florida	√	6	√	√	√		
Georgia	√	√	√			4	5
Hawaii	√		√	√	√		
Idaho	√			1	1	3	√
Illinois	√	5	√	√	√	3, 5	√
Indiana	√	√	√	√	√		√
Iowa	√	√	√	√	√	√	√
Kansas	√				√	4	
Kentucky	√	1	√	√	√	1, 2	√
Louisiana	√	√	√	√	√	3	√
Maine	7			√			
Maryland	√	√	√	√	√	2	√
Massachusetts	√	√	√	√	√	2	
Michigan	√	√	√	√	√	4	√
Minnesota	√	√	√	√	√		√
Mississippi	√	1	√	√	√	4	√
Missouri	√	√	√	√	√	1	1
Montana	√	√	√	√	√	4	√
Nebraska	√		√	√	√	4	
Nevada	√	√	√	√	√	4, 5	
New Hampshire	√	√	√	√	√	2	√
New Jersey	√		√	√	√		

Table 4. Victim Notice of Rights of Events in Criminal Proceedings (continued)

State/Jurisdiction	Notice of Court Proceedings	Arraignment	Any Schedule Changes	Sentencing Hearing	Final Disposition	Pardon or Parole (hearings and decisions)	Post-Conviction Proceeding or Appeal
New Mexico	√		√	√		2	√
New York	√	√		√	√	√	√
North Carolina		√	√	√	√	√	√
North Dakota	√	√	√	√	√	4	1
Ohio	√	√	√	√	√	4	√
Oklahoma	√			√		2	√
Oregon	√			√	√	1, 2	√
Pennsylvania	√			√	√	2	
Rhode Island	√	√	√	√	√	2	
South Carolina	√	√	√	√		1	√
South Dakota	√	√		√	√	4	
Tennessee	√	√	√	√	√	2	
Texas	√	1	√	1	1		√
Utah	1		√			1, 4	
Vermont	√	√	√	√	√	4	√
Virginia	√		√	√	√	√	√
Washington	√		√	1	√	3, 5	
West Virginia	√		√	√	√	√	
Wisconsin	√			√		4	
Wyoming	√	√	√	√	√	3	√
American Samoa							
District of Columbia	√	√	√	√	√		
Guam	√	√	√	√	√	4	
Puerto Rico	√			√		√	
Virgin Islands	√	√	√	√	√		

Notes:

1. Upon request.
2. Parole hearing.
3. Parole hearing and decision.
4. Pardon or parole hearing and decision.
5. Upon written request.
6. Only for victims of sexual offenses or attempted murder or family of homicide victims.
7. Whenever practicable.
8. A written statement of rights.

Source: National Conference of State Legislatures, 2004.

VICTIM PARTICIPATION

Victims' rights laws have ensured that victim participation in the criminal justice system goes well beyond reporting the crime and being available to testify and otherwise facilitate prosecution. Today, most state victims' rights amendments and statutes provide victims the right to be heard in criminal proceedings, including those at which sentencing or release decisions are made.

Some states provide victims the right to be present and heard at all "critical" or "crucial" stages of the criminal justice proceedings. Other states, such as Arizona, Arkansas and New Mexico, provide victims the right to attend only proceedings that "the defendant has a right to attend as well." Other states—such as Delaware and Idaho—simply provide the right for victims to be present at "all" stages of a criminal proceedings.

Victims typically may present oral or written statements in those settings. Countless examples from across the country illustrate how laws that allow such statements give a meaningful voice to people who have been affected by crime, especially family members of homicide victims. More than half the states allow victims to be present and heard at parole hearings. Permitting victims to express their opinion about whether their offender should be released gives victims an important role in the parole process.

Many states also give victims the right to confer with the prosecutor and to present and provide input with regard to plea negotiations to the prosecutor. In three states—Alabama, Louisiana and West Virginia—the victim may be allowed to sit in the courtroom at the counsel's table with the prosecutor, parallel to the defendant's presence with his or her counsel.

Alabama, Louisiana and West Virginia provide victims the right to be seated alongside the prosecutor at the counsel table.

Many states also have statutory or constitutional provisions that grant speedy trial rights to victims, guaranteeing that victims, like defendants, do not endure "unreasonable delay."

Table 5 provides state-by-state information on these and other participation rights of victims in the criminal justice process.

Victims' advocates assert that provisions that grant participatory rights to victims are vital not only to respectful acknowledgment of victimization, but also to the psychological healing that often must take place following a crime.

Table 5. Victim Participation

State/Jurisdiction	Present and Heard at all "Critical" or "Crucial" Stages of Proceeding	Present at Any Criminal Dispositional Process in Which the Defendant Has a Right To	Right to Refuse Interview with Defense	Confer with Prosecutor	Present or Give Input to Prosecutor at Plea Negotiations	Speedy Trial	Sit at Counsel's Table	Have an Advocate or Family Member Present	Victim Impact Statement (VIS) at Sentencing	Present at Parole Hearing and Submit VIS
Alabama	√		√	√	√		√		√	√
Alaska			√	√		√			√	
Arizona			√	√	√	√			√	√
Arkansas								√	√	√
California	√								√	
Colorado	√			√	√			√	√	√
Connecticut	√			√	√	√			√	√
Delaware		√		√	√	√		√	√	√
Florida	5			√	√	√		√	√	
Georgia	√				√			√	√	
Hawaii	√			√	√				√	
Idaho	√			√	√	√			√	√
Illinois	√			√	√				√	1
Indiana	√			√					√	
Iowa	6								√	
Kansas	√								√	
Kentucky				√	√				√	√
Louisiana	√			√		√	√	√	√	√
Maine			√		√				√	
Maryland	2					√			√	

Table 5. Victim Participation (continued)

State/Jurisdiction	Present and Heard at all "Critical" or "Crucial" States of Proceeding	Present at Any Criminal Dispositional Process in Which the Defendant Has a Right To	Right to Refuse Interview with Defense	Confer with Prosecutor	Present or Give Input to Prosecutor at Plea Negotiations	Speedy Trial	Sit at Counsel's Table	Have an Advocate or Family Member Present	Victim Impact Statement (VIS) at Sentencing	Present at Parole Hearing and Submit VIS
Massachusetts	√			√		√		√	√	√
Michigan	6			√	√	√			√	√
Minnesota	√			√	√	√			√	
Mississippi	√			√	√	√			√	
Missouri		√		√	√	√			√	√
Montana	√								√	
Nebraska	√			√	√	√			√	√
Nevada	√								√	√
New Hampshire		√		√	√				√	√
New Jersey	√			4					√	√
New Mexico		√		√	√	√			√	2
New York	√			√	√			√	√	
North Carolina	6			√	√				√	√
North Dakota	√					√			√	√
Ohio		√		√	√			√	√	
Oklahoma		√						√	√	√
Oregon	√		√		2				√	√
Pennsylvania		√	√	√	√			√	√	√
Rhode Island		√			√				√	√
South Carolina		√		√	√				√	√

Table 5. Victim Participation (continued)

State/Jurisdiction	Present and Heard at all "Critical" or "Crucial" States of Proceeding	Present at Any Criminal Dispositional Process in Which the Defendant Has a Right To	Right to Refuse Interview with Defense	Confer with Prosecutor	Present or Give Input to Prosecutor at Plea Negotiations	Speedy Trial	Sit at Counsel's Table	Have an Advocate or Family Member Present	Victim Impact Statement (VIS) at Sentencing	Present at Parole Hearing and Submit VIS
South Dakota	7				√				√	√
Tennessee		√	√	√	√	√		√	√	
Texas	√			√				√	√	√
Utah		√				√				√
Vermont	√								√	
Virginia				√	2					
Washington	√				√			3	√	
West Virginia	√			√	√		√		√	
Wisconsin	√			√		√			√	√
Wyoming	√		√	√					√	
American Samoa										
District of Columbia	6			√					√	√
Guam	√				√				√	
Puerto Rico	6								√	
Virgin Islands	√			√		√			√	

Notes:

1. Have the right only to inspect the registry of the parole decision.
2. Upon request.
3. Victims of violent and sex crimes only.
4. Victims of sexual assault only.
5. The right to be present exists but only to the extent that these rights do not interfere with the rights of the accused.
6. The right to be present exists, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
7. The right to be present exists, if the victims advises the prosecutor of such desire.

Source: National Conference of State Legislatures, 2004.

VICTIM PROTECTION AND CONFIDENTIALITY

Among the basic needs of victims of crime are protection from the offender and confidentiality of their personal information. Laws in many states have provided “reasonable protection” to the victim from the offender during the criminal justice process, and this language has been included in several victims’ rights amendments to state constitutions. Other states—such as Alaska and Massachusetts—have enacted more specific provisions that provide victims with the right to be protected by local law enforcement agencies from harm and threats of harm arising from their cooperation with law enforcement and prosecution efforts. Some states, such as Michigan, specifically provide that the prosecutor may move that the bond of a defendant be revoked based upon any credible evidence of acts or threats of physical violence or intimidation by the defendant against the victim or the victim’s immediate family.

Victim notice laws in some states also require that victims be apprised of protection available to them under law. These and other provisions seek to make it easier for frightened or intimidated victims to exercise their rights to participate in proceedings. For example, it is common for state law to require separate court waiting areas where victims need not be in close proximity to the defendant or his or her friends and family.

Under many state laws, victims may request confidentiality in the criminal justice system. Measures often proscribe, upon the court’s approval, that law enforcement, prosecution, defense, or parole, probation or corrections officials not disclose or state in open court the residential address, telephone number, or place of employment or school of the victim, a victim’s family member, or a witness. Eleven states in recent years have enacted measures to keep victims’ addresses confidential. The confidentiality programs created under these laws generally apply to victims of domestic violence or to victims of sex crimes or stalking. For example, Maine’s Address Confidentiality Program (ACP), administered by the secretary of state, protects the confidence of victims of domestic violence, stalking or sexual assault. The program has two basic parts. First, the ACP provides a designated address to victims who have moved to a new location unknown to their abuser. The second part of the program provides participants with a free first-class confidential mail forwarding service.

Tables 6 and 7 provide state-by-state information about protections and confidentiality provided to victims under state laws and about state statutes that provide various employment protections to victims of crime.

The intent behind general victim protection and confidentiality laws is to provide a measure of security and comfort to victims and to avoid contributing to their revictimization during the process.

Legislation enacted in Washington in 2004 allows victims of sexual assault to terminate a tenancy and prohibits landlords from discriminating against them.

Employment Protections

An important victims' rights trend in recent years has been to expand the rights of crime victims to include the workplace. Laws in at least 35 states now prohibit employers from firing or penalizing employees for work absences to attend court proceedings or otherwise exercise their rights as crime victims. These laws help victims exercise participatory rights in the criminal justice process and enlist employers in that process.

Other laws generally provide victims with the right to receive appropriate intercession and mediation services to encourage employers to cooperate with the criminal justice process. Intercession services assist in resolving problems that may arise when victims must miss work to participate in the criminal justice process; such services minimize loss of pay and benefits. In each form, these laws facilitate cooperation between the victim, the employer and the criminal justice system.

As illustrated in table 7, more than half the states prohibit an employer from firing or threatening to fire victims who leave work to attend court proceedings, and others provide those rights via services to resolve any problems that may arise when a victim must leave work to attend court.

Table 6. Protection and Confidentiality

State/Jurisdiction	Right to a Waiting Area in Court Separate from Defendant	Right to Address and Personal Information Confidentiality	Right to Receive Protection from Harm or Threats of Harm
Alabama Ala. Code §15-23-68)	4	√	
Alaska Alaska Stat. §12.61.100 - §12.61.150		√	√
Arizona Ariz. Rev. Stat. Ann. §§13-4431 and §13-4433-34	√	√	√
Arkansas Ark. Stat. Ann. §16-21-106	√	√	√
California Cal. Govt. Code §6206		√	
Colorado Colo. Rev. Stat. §§24-4.1-303(2) & (5) and §24-4.1-302.5(p)	5	1	√
Connecticut Conn. Gen. Stat. §§54-240 through 249		√	
Delaware Del. Code. Ann. tit. 11, §§9403 & 9406	4	√	
Florida Fla. Stat. §960.001(5)(c)	√	√	√
Georgia Ga Code §§17-17-9 and §17-17-10	If available		√
Hawaii Hawaii Rev. Stat. §§801D-4(a)(3) and (5)	√		√
Idaho Idaho Code §19-5306(2)		√	
Illinois ILCS §§120/4.5(b)(6) & 725 ILCS §120/4(7)	√	√	
Indiana Ind. Code §35-40-5-4; §35-40-6-6	√	√	√
Iowa Iowa Code §915.22			√
Kansas Kan. Stat. Ann. §60-31a06; §74-7333(a)(7)			√

Table 6. Protection and Confidentiality (continued)

State/Jurisdiction	Right to a Waiting Area in Court Separate from Defendant	Right to Address and Personal Information Confidentiality	Right to Receive Protection from Harm or Threats of Harm
Kentucky Ky. Rev. Stat. §421.500(5)(e)			√
Louisiana La Rev. Stat. Ann. §§46:1844(T)(2) & (W)	√	√	
Maine Me. Rev. Stat. Ann. tit. 15, ch. 105-A, §1026		√	
Maryland Md. Crim. Proc. Code §11-102(b); §11-203 and §11-301	√	I	I
Massachusetts Mass. Gen. Laws Ann., ch. 258B: §1(d)(h)(i)	√	I	√
Michigan Mich. Comp. Laws (§§780.757 through 780.758	4	√	√
Minnesota Minn. Stat. §611A.035 and §611A.034	4	√	√
Mississippi Miss. Code Ann. §§99-36- 5(a)(b); 99-43-13; 99-43-23; 99-43-25	4	√	√
Missouri Mo. Rev. Stat. §595.209(17)	√		√
Montana Mont. Code Ann. §44-5- 311		√	
Nebraska Neb. Rev. Stat. §§81- 1848(2)(c) and (f)	5	√	√
Nevada Nev. Rev. Stat. (§§178.5691 - 178.5692; §178.5696(1))	√	√	√
New Hampshire N.H. Rev. Stat. Ann. §§21- M:8-k(c)(k)(m)	2	√	√

Table 6. Protection and Confidentiality (continued)

State/Jurisdiction	Right to a Waiting Area in Court Separate from Defendant	Right to Address and Personal Information Confidentiality	Right to Receive Protection from Harm or Threats of Harm
New Jersey N.J. Rev. Stat. §52-4B-36(c)(j)	2	√	√
New Mexico N.M. Stat. Ann. §31-26-4(c)		√	√
New York N.Y. Ex. Law art. 23 §641(2); §642(2)(2a)	√		
North Carolina N.C. Gen. Stat. §15A-825(4)	5	√	
North Dakota N.D. Cent. Code §§12.1-34-02(9), (10)	5	√	
Ohio Ohio Rev. Code Ann. §§2930.07 and 2930.10	5	√	√
Oklahoma Okla. Stat. §19-215.33(A)(2)(6)		√	
Oregon O.R.S. §135.970		√	√
Pennsylvania P.A. Code §11.709	√	1	√
Rhode Island R.I. Gen. Laws §§12-28-3(3), (5)	√	√	√
South Carolina S.C. Code Ann. §§16-3-1550(B) through (E)	√		√
South Dakota S.D. Codified Laws Ann. §23A-28C-20			√
Tennessee Tenn. Code Ann. §§40-38-102(a)(2) and 40-38-102(b)(1-2)	√		√
Texas Tex. Crim. Proc. Code Ann. §§56.09; 56.02(8) and (9)	√	√	√

Table 6. Protection and Confidentiality (continued)

State/Jurisdiction	Right to a Waiting Area in Court Separate from Defendant	Right to Address and Personal Information Confidentiality	Right to Receive Protection from Harm or Threats of Harm
Utah Utah Code Ann. (§§77-37-3(a) and (d); 76-8-509)		√	√
Vermont Vt. Stat. Ann. tit. 16, §§ 5310 and 5312		√	√
Virginia Va. Code §§19.2-11.01(1)(a-b); §19.2-11.2 and §19.2-11.01(5)	5	√	√
Washington Wash. Rev. Code §7.69.030(4),(6)	5	3	√
West Virginia W.Va. Code §61-11A-6(2); §61-11A-6(6)			√
Wisconsin Wis. Stat. §950.04(1v)(e)	5		√
Wyoming Wyo. Stat. §14-6-502(D)(vi)	1		√
American Samoa			
District of Columbia D.C. Code Ann. §§23-1903(a) and (b)	√		√
Guam Guam Code Ann. §§160.50(c); (f)	√		√
Puerto Rico 25 L.P.R.A. §973(a)	√	√	√
Virgin Islands 34 V.I.C. §203	√		√

Notes:

1. Upon request.
2. Secure but not necessarily separate.
3. Child victims and witnesses.
4. If available and practical.
5. Whenever possible.

Source: National Conference of State Legislatures, 2004.

Table 7. Employment Rights

Victims have the following rights at the workplace:

State/Jurisdiction'	Employee Has the Right to Receive Employer Intercession Services (services to resolve problems that arise from employee missing work to go to court)	Employer Is Prohibited from Firing or Threatening to Fire Victims Who Leave Work to Attend Court Proceedings
Alabama		Ala. Code §15-23-81
Alaska		Alaska Stat. §12.61.017
Arizona		Ariz. Rev. Stat. Ann. §13-4439
Arkansas		Ark. Stat. Ann. §16-90-1105
California		Cal. Labor Code §230(b)
Colorado	Colo. Rev. Stat. 24-4.1-302.5(n)	Colo. Rev. Stat. 24-4.1-302.5(n)
Connecticut		Conn. Gen. Stat. §54-203(G)
Delaware		Del. Code Ann. tit. 11, §9409
Florida		Fla. Stat. §960.001(1)(j)
Illinois	725 ILCS §120/4.5(b)(5)	
Iowa		Iowa Code §915.23
Kentucky		Ky. Rev. Stat. §421.500(8)
Louisiana		La. Rev. Stat. Ann. §46:1844(E)
Maine		Me. Rev. Stat. Ann. tit. 26, ch. 7, §850
Maryland	Md. Crim. Proc. Code §11-1002(b)(7)	Md. Crim. Proc. Code §11-1002(b)(7)
Massachusetts	Mass. Gen. Laws Ann. ch. 258B: §1(k)	Mass. Gen. Laws Ann. ch. 258B: §1(k)
Michigan		Mich. Comp. Laws §780.822
Minnesota		Minn. Stat. §611A.036
Mississippi		Miss. Code Ann. §99-43-45
Missouri		Mo. Rev. Stat. §§595.209(14) and (15)
Montana		Mont. Code Ann. §46-24-205
Nebraska	Neb. Rev. Stat. Ann. §81-1848(2)(h)	
Nevada		Nev. Rev. Stat. §178.5694
New Mexico	N.M. Stat. Ann. §31-26-4(J)	N.M. Stat. Ann. §31-26-4(J)
New York		N.Y. Executive. Law art. 23 §642(4)
North Carolina	N.C. Gen. Stat. §15A-825(4)	
North Dakota	N.D. Cent. Code §12.1-34-02(6)	
Ohio		Ohio Rev. Code Ann. §2930.18

Table 7. Employment Rights (continued)

State/Jurisdiction ¹	Employee Has the Right to Receive Employer Intercession Services (services to resolve problems that arise from employee missing work to go to court)	Employer Is Prohibited from Firing or Threatening to Fire Victims Who Leave Work to Attend Court Proceedings
Oklahoma	Okla. Stat. §19-215.33(A)(2)	
Oregon		O.R.S. §215.33
Rhode Island	R.I. Gen. Laws §§12-28-13 and 12-28-10	R.I. Gen. Laws §§12-28-13 and 12-28-10
South Carolina		S.C. Code Ann. §16-3-1550(A)
Texas		Tex. Crim. Proc. Code Ann. §56.02(10)
Utah	Utah Code Ann. §77-37-3(g)	Utah Code Ann. §77-37-3(g)
Vermont		Vt. Stat. Ann. tit. 13, ch. 167, §5313
Virginia	VA Code §19.2-305.1(3)(a)	VA Code §19.2-305.1(3)(a)
Washington	Wash. Rev. Code §7.69.030(8)	Wash. Rev. Code §7.69.030(8)
West Virginia	WV Code §61-11A-6(8)	
Wisconsin	WI Stat. §950.04(1v)(bm)	
Wyoming		WY Stat. §14-6-508
Virgin Islands	34 V.I.C. §203	34 V.I.C. §203

Note:

1. States or jurisdictions that are not included have no such provisions.

Source: National Conference of State Legislatures, 2004.

VICTIM COMPENSATION

Each state provides for victim compensation via a public fund established and administered by the state. Compensation programs provide victims with payments to offset eligible losses incurred from the criminal offense. The funding generally comes from criminal fines and government revenues. Payments are made for such things as medical treatment, lost wages, physical therapy, mental health counseling, travel and moving and funeral expenses. Most states have established a maximum amount that may be paid to a victim. Some states such as Iowa, have no overall maximum, but each benefit has its own limit. Some states have both a maximum amount and benefit limits.

Several states in recent years have expanded the categories of harm for which compensation can be provided, and others have included additional family members who have suffered. States also are consistently increasing the monetary amount payable to victims from state compensation funds.

A unique provision in Tennessee provides compensation specifically for victims of sex crimes. The state allows claims for compensation for pain and suffering for victims of sex crimes, limited at \$3,000 and calculated in \$500 increments according to aggravating factors.

Many states provide victim compensation for “rehabilitation.” Rehabilitation refers to the physical rehabilitation resulting from injuries sustained by the victim.

Table 8 illustrates the amounts and kinds of victim compensation provided for state-by-state under statutory law. The table shows state caps for compensation payments, many at \$25,000; a few are as high as \$40,000 or \$50,000. Some states also limit certain categories of losses which are eligible for compensation; medical expenses or counseling also often have their own limits.

Compensating victims for their losses is a basic component of victims’ services in each state and is considered an important way the criminal justice system can help individuals and families rebuild their lives after they are victimized by a crime.

Legislators in Maryland and Texas have demonstrated an increased concern for lost wages of victims’ family members. Maryland law provides that a parent or guardian of a victim may be eligible to receive for lost wages as a result of caring for a victim. Texas now provides a bereavement period to reimburse lost wages for up to 10 work days, or \$1,000 for immediate family members of deceased crime victims.

Table 8. Victim Compensation

State/Jurisdiction	Maximum Award (in Thousands of Dollars)	Medical Expenses	Mental Health	Lost Wages	Funerals	Attorney Fees	Moving Costs	Emergency and Limit	Crime Scene Clean-Up	Rehabilitation	Travel
Alabama	\$15	√	√	√	√		√	\$1,000	11		√
Alaska	\$25	√	√	√	√	√	√	\$1,500		√	√
Arizona	\$10	√	√	√	√			\$500			√
Arkansas	\$10	√	√	√	√			\$500	√	√	√
California	\$46	√	√	√	√	√	√	\$2,000, 1		√	
Colorado	\$20	√	√	√	√		2	\$1,000		√	10
Connecticut	\$15	√	√	√	√	√		\$2,000			
Delaware	\$25	√	√	√	√	√					
Florida	\$25	√	√	√	√		√	\$1,000		√	√
Georgia	\$10	√	√	√	√					√	
Hawaii	\$10	√	√	√	√	√	√		√	√	3
Idaho	\$25	√	√	√	√	√		√			√
Illinois	\$27	√	√	√	√	√				√	√
Indiana	\$10	√	√	√	√	√		\$500			
Iowa	4	√	√	√	√	√		\$500	√		√
Kansas	\$25	√	√	√	√	√	√			√	√
Kentucky	\$25	√	√	√	√			\$500			5
Louisiana	\$10	√	√	√	√	√		\$500	√		√
Maine	\$15	√	√	√	√				√		
Maryland	\$45	√	√	√	√	6		\$1,000			
Massachusetts	\$25	√	√	√	√	√					√
Michigan	\$15	√	√	√	√	√		\$500		√	7

Table 8. Victim Compensation (continued)

State/Jurisdiction	Maximum Award (in Thousands of Dollars)	Medical Expenses	Mental Health	Lost Wages	Funerals	Attorney Fees	Moving Costs	Emergency and Limit	Crime Scene Clean-Up	Rehabilitation	Travel
Michigan	\$15	√	√	√	√	√		\$500		√	7
Minnesota	\$50	√	√	√	√			√	√	√	√
Mississippi	\$15	√	√	√	√			\$500		√	√
Missouri	\$25	√	√	√	√	√					√
Montana	\$25	√	√	√	√	√		√			√
Nebraska	\$10	√	√	√	√	√		\$500	√		
Nevada	\$50	√	√	√	√	√			√		√
New Hampshire	\$10	√	√	√	√	√	√		√		√
New Jersey	\$25	√	√	√	√	√	√	\$1,500	√	√	√
New Mexico	\$20	√	√	√	√					√	√
New York	4	8	√	√	√	√		\$1,500	√	√	√
North Carolina	\$30	√	√	√	√			\$5,000	√		√
North Dakota	\$25	√	√	√	√	√		√		√	√
Ohio	\$50	√	√	√	√	√	√	√		√	√
Oklahoma	\$20	√	√	√	√		9		√		√
Oregon	\$44	√	√	√	√					√	√
Pennsylvania	\$35	√	√	√	√	√		\$1,500		√	√
Rhode Island	\$25	√	√	√	√	√		1		√	
South Carolina	\$15	√	√	√	√	√		\$500		√	√
South Dakota	\$15	√	√	√	√			\$1,000	√	√	√
Tennessee	\$20	√	√	√	√	√	√	\$500	√	√	√
Texas	\$75	√	√	√	√	√	√	\$1,500	√	√	√

Table 8. Victim Compensation (continued)

State/Jurisdiction	Maximum Award (in Thousands of Dollars)	Medical Expenses	Mental Health	Lost Wages	Funerals	Attorney Fees	Moving Costs	Emergency and Limit	Crime Scene Clean-Up	Rehabilitation	Travel
Utah	\$25	√		√	√	√	√	√	√	√	√
Vermont	\$10	√	√	√	√		√		√		√
Virginia	\$15	√	√	√	√		√	\$2,000	√		√
Washington	\$150	√	√	√	√					√	
West Virginia	\$25	√	√	√	√	√				√	√
Wisconsin	\$40	√	√	√	√	√		\$500	√		
Wyoming	\$15	√	√	√	√		√	\$1,000	√		√
American Samoa											
District of Columbia	\$25	√	√	√	√	√	√		√		√
Guam	\$10	√	√	√							
Puerto Rico	\$4	√	√	√	√			\$500			
Virgin Islands	\$25	√	√	√	√	√		\$500			9

Notes:

1. Up to \$5,000 for funeral/burial.
2. Some districts.
3. By air.
4. Each benefit has own limit.
5. Ambulance charges.
6. Only in lost wage cases.
7. Non-local.
8. No maximum limit.
9. In extreme cases.
10. Extraordinary transportation to medical providers (some districts).
11. Comes out of emergency fund.

Sources: National Conference of State Legislatures, 2004; *Crime Victim Compensation Program Directory of 2004*, prepared by the National Association of Crime Victims Compensation Boards.

RESTITUTION

Restitution is the money a judge orders the offender to pay the victim for damages related to the crime. All states give victims the right to an order of restitution from the criminal offender, if the court orders it as part of the offender's sentence. Many states—such as Hawaii and Mississippi—provide that the court “may” order the offender to make restitution, while other states—such as Michigan—provide the court “must” order it. In states that say courts “may” order restitution, judges consider circumstances of the offense and the offender, including the ability of the offender to pay.

In determining the amount of the restitution order, the court also must consider the loss sustained by the victim as a result of the offense and the offender's income, resources and obligations.

Some states require that the court state on the record its reasons if restitution is not ordered. A few states make restitution a required condition of probation or a conditional sentence. Beyond simply requiring restitution, many states also are working to improve enforceability and broaden the scope of restitution. For example, several states now allow wage garnishment to fulfill a restitution order. Other states allow the court to suspend the offender's driver's license, add interest payments to the restitution, or, as in Nevada, even incarcerate an offender for unpaid restitution.

State law has, over time, expanded the definition of who qualifies for restitution and what kinds of losses are covered. In some states, victims' estates and family members—in addition to the actual victim—are eligible to seek restitution. In recent years, many states have further empowered victims with laws that make a restitution order fully enforceable in the same manner as any other money judgment under civil law.

Table 9 lists states according to restitution rights and requirements in state law.

In 2003, Vermont created a restitution unit within the Center for Crime Victims' Services. Its purpose is to manage the restitution special fund, collect restitution from offenders when it is ordered by the court, and make restitution payments to victims (VT Stat. Ann., tit. 13, §5362).

Table 9. Restitution

State/Jurisdiction ¹	Court Must State on Record Reason Restitution Not Ordered	State Allows for Wage Garnishment of Offender to Pay Victim Restitution	Victim May Enforce Restitution Order as Civil Judgment
Alabama	√	√	√
Alaska			√
Arizona		√	√
Arkansas	√		√
California		√	√
Colorado		√	√
Connecticut			√
Delaware		√	√
Florida		√	√
Georgia			√
Hawaii		√	√
Idaho			√
Kansas		√	
Louisiana			√
Maine	√	√	√
Maryland		√	
Michigan			√
Minnesota			√
Mississippi	√		√
Missouri			√
Montana			√
Nebraska			√
Nevada		√	
New Hampshire	√		
New York			√
North Dakota	√		
Ohio			√
Rhode Island		√	√
South Carolina			√
South Dakota		√	√
Tennessee			√

Table 9. Restitution (continued)

State/Jurisdiction¹	Court Must State on Record Reason Restitution Not Ordered	State Allows for Wage Garnishment of Offender to Pay Victim Restitution	Victim May Enforce Restitution Order as Civil Judgment
Texas			√
Utah			√
Vermont		√	
Washington			√
West Virginia			√
Wisconsin	√		√
Wyoming	√		

Note:

1. States or jurisdictions that are not included have no such provisions.

Source: National Conference of State Legislatures, 2004.

NOTORIETY FOR PROFIT

Notoriety for profit laws prohibit offenders from gaining income, usually from media contracts, as a result of crimes, typically as a result of books, interviews or movies about the crime. Most state laws were modeled after New York's "Son of Sam" law, which was the first of its kind. Revisions to the laws followed the U.S. Supreme Court's decision in 1991, which declared New York's law was overbroad because it applied not only to convicted offenders but also to those who were accused of a crime (*Simon & Schuster Inc. v. New York Crime Victims Board*, 502 U.S. 105 (1991)). Similar laws in others states also once were known as "Son of Sam," but the preferred term today is notoriety for profit laws.

Today, 40 states have notoriety for profit laws. These laws typically require that the attorney general be notified of any contracts entered into by an offender and that such contracts and subsequent proceeds be paid into a trust or an escrow account for the benefit of the victim. Victims are notified of the account and then are given the opportunity to bring a civil suit against the offender.

Some states have enacted variations to notoriety for profit laws. For example, California recently expanded its law to also impose an involuntary trust upon the profits from any felony-related memorabilia. In 2002, Texas added the sale of tangible property, the value of which is increased by an offender's notoriety, to that property from which forfeiture of profits is required. Several states allow victims to bring a civil action to recover money damages from an offender within a few years after discovering any profits were gained from a crime.

Requiring that profits as a result of a crime are turned over to victims is another means by which state law seeks to empower victims and avoid revictimization.

Table 10 indicates notoriety for profit provisions in each state.

Table 10. Notoriety for Profit Laws

State/Jurisdiction ¹	Provisions
Alabama Al. Code §41-9-80	<p>Every person, firm, corporation, partnership, association or other legal entity contracting with any person or the representative or assignee of any person, indicted or convicted of a felony in this state, with respect to the reenactment of such crime, by way of a movie, book, magazine article, radio or television presentation, live entertainment of any kind, or from the expression of such person's thoughts, feelings, opinions or emotions regarding such crime, must pay over to the Board of Adjustment any moneys which would otherwise, by terms of such contract, be owing to the person so convicted or his representatives.</p> <p>Any person, firm, corporation, partnership, association or other legal entity who fails to pay money to the Board of Adjustment will be guilty of a felony punishable by imprisonment for not less than one nor more than 10 years and by a fine equal to the net proceeds earned as a result of the reenactment of the crime. The Board of Adjustment must deposit such money in an escrow account for the benefit of and payable to any victim of crimes committed by such person, provided that such person is eventually convicted of the crime and provided further that such victim, within five years of the date of the crime, brings a civil action in a court of competent jurisdiction and recovers a money judgment against such person or his representatives.</p>
Alaska Ak. Stat. §12.61.020	Any person who contracts with an offender concerning the reenactment of the crime must pay the state any money to be owed to the offender.
Arizona Ariz. Rev. Stat. Ann. §13-4202	Arizona law voids any contracts entered into with a criminal regarding the reenactment, description of a crime by movie, book, article, radio, television or Internet presentation. If any person enters into such a contract, they must give any money made to the state for deposit in the crime victim account.
Arkansas Ark. Stat. Ann. §16-90-308	Any convicted offender who contracts to reenact the crime by use of book, motion picture, magazine article, radio, etc. must pay the circuit court any money or thing of value contracted to be paid to the defendant or his family. The money is deposited into an escrow account for the benefit of any victim of crimes committed by the defendant.
California Cal. Civil Code §2235	California's notoriety for profit law applies to contractual income concerning depictions thoughts, feelings, etc. the offender has about the crime. California also imposes an involuntary trust upon the profits from any felony-related memorabilia.
Colorado CO Rev. Stat. §24-4.1-201	Colorado law disallows any person who has been convicted of a crime from profiting from the crime. The law requires that any profits from a crime received by the convicted offender be made available as restitution to the victims of the crime. Any person who contracts with a convicted offender must submit a copy of the contract to the victim assistance and law enforcement advisory board and pay to the board any money that would otherwise be owed to the convicted offender. A civil penalty is imposed for failure to comply with these restrictions.
Connecticut CT. Gen. Stat. §54-218	Persons accused or convicted of a crime of violence must pay to the Office of Victim Services any money gained by contract with respect to reenactment of their crime, by book, movie, magazine article, radio, television or live presentation, or from the expression of one's thoughts, feelings, emotions or opinions regarding the crime.
Delaware Del. Code Ann. tit. 11, ch. 36 §9103	<p>It is against public policy in Delaware to allow a criminal to benefit financially from a public reenactment of the crime. If the offender collects any such money, it will be distributed to compensate the victim.</p> <p>Similarly, no individual or corporation may contract with the offender to reenact any part of the crime. If this occurs, the money must be turned over the Victim Compensation Board. Any person convicted of this violation will be guilty of a Class A misdemeanor.</p>

Table 10. Notoriety for Profit Laws (continued)

State/Jurisdiction ¹	Provisions
Georgia Ga. Code §17-14-31	An individual or corporation who contracts with a convicted criminal regarding his or her thoughts or feelings on the reenactment of the crime in a movie, book, television, etc. must submit a copy of the contract to the Board of Corrections and pay over any money owed to the offender. The Board of Corrections must deposit such money in an escrow account for the benefit of and payable to the victim of crime. It is against the law for any person or corporation to fail to comply.
Hawaii Hi. Rev. Stat. §351-81	Every person, firm, corporation, partnership, association, etc. who enters into a contract with a criminal offender must submit a copy of the contract to the Crime Victims Compensation Commission if: (1) The contract provides for any money payable to the offender; and (2) The subject matter of the contract is the reenactment of the crime or the expression of the thoughts, feelings, opinions or emotions of the person, which is to be reflected in a movie, book, article or radio or television program.
Idaho Idaho Code §19-5301(1)	Any person or corporation who contracts with an individual accused of a crime regarding the reenactment of the crime must pay over to the state treasurer any money arising from the contract. The money is held in an escrow account for the benefit of the victim.
Illinois ILCS 720-5 § 132-4c	Witnesses are prohibited from receiving any money for providing information obtained from witnessing an event until after a verdict.
Indiana Indiana Code §5-2-6.3-3	If an individual contracts with an offender for the publication, broadcasting or speaking engagement about the felony, the person must pay 90 percent of the money to the Victims' Services Division of the Indiana Criminal Justice Institute that would otherwise be owed to the offender.
Iowa Iowa Code §910.15	Iowa's notoriety for profit law forbids "any profit which, were it not for the commission of the felony, would not have been realized." The attorney general may bring an action to require all proceeds received by a convicted felon be deposited in an escrow account.
Kansas Kan. Stat. Ann. §74-7319	If one contracts with a criminal to use the person's thoughts, feelings or opinions about the crime in any publication, movie, radio or television, he or she must pay to Kansas's Crime Victims Compensation Board all the money that would be owed to the criminal.
Kentucky Ky. Rev. Stat. §346.165	Any person who contracts with an offender regarding the reenactment of the crime by movie, radio, television, etc. or from the expression of his or her feelings about the crime, must pay any money that would be owed to the offender to the Crime Victims Compensation. The board must deposit the money into an account payable to the victim of the crimes.
Maine Me. Rev. Stat. Ann. tit. 14, ch. 205, §752-E	Any person or organization who agrees to pay any profits from a criminal offense must make reasonable efforts to notify the victim.
Maryland Md. Crim. Proc. Code §11-633	Maryland does not allow individuals to contract with defendants for reenactment of their crimes.
Massachusetts	Massachusetts' Son of Sam law was ruled unconstitutional.

Table 10. Notoriety for Profit Laws (continued)

State/Jurisdiction ¹	Provisions
Michigan Mich. Comp. Laws §§780.768 and 780.831	A person convicted of a crime is forbidden from deriving any profit from the sale of his or her recollections of the offense committed until the victim receives restitution or compensation and expenses of incarceration are recovered. An attorney may petition for the defendant to forfeit the proceeds received from contracts relating to the depiction of the crime. The proceeds are held in escrow for five years and are distributed to satisfy restitution orders or civil judgments in favor of the victim against that defendant or reimbursement orders.
Minnesota Minn. Stat. §611A.68	Any person who enters into a contract with a convicted offender regarding his thoughts, emotions, etc. with respect to the crime must pay over the money owed to the offender to the Crime Victims Reparations Board. When the board receives the payment, it must attempt to notify any known victims of the crime. A person who willfully fails to notify the board of the existence of a contract as required by this section is guilty of a gross misdemeanor.
Mississippi Miss. Code Ann. §§99-37-5, 99-38-7 and 99-38-11	Every person, firm, corporation, partnership, etc. who contracts with any person accused or convicted of a crime regarding the reenactment of such crime by movie, book, magazine article, etc., or from the expression of such person's thoughts, feelings, opinions, etc. about the crime, must submit a copy of such contract to the treasurer and pay over to the treasurer any money that would be owed to the accused.
Montana Mont. Code Ann. §53-9-104(d)	The Office of Victims' Services requires any person who contracts with a criminal for any rendition, interview, statement, book, photograph, movie, television production, play or article relating to the crime to deposit any proceeds paid under the terms of the contract into an escrow fund. The fund will be for the benefit of any victims of the qualifying crime.
Nebraska Neb. Rev. Stat. §81-1836	Any individual or corporation who contracts with any criminal offender regarding the reenactment the crime, by way of a movie, book, television, etc. must pay over to the compensation committee any money that would otherwise, by terms of such contract, be owed to the offender. The committee will deposit such money in the Victims' Compensation Fund.
Nevada Nev. Rev. Stat. §217.007	A victim may commence any action against the offender within five years after the time the offender becomes legally entitled to receive any money or royalties for any contribution to any book, article, movie, etc. that is based upon or related to the felony committed against the victim. If five years have passed, the liability of the offender must be limited to the value of any money or royalties received by the offender for any contribution to any book, article, movie, television appearance, etc. that is based upon or related to the felony committed against the victim.
New Jersey N.J. Rev. Stat. §52:4B-63	Every person, firm, corporation, etc. who knowingly contracts for, pays, or agrees to pay: 1) any profits from a crime to a person charged with or convicted of that crime, or to the representative of such person, or 2) any funds of a convicted person where such conviction is for a crime and the value, combined value or aggregate value of the payment or payments of such funds exceeds or will exceed \$10,000 must give written notice to the Victims of Crime Compensation Board. Upon receipt of notice of a contract, the board must notify all known crime victims of the convicted person of the existence of such profits or funds at their last known address.

Table 10. Notoriety for Profit Laws (continued)

State/Jurisdiction ¹	Provisions
New Mexico N.M. Stat. Ann. (§31-22-22)	Public policy dictates that individuals convicted for murder or first- or second-degree felony may not acquire, profit or anticipate any benefits from the wrongdoing. "Every firm, person, corporation, association or other legal entity contracting with a person." or the representative or assignee of any person charged or convicted of a violent crime in this state, with respect to the reenactment of the crime in a movie, book, magazine article, tape recording, phonograph record, radio or television presentation or live entertainment or with respect to the expression of the accused or convicted person's thoughts, feelings, opinions or emotions regarding the crime shall submit a copy of the contract to the crime victims' reparation commission and pay to the commission any money that would otherwise by terms of such contract be owing to the accused or convicted person or his representatives. The commission shall deposit the money in an escrow account."
New York NY Ex. Law Article §623-a(2)	If any individual or corporation contracts for any profits from a crime or any funds of a convicted person (for specified crime), written notice must be given to the crime victims' board of the payment or obligation to pay as soon as practicable. The board, upon receipt of notice of a contract, must notify all known crime victims of the existence of such profits or funds as their last known address.
North Carolina N.C. Gen. Stat. §§15B-30 and 15B-32	Any money, property or interest in property acquired from profit, gain remuneration, or compensation from the crime by the offender must be forfeited to the state.
North Dakota N.D. Cent. Code §32-07.1	All profits from a convicted felon's crime are subject to a constructive trust for the benefit of the beneficiary (victim). The trust continues until six years after the date of conviction. Any victim may bring an action against a convicted felon to recover other interest in the trust. Interest in the profits from the crime will be reduced by the following amount: <ol style="list-style-type: none"> 1. Money paid to the beneficiary as crime victims reparations; 2. Restitution imposed by a court in connection with the crime for which the felon was convicted; 3. Money paid to the beneficiary because of a judgment against the convicted. Any contract between a convicted felon or representative of the felon and another person that provides for the payment of profits from a crime other than as provided under North Dakota law is void.
Ohio Ohio Rev. Code Ann. §§1969.01 through 2929.06	Any person who enters into a contract with the offender to reenact or describe any part of the crime must pay the money due in the contract. The state treasurer must credit the offender's profits to the recovery of the offender's profit fund to be held for the victim who has obtained a judgment against the offender.
Oklahoma OK Stat. §22-17	A defendant must forfeit all proceeds received as a result of any contract related to the crime if an integral part of the work is a depiction or discussion of the defendant's crime or an impression of the defendant's thoughts, opinions or emotions about the crime.
Oregon Or. Rev. Stat. §147.275	Oregon enacted a "Son of Sam" law that seizes money from criminals who profit from selling the story of their crimes.

Table 10. Notoriety for Profit Laws (continued)

State/Jurisdiction ¹	Provisions
Pennsylvania 42 Pa.C.S. § 8312	If a person has been convicted of a crime, every person who knowingly contracts for, pays or agrees to pay any profit from a crime to that person must give written notice to the Crime Victim's Compensation Board of the payment or obligation to pay as soon as practicable after discovering that the payment is a profit from a crime. The board, upon receipt of notice of a contract, an agreement to pay, or payment of profits from a crime, must notify all known victim of the existence of the profits. Victims have the right to bring a civil action to recover money damages from a person convicted of a crime within three years of the discovery of any profits from a crime.
Rhode Island R.I. Gen. Laws §12-25.1-3	Pursuant to the Criminal Royalties Distribution Act, Rhode Island confiscates any criminal royalties received from contracting with a criminal regarding the commercial exploitation of the events and circumstances of the crime. Such funds will be turned over the general treasurer and placed in the criminal royalties' fund.
South Carolina S.C. Code Ann. §§17-25-500 through 570	If an offender contracts for or agrees to be paid any profit from a crime, he must give written notice to the State Office of Victim Assistance of the payment and submit a copy of the contract. The office, upon receiving notice of the contract, must notify the crime victim.
South Dakota S.D. Codified Laws Ann. §§23A-28A-1 through -14	Any individual or corporation who contracts with an offender for publication regarding the reenactment of the crime must submit a copy of the contract to the attorney general. The individual or corporation must pay over to the attorney general any money or other property, that otherwise would be owed to the offender by the terms of the contract.
Tennessee Tenn. Code Ann. §29-13-403	The attorney general will collect all funds owed to the defendant from a contract with individual or organization after the date of the crime and deposit the money collected in an interest-bearing escrow account. The money will be paid to the victim if the victim brings a civil action against the defendant within three years from the date of the crime.
Texas Tex. Crim. Proc. Code Ann. §59.06(k)	The prosecutor may seize any income that an offender receives from a movie, book, magazine article, tape recording, phonographic record, radio or television presentation, etc. in which the crime was reenacted. In addition, the sale of tangible property, the value of which is increased by a convicted person's notoriety, to that property from which forfeiture of profits is required, and victims are entitled to bring action to claim.
Utah Utah Code Ann. §77-18.8.5	At the time of sentence, the court may order that the defendant be prohibited from engaging in any profit or benefit generating activity related to the publication of facts or circumstances about his or her involvement in the crime. The order may prohibit the defendant from contracting with anyone about the commission and reenactment of the criminal conduct.
Virginia Va. Code §19.2-368.20	Any proceeds received as a direct or indirect result of his crime or the notoriety, attached is subject to forfeiture. Any proceeds from a contract relating to a depiction or discussion of the defendant's crime in a movie, book, magazine, etc. is not subject to forfeiture unless an integral part of the work is a discussion of the defendant's crime or an impression of his or her thoughts, opinion, etc. regarding such crime.
Washington Wash. Rev. Code §§7.68.300 and 7.68.310	It is the public policy of the state of Washington to prevent criminals from profiting from their crimes. Any profits rendered by the criminal for reenacting the crime through a book, movie, etc. are subject to seizure and forfeiture by the state and no property right exists in them. Any contracts made with a criminal regarding the reenactment, description of a crime by movie, book, article, radio, television or internet is void. Any person who enters into such a contract must give any money made to the state for deposit in the crime victim account.

Table 10. Notoriety for Profit Laws (continued)

State/Jurisdiction ¹	Provisions
West Virginia W.Va. Code §§14-2B-4 through 5	Every person, firm or other legal entity who contracts with a defendant must submit a copy of such contract and pay over to the prosecutor any money that would be owed to the defendant. The prosecutor must deposit such money in an interest-bearing escrow account.
Wisconsin Wis. Statute §949.165(2)	If a person or other legal entity contracts with any accused or convicted offender with respect to the reenactment of the crime, by a movie, book, magazine article, tape recording, etc. or from the expression of the person's thoughts, feelings or opinions, must submit a copy of the contract to the Department of Justice and pay any money that would otherwise, by terms of the contract, be owed to the accused. The Department of Justice must deposit the money in an interest-bearing escrow account for the payment of money judgments to any victim or the legal representative of any victim of serious crimes committed by the offender.
Wyoming Wyo. Statute §§1-40-301 through 308	Wyoming has a compelling interest in preventing any person who is convicted of a criminal act from profiting from the criminal act and in recompensing victims of the criminal act. Any person who contracts with a convicted defendant for payment of any profits from the crime must pay to the division of victim services the money that, by terms of the contract, would be paid to the defendant. The division will deposit such money in an escrow account for the benefit of the victim.

Note:

1. State or jurisdictions that are not included have no such provisions.

Source: National Conference of State Legislatures, 2004.

VICTIMS OF CRIMES COMMITTED BY JUVENILES

The structure of the juvenile court system can, at times, be even more complicated than the adult criminal justice system. Issues such as the confidentiality of juvenile records and other laws protecting juveniles can leave uncertain the rights of victims of juvenile offenders. However, just as states have updated laws to hold juvenile offenders accountable for their crimes, they also have extended to victims of crimes committed by juveniles the same rights as victims of adult offenders.

Most states have some form of victim rights law specific to victims of juvenile crime. Some of these states specify that those rights apply when juveniles commit acts that would be felonies if committed by adults, while in others victims of any eligible crime as defined under victims' law received the same rights, regardless of whether the offender is adult or juvenile. Arizona, Michigan and South Carolina have separate and comprehensive laws that articulate rights for victims of juvenile crimes.

Most states give victims of juvenile crimes the right to be present and heard at juvenile proceedings. Some states provide comprehensive rights, but only upon the victim's request. Eleven states give victims the right to have their address kept confidential, and 12 states have specific provisions codified in law providing victims the right to a separate waiting area away from the juvenile offender. Most states now also provide that the judge may order restitution to victims of crimes committed by juveniles.

Table 11 provides state-by-state information about rights of victims of juvenile offenders.

Table 11. Rights for Victims of Crime Committed by Juveniles

State/Jurisdiction	Informed of Name, Age and Address of Juvenile Offender	To Receive Notice of Their Rights	To Receive Notice of Court Proceedings	Right to Have Address Kept Confidential	To Receive Notice of Escape or Release	Right to Be Present and Heard (VIS) at Court Proceedings	Right to Separate Waiting Area in Court	Right to Confer with the Prosecutor	Court May Order Restitution
Alabama	√	√	√	√	√	√	√	√	
Alaska					1	√			
Arizona	√	√	√	√	√	√		√	√
Arkansas						√			√
California		√				√			
Colorado		√	√	√	√	√	√	√	√
Connecticut						√			√
Delaware		√	√		√	√			
Florida	√	√	√		√	√		√	√
Georgia						√			√
Hawaii		√			√				√
Idaho		√			√	√		√	√
Illinois		2			2	√	√		
Indiana	√	√	√	√	√	√	√	√	
Iowa	√				√	√			√
Kansas					√	3			√
Kentucky		√			1	3			
Louisiana					√		√		√
Maine	√	√	√	4	√	√	√	√	√
Maryland							√		√
Massachusetts									√
Michigan	√	√	√	√	√	√	√	√	√

Table 11. Rights for Victims of Crime Committed by Juveniles (continued)

State/Jurisdiction	Informed of Name, Age and Address of Juvenile Offender	To Receive Notice of Their Rights	To Receive Notice of Court Proceedings	Right to Have Address Kept Confidential	To Receive Notice of Escape or Release	Right to Be Present and Heard (VIS) at Court Proceedings	Right to Separate Waiting Area in Court	Right to Confer with the Prosecutor	Court May Order Restitution
Minnesota	√	√	√			√			√
Mississippi	√		√			√			√
Missouri	√	√	√		√	√		√	√
Montana	√					3			√
Nebraska									
Nevada	√								
New Hampshire	√		1			1		1	
New Jersey			√			√			√
New Mexico					√				√
New York			√						√
North Carolina					2				
North Dakota	√	√	√	√	√	√	√	√	√
Ohio		1	1		1	√	√	√	√
Oklahoma	√		√			3			√
Oregon	5								
Pennsylvania						3			√
Rhode Island	2								
South Carolina	1	√	1			√			√
South Dakota	2					3			
Tennessee									√
Texas			1	1		√	√		
Utah				√		√			√
Vermont		√	√	1	1	√			

Table 11. Rights for Victims of Crime Committed by Juveniles (continued)

State/Jurisdiction	Informed of Name, Age and Address of Juvenile Offender	To Receive Notice of Their Rights	To Receive Notice of Court Proceedings	Right to Have Address Kept Confidential	To Receive Notice of Escape or Release	Right to Be Present and Heard (VIS) at Court Proceedings	Right to Separate Waiting Area in Court	Right to Confer with the Prosecutor	Court May Order Restitution
Virginia					√	√			√
Washington	√				√	√			√
West Virginia						3			√
Wisconsin		√				√	√		√
Wyoming		√	√	√	√	√	√	√	√
American Samoa									
District of Columbia									
Guam									
Puerto Rico									√
Virgin Islands									√

Notes:

1. Upon request.
2. Upon written request.
3. Right to be present.
4. Just applies to victims of domestic violence, stalking and sexual assault. (ME Rev. Stat. Ann. §90-B).
5. Same as adult offenders.

Source: National Conference of State Legislatures, 2004.

WITNESS RIGHTS AND PROTECTIONS

Many states afford witnesses in criminal cases the same rights as the crime victims and administer those services via the same programs that serve victims. These services include everything from physical protections from intimidations and threats from the offender, to rights in the workplace, to secure and separate waiting areas in court, to notification rights.

Most states also afford confidentiality to witnesses of crime, usually including requirements that law enforcement, prosecution or corrections staff not disclose a witness's address, telephone number, place of employment or any other personal information about the witness or his or her family.

In at least 14 states—Arizona, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Kentucky, Maryland, Minnesota, Missouri, Rhode Island and Virginia—separate, state-level witness protection programs provide physical protection and relocation services to at-risk witnesses of crime.

Table 12 provides information on the state witness protection programs provided for under state law.

Table 12. State Witness Protection Programs

State/Citation ¹	Administration and Funding	Eligibility for Protection	Protection Services Specified	Duration of Protection	Other Items Law Addresses
Arizona AZ. Rev. Stat. Ann. §11-536	Attorney general administers; counties may establish such funds	Government witnesses, potential witnesses and their families in criminal or civil proceedings/ investigations	Housing, health, safety and welfare	As long as danger exists	Requires accounting to the state of all expenditures
California Cal. Penal Code §14020-33	Attorney general local contribution to state funds expected, although may be waived.	Persons summoned, or likely to be summoned, to testify in a criminal proceeding (not excluding of participants in the criminal matter) with credible evidence of substantial danger, intimidation or retaliatory violence	Armed protection, escort, relocation, housing expense, new identity, transportation and storage of personal items, basic living expenses		Requires protection agreement to be written; priority given to cases involving organized crime, drug trafficking, elderly, domestic and hate crime victims
Colorado Colo. Rev. Stat. §24-33.5-106	Witness Protection Board Fund and Department of Public Safety administers	Witnesses and their families in cases involving great public interest, or where tampering, intimidation or retaliation are likely	Any action necessary to protect from injury or to ensure health, safety and welfare	As long as necessary while danger exists	Provides immunity for civil liability from people either provided or denied protection
Connecticut CT. Gen. Stat. §54-82 (s-u)	Chief state's attorney coordinates efforts and funds of state and local governments	Must be a witness at risk of harm who is critical to a criminal investigation or prosecution	Armed protection, escort, relocation, housing expenses, storage of personal possessions, basic living expenses	Duration of the criminal case or until the risk has diminished, whichever is first	Written witness protection agreement required
Delaware Del. Code Ann. tit. 11, ch. 36, §9601-06	Attorney general provides services, which are funded by the Special Law Enforcement Assistance Fund	Available to witness in criminal proceeding who is likely to have a crime of violence committed against him/her; service available to witness' immediate family and associated people	Relocation, housing, employment, actions necessary to prevent bodily harm, identity, and law enforcement safety	As attorney general determines	Immunity provided to state employees providing service; psychological evaluation of witness and signed agreement before entering program

Table 12. State Witness Protection Programs (continued)

State/Citation ¹	Administration and Funding	Eligibility for Protection	Protection Services Specified	Duration of Protection	Other Items Law Addresses
Florida Fla. Stat. §914.25 and §914.27	Victim and Witness Protection Review Committee administered by Department of Law Enforcement	Witnesses and their families who are subjected to violence (or threat of violence) or intimidation for cooperating with a serious felony investigation/prosecution	Temporary relocation, protective services	Up to one year, with one-year extension possible	Gives immunity to those aiding in protective services
Hawaii Hi. Rev. Stat. §28-101(a-e)	Attorney general	Witnesses or potential witnesses (and their families) of a government investigation or prosecution where it is likely they will be subjected to retaliation, tampering or intimidation; or cases of great public interest	Any action necessary to protect health safety and welfare	As long as the attorney general believes the danger exists	Priority given to organized crime or career criminal prosecutions
Illinois 725 ILCS § 245/3	State police administers Gang Violence Victims and Witnesses Fund	Witnesses and their families	Protection and relocation		Subject to audit by the Office of Legislative Audits
Kentucky Ky. Rev. Stat. §15.247	Attorney general	Witness and their immediate families	Physical protection, security of their home, vehicle, and workplace; short-term relocation	Limited to six months	Courts may not order protective services
Maryland Md. Code §27- 835	State's attorneys' coordinator, through funding from the General Assembly.	Witnesses and their families	Relocation and protection		

Table 12. State Witness Protection Programs (continued)

State/Citation ¹	Administration and Funding	Eligibility for Protection	Protection Services Specified	Duration of Protection	Other Items Law Addresses
Minnesota Minn. Stat. §299.C.065 1(a)	Commissioner of public safety administers witness and victim relocation fund	Witness or potential witness involved in a criminal prosecution who the commissioner has reason to believe is likely to be the target of a violent crime	Relocation, new identity, housing, transportation of property to new residence, basic living expenses, help obtaining employment	As long as the commissioner deems necessary	
Missouri Mo. Rev. Stat. §491.640	Director of the department of public safety	Witnesses and their families are protected when testifying would place their lives at risk	Housing, health, safety and welfare measures needed	As long as danger exists	Expenditures shall not exceed \$95,000
Rhode Island R.I. Gen. Laws §12-30 (3-4)	Superintendent of state police	Witness of serious violent crimes or felonies. Approved by the witness protection review board			Also provides protection for criminal witnesses with funding provided by the attorney general
Virginia Va. Code §52-35	Superintendent of state police	Witnesses and their families who may be in danger for cooperating with prosecution of violent crime or felony	Temporarily relocation or other protective services		

Note:

1. States or jurisdictions that are not included have no such provisions.

Source: National Conference of State Legislatures, 2004.

SECTION 2. STATE-BY-STATE SUMMARY OF VICTIMS' RIGHTS AND SERVICES

ALABAMA



Key Statute Citations

- Ala. Code §§15-23-1 et seq. (2004)
- Ala. Cons., amend. 557

Organization/Administration (§15-23-4)

The Alabama Crime Victims Compensation Commission is responsible for determining victim eligibility for compensation and for otherwise addressing the physical, mental and financial burdens of victims in the criminal justice system. The commission also is charged with identifying laws, rules or regulations that have adverse or beneficial effects upon crime victims and with advocating on their behalf. In addition, the Alabama Attorney General's Office of Victim Assistance was established to provide statewide assistance to victims of violent crime.

Web address: <http://www.acvcc.state.al.us/>

Who Is a Victim? (§15-23-60(19))

A victim is a person against whom a criminal offense has been committed. If the person is killed or incapacitated, the spouse, sibling, parent, child or guardian is considered the "victim," except if that person is in custody for an offense or is the accused.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Ala. Cons., amend. 557)

Alabama amended its constitution in 1995 to include rights for crime victims to be informed, present and heard at all crucial stages of criminal proceedings, when authorized (to the extent that these rights do not interfere with the constitutional rights of accused).

The state's statutory victims' rights provisions follow.

Victim Notice (§§15-23-62, -63)

Victims must be notified of:

- Upon written request, the availability of emergency and crisis services, within 72 hours of initial contact between victims and law enforcement.
- Availability of victim compensation benefits and the name, address and phone number of the Alabama Crime Victims Compensation Commission, within 72 hours of initial contact between victims and law enforcement.
- The name of the law enforcement officer, agency and phone number, with the following statement attached: "If within 60 days you are not notified of an arrest in your

case, you may call the telephone number of the law enforcement agency for the status of the case.”

- The procedural steps involved in a criminal prosecution.
- The rights authorized by the Alabama Constitution on victims of crime, including a form to invoke these rights. Includes notice of all rights to be present and heard.
- The existence and eligibility requirements for receiving compensation or restitution.
- Recommended procedure for the victim to follow if subject to threats or intimidation.
- The name and phone number of the prosecuting attorney to contact for further information.
- The defendant's release on bond
- Upon request, notification of all charges filed against the defendant, the proceedings (except initial appearances) and any changes that may occur.
- Upon request, notice of the existence and function of the pre-sentence report, and contact information for the Board of Pardons and Paroles, which is responsible for the report. Also notice that the defendant also may view the pre-sentence report.
- The date of conviction, acquittal or dismissal of charges; the date of sentencing, and the sentence that was imposed on defendant.
- The status of post-conviction court review or appellate proceedings immediately after the status is known.
- If requested, notice of the escape and, subsequently, the return of the prisoner into custody.
- If requested, notice of the end of sentence release of the offender or notice of death of prisoner within 15 days after death.
- If requested, notice of release of opinion from offender from the Alabama Department of Mental Health and Mental Retardation.

Victim Participation (§§15-23-64, -65, -67, -70 through -76)

Victims have the right to be present and heard at any court proceeding. Victims have the right to be seated at the counsel table of any prosecutor or other attorney who is prosecuting the case. Victims also have the right:

- To be present at and conferred with regarding plea negotiations and agreement with the offender. The court may not accept a plea before reasonable efforts are made to involve the victim.
- To present evidence, an impact statement, or any information that concerns the criminal offense or the sentence during any pre-sentencing, sentencing or restitution proceeding. Victims have the right to be present and heard at any sentencing proceeding.
- To submit and have considered a written or oral impact statement to the probation officer preparing a pre-sentence report. Victims also have the right to review the pre-sentence report.
- To submit a victim's statement for any review of a prisoner release and to be present at a hearing where parole or pardon is considered.

The court may not exclude a victim from court or the counsel table during the trial, hearings or any portion thereof pertaining to the case except that a judge may remove for the same causes and in same manner as the rules of court or law provide for the exclusion or removal of the defendant.

The victim has the right to refuse a request by the defendant, the attorney of the defendant, or by any other person acting on behalf of the defendant for an interview or other communication with the victim (§15-23-70).

Victim Protection and Confidentiality (§15-23-68)

If there have been threats or intimidation by the defendant to the victim or family, the victim may not have to testify facts during trial or any proceeding that could divulge his or her identity, residence or place of employment. The court must provide a waiting area for the victim separate from the defendant and his or her relatives and witnesses, if practical and available. If not, the court must try to minimize contact between the victim and the defendant. The victim has the right to refuse a request by the defendant or defendant's attorney for an interview or other communication with the victim.

Employment Rights (§15-23-81)

Victims have the right to respond to a subpoena to testify or participate in the preparation of a criminal proceeding without the loss of employment or of intimidation, threats or fear of the loss of employment.

Property Rights (§15-23-77)

The law enforcement agency responsible for investigating the criminal offense must return to the victim as soon as possible any property belonging to the victim that was taken during the course of the investigation.

Victim Compensation (§§15-23-1 through -23)

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Alabama created the Alabama Crime Victims Compensation Commission to manage and administer victim compensation. The maximum award is \$15,000. Compensable costs, with limits noted, are:

- Medical expenses.
- Mental health counseling (with a limit of no more than 50 treatment sessions during a two-year period, and with maximum costs \$6,250 for outpatient treatment. Inpatient treatment is considered treated as a medical condition. Maximum hourly rates: M.D. \$125; Ph.D., \$100; licensed counselors and social workers, \$80.
- Lost wages and support (\$400 per week for no more than 26 weeks. Also may be paid for time lost in attending funeral or in attending trial if not a witness. Future economic loss of up to \$5,000 may be considered in cases of permanent disability or death, or when offender is supporting victim.
- Funerals: (\$5,000).
- Moving expenses when there is imminent danger to the victim. Distancing from psychological trauma or bad neighborhood not covered. (\$1,000 limit for security deposits, utility deposits, other costs of move).
- Replacement services: Expenses claimant would not have suffered had a victim lived. (\$900 limit, at no more than \$75 per week for 12 weeks for child care).
- Crime-scene cleanup or property taken as evidence or soiled or damaged in crime (\$1,000).

- Travel of victim or immediate family (mileage @.25 cents per mile, food and lodging up to \$75 per day for trips out of town for court or medical services and counseling).
- Emergency: (\$1,000). Emergency awards are reserved for cases of dire economic need. These awards usually are granted for loss of income or moving expenses. Emergency awards are not considered for medical bills unless a service provider has refused treatment pending payment.

Web address: <http://www.nacvcb.org/progdir/alabama.html>

Restitution (§15-18-68)

Alabama crime victims have the right to court-ordered restitution. Perpetrators are required to fully compensate their victims for any pecuniary loss, damage or injury as a direct or indirect result of the crime.

A victim may bring a civil action to recover restitution.

The court is responsible for holding hearings to determine the amount or type of restitution due to a victim. Victims have the right to be present and heard at any such restitution hearings.

In determining the manner, method or amount of restitution to be ordered, the court may take into consideration the following: 1) the financial resources of the defendant and the victim and the burden of making restitution payments by the defendant or receiving such payment will impose upon the victim or the defendant; 2) the ability of the defendant to pay restitution on an installment basis; 3) the anticipated rehabilitative effect on the defendant; 4) any burden or hardship upon the victim as a result of the defendant's criminal acts; and 5) the mental, physical and financial well-being of the victim.

The state's Supervised Intensive Restitution (SIR) Program has as a condition of participation that the defendant make restitution payments to the victim until the restitution is paid in full. The SIR program allows for community placement for low-risk offenders who are within four years of their expected release date.

Notoriety for Profit (§41-9-80)

Every person, firm, corporation, partnership, association or other legal entity contracting with any person or the representative or assignee of any person, indicted or convicted of a felony in this state, with respect to the reenactment of such crime, by way of a movie, book, magazine article, radio or television presentation, live entertainment of any kind, or from the expression of such person's thoughts, feelings, opinions or emotions regarding such crime, must pay over to the Board of Adjustment any money that would otherwise, by terms of such contract, be owing to the person so convicted or his representatives.

Any person, firm, corporation, partnership, association or other legal entity who fails to pay money to the Board of Adjustment will be guilty of a felony punishable by imprisonment for not less than one nor more than 10 years and by a fine equal to the net proceeds earned as a result of the reenactment of the crime. The Board of Adjustment must deposit such money in an

escrow account for the benefit of and payable to any victim of crimes committed by such person, provided that such person is eventually convicted of the crime and provided further that such victim, within five years of the date of the crime, brings a civil action in a court of competent jurisdiction and recovers a money judgment against such person or his representatives

Legislation Passed in Alabama in 2003-2004

HB 539 (2004) (§15-22-36)

Requires that notices of hearings of the Board of Pardon and Paroles be sent to victims, the immediate family members of deceased victims, prosecutors, judges and chiefs of police.



ALASKA

Key Statute Citations

- Alaska Stat. §12.61.010 (2005)
- Alaska Constitution, Article I, section 24

Organization/Administration

The Alaska Legislature created the Alaska Office of Victims' Rights (OVR) to help victims of crime gain access to rights provided in the criminal justice system under the state's constitution and statutory laws. The office, in the legislative rather than the executive branch, operates in the manner of an inspector general's office, to investigate criminal justice agencies and make appropriate recommendations regarding crime victims.

Web address: <http://www.officeofvictimsrights.legis.state.ak.us/>

Who Is a Victim? (§12.55.185(17))

A victim is a person against whom an offense has been perpetrated. Victims' rights apply to all crimes. If the crime victim is a minor, incompetent or incapacitated, rights also are extended to a person living in a spousal relationship with the victim; or a parent, adult child, guardian or custodian of the person. If the victim is dead, victim rights include a person living in a spousal relationship with the deceased immediately before the death, or an adult child, parent, brother, sister, grandparent or grandchild of the deceased or any other interested person, as may be designated by a person having authority in law to do so.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights

(Alaska Cons. art. 2, §24)

In 1994, Alaska voters passed a state constitutional amendment for victims' rights. These rights include:

- The right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court.
- The right to confer with the prosecution.
- The right to be treated with dignity, respect and fairness during all phases of the criminal and juvenile justice process.
- The right to timely disposition of the case following the arrest of the accused.
- The right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present.
- The right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the offender's release from custody is considered.
- The right to restitution from the accused.
- The right to be informed, upon request, of the offender's escape or release from custody before or after conviction or juvenile adjudication.

The state's statutory victims' rights provisions follow.

Victim Notice (§12.16.010(15); §12.30.010; §12.47.095; §12.61.010(a); §33.16.087; §33.30.013.)

Victims must be notified of:

- A hearing at which the defendant's release from custody is to be considered.
- The date of trial, by the appropriate law enforcement agency or the prosecuting attorney.
- Sentencing proceedings, including those before a three-judge panel. Victims also are entitled to notice that a sentencing hearing or a court proceeding to which the victim has been subpoenaed will not occur as scheduled.
- An appeal filed in the case.
- The defendant's criminal conviction history, by the prosecuting attorney and following a conviction in the case.
- A hearing at which special medical parole of the defendant is to be considered.
- A hearing to consider or review discretionary parole of the defendant.
- Release or escape of the defendant from custody before or after conviction, upon request of the victim.

Alaska statute requires that the Department of Corrections establish an automated victim notification system that automatically provides crime victims with notice by telephone when there is a change in the status of their offender. The system also must allow crime victims to initiate telephone calls to the system to receive the latest status report for their offender (§12.61.050).

Victim Participation (§12.61.010)

Victims in Alaska have the following participation rights:

- Upon request, victims may participate at the defendant's initial appearance before a magistrate when bail conditions are set.
- To confer with the prosecution and to see timely disposition of the case.
- To be present during any proceeding in the prosecution and sentencing of a defendant if the defendant has the right to be present. This includes being present during testimony even if the victim is likely to be called as a witness.
- To make a written or oral statement for use in preparation of the presentence report of a felony defendant.
- To appear personally at the defendant's sentencing hearing to present a written statement and to give sworn testimony or an unsworn oral presentation.

Victim Protection and Confidentiality (§12.61.100 through -.150)

Victims have the right to obtain access to immediate medical assistance and not to be detained for an unreasonable length of time by a law enforcement agency before medical assistance is administered.

Victims have a right to receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts. Victims must be provided with information about the protection available. The residence, business addresses and telephone numbers of a victim of a crime are confidential. A report, paper, picture, photograph, court file, or other document that relates to a crime and contains such identifying information, and that is in the custody or possession of a public officer or employee, may not be made available for public inspection unless all such information has been deleted. During a trial or hearing related to a criminal prosecution, the residence and business addresses and telephone numbers of a victim may not be disclosed in open court, and a victim may not be required to provide the addresses or telephone numbers in response to questioning.

Victims are not required to speak with defense counsel and may request the presence of a prosecuting attorney or other person during an interview.

Employment Rights (§12.61.017)

At the request of the prosecution or a law enforcement agency, victims have the right to cooperate with the criminal justice process without loss of pay and other employee benefits and without interference in any form by the employer of the victim of crime. An employer may not penalize or threaten to penalize a victim because the victim is subpoenaed or requested by the prosecuting attorney to attend a court proceeding. "Penalize" means to take action affecting the employment status, wages and benefits payable. A victim who suffers a pecuniary loss as a result of an employer's act prohibited by this section may bring a civil action to recover actual damages and punitive damages of three times the actual damages sustained.

Property Rights

No such provisions are codified in Alaska law at this time.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

In Alaska, the Violent Crimes Compensation Board within the Department of Public Safety handles victim compensation claims. The maximum award is \$40,000, except in death cases with multiple dependents, when it is \$80,000. Compensable costs, with limits noted, are:

- Medical expenses.
- Mental health counseling.
- Lost wages and support (\$25,000 per single incident).
- Funerals (\$5,000).
- Moving expenses (up to \$5,000 in relocation costs; no cap on costs for reestablishment).
- Travel to obtain medical care and counseling; air ambulance when victim is far from appropriate medical facility.
- Rehabilitation.
- Attorney fees (may not exceed 25 percent of first \$1,000 awarded, 15 percent of next \$9,000, and 7.5 percent of any amount over \$10,000).
- Emergency (\$1,500). An emergency award is defined as a claim for which compensation is probable and undue hardship will result to the applicant if immediate payment is not made, i.e., relocation costs, lost wages, housing expenses or emergency travel.

Web address: <http://www.nacvcb.org/progdir/alaska.html>

Restitution (§12.55.045)

Victims of crime in Alaska have the right to receive court-ordered restitution from the offender as part of victim restoration that is to be specifically part of the sentencing criteria. It is mandatory for the court to order offenders to pay restitution. Restitution is not limited to a criminal court award; victims also may seek restitution in civil court proceedings. A court may not reduce an order of restitution but may change the payment schedule.

Alaska permits writs of execution to be issued in favor of the state, on the victim's behalf, which is ordered to receive restitution. Collection of the entire amount of restitution is permitted when the defendant fails to make one more payments.

Restitution orders were expanded in 2003 to include compensation for the value of volunteer work. A judge can order a defendant to pay restitution to relatives, friends, co-workers and neighbors of a crime victim who spent time consoling the victim, helped clean up after the crime, or assisted the victim with tasks because the victim was too upset to attend to them.

Notoriety for Profit (§12.61.020)

In Alaska, any person who contracts with an offender concerning the reenactment of the crime must pay to the state any money that would otherwise would be paid an offender.

Legislation Passed in Alaska in 2003-2004

HB 348 (2004) (§12.61.010(a))

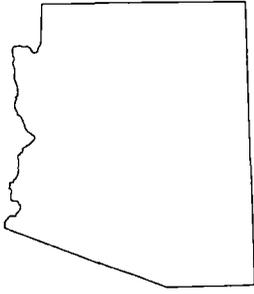
Requires that the address, telephone number, and Internet address of the Office of Victims' Rights be included with the general information that law enforcement must provide to victims of crime.

HB 357 (2004) (§§12.55.045(a), (d) through (g))

Makes it mandatory for the court to order offenders to pay restitution to victims. Allows the court to change the payment schedule but not reduce an order of restitution.

HB 397 (2004) (§12.61.125(a))

Requires that a parent or guardian of a victim or witness of a sexual offense give authorization before the victim or witness makes a recorded statement. Such authorization must include a statement that the victim or witness is aware that there is no legal requirement that he or she talk to the defense.



ARIZONA

Key Statute Citations

- Ariz. Rev. Stat. Ann. §13-4401 et seq. (2004)
- Ariz. SB 1222 (2004) (Ariz. Rev. Stat. Ann. §13-4438) (2005)
- Ariz. Cons. art. 2, §2.1.

Organization/Administration

Arizona statute places responsibility for victims' rights in the criminal division of the attorney general's office. The office administers an annual plan for victims' rights in the criminal justice system; the disbursement of victims' rights funds; victim services related training; and efficiency and compliance by state and local entities that are responsible for ensuring crime victims' access to justice.

Web address: http://www.attorney_general.state.az.us/victims_rights/

Who Is a Victim? (§13-4401(19))

A victim is the person against whom the criminal offense has been committed or, if the person is killed or incapacitated, the person's spouse, parent, child or other lawful representative, except if the person is in custody as an offender or is the accused.

Rights apply to victims of felonies or misdemeanors that involve physical injury, threat of physical injury, or sexual offense.

Victim rights' laws in Arizona were designed so that the victim has the choice to request or waive rights. Some rights are automatic and others need to be requested.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Ariz. Cons. art. 2, §2.1.)

In 1990, Arizona voters amended its constitution to include rights for crime victims (Article II, Section 2.1). The amendment also was passed into law that same year. The victims' rights include generally:

- To be treated with fairness and respect;
- To receive notice of proceedings;
- To receive notice of offender's release;
- To attend proceedings;
- To be heard at proceedings;
- To confer with the prosecutor;
- To a speedy trial;
- To protection from the defendant;

- To refuse interview with defendant/defense attorney; and
- To restitution.

The bill of rights also makes victims' rights enforceable until final disposition of the charges and until restitution ordered is paid. Victims have standing to challenge an order denying and to recover damages from a government entity for violating any right guaranteed under the bill of rights.

The state's statutory victims' rights provisions follow.

Victim Notice (§§13-4406 through 14-4417)

In addition to notice rights provided in the Victims Rights Amendment, victims must be notified of:

- The availability of crisis intervention services and medical services.
- The procedures and resources available for protection in cases of domestic violence.
- Names and numbers of public and private victim assistance programs.
- The police report number and other identifying case information.
- Arrest of a suspect and where the person is being held.
- The date, time and place of initial appearances.
- What charges are being brought against the offender and the procedural steps that will be involved in the prosecution; also notice of right to confer with the prosecutor.
- Action taken to convict, acquit or dismiss the charges, within 15 days of that action, upon request. Also upon request, the victim must be notified of any probation revocation proceedings, modifications of conditions, or arrest of a person who is on supervised probation and is arrested for a violation.
- Function of the presentence report and name and number of the probation department preparing the report.
- The sentence imposed.
- How to apply for compensation for loss or damage; how to request certain victim protections; and how to request a restitution lien if the court orders restitution.
- What rights the defendant has to review reports.
- Post-conviction matters, including post-conviction motions and review, appellate proceedings, probation revocation, releases, escape or death, upon request of the victim and in accordance with certain timelines. Includes notice by a mental health treatment agency of the release of accused to the custody of the agency.
- Scheduling of a parole hearing and the victim's right to be present, and notice with 15 days of the decision reached by the board.
- Notification of the right to request not to receive mail from those convicted and incarcerated for crimes against them.

Victim Participation (§§13-4419 through -4428, §13-4430; §§13-4432 through -4435)

In general, the victim has the right to be present throughout all criminal proceedings in which the defendant has the right to be present. This includes:

- At the initial appearance; and to be present and heard at any proceeding in which the court considers the post-arrest release of the offender.

- Upon request, the victim has right to be present at any plea negotiation proceedings. The court is prohibited from accepting a plea agreement unless the prosecuting attorney advises the court that reasonable efforts were made to confer with the victim about the plea.
- The right to submit a written impact statement or make an oral impact statement to the probation officer for his use in preparing a pre-sentence report.
- The right to be present at any disposition proceeding and to address the court, present evidence, information or opinions about the criminal offense, the defendant, the sentence or the need for restitution or mitigation.
- The right to be present and heard at any proceeding in which post-conviction release from confinement is being considered.
- The right to be present at any probation revocation or modification proceeding if the modification will affect the person's contact with or safety of the victim if the modification involves restitution or incarceration status.

Victim Protection and Confidentiality (§13-443, §§13-4433, -4434)

Victims have the right at any court proceeding not to testify regarding their address, telephone number, place of employment or any other location information. The victim has a right to protection from the defendant before, during and immediately after any court proceedings. The court must provide appropriate safeguards that minimize any contact between the victim, the victim's immediate family, victim witnesses, and the defendant's family and witnesses. In any criminal proceeding, the victim has the right to a speedy trial. If continuance is requested by the defendant, the court must consider the victim's view and right to speedy trial. If the court grants a continuance, it must state on the record the reason for doing so.

If the prosecutor does not revoke bond himself, he must inform the victim that the victim has the right to petition the court to revoke bond.

The victim has the right not to be interviewed by the defendant or defense counsel at any time on any matter. The defendant or defendant's attorney may contact the victim through the prosecutor's office. The prosecutor must inform the victim of the defendant's request and remind the victim of his right to refuse the interview.

Employment Rights (§13-4439)

An employer of at least 50 or more employees must allow an employee who is a victim of crime to leave work to attend a proceeding stemming from the crime, with no jeopardy to his or her job or loss of seniority while absent from employment.

Property Rights (§13-4429)

Upon request, the law enforcement agency responsible for investigating the criminal offense must return as soon as possible any property belonging to the victim that was taken during the course of the investigation or must inform the victim of the reasons why the property will not be returned.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Arizona Criminal Justice Commission administers Arizona's statutory Crime Victim Compensation Fund. An innocent victim or secondary victim (a person who is affected by the crime) may apply for help with out-of-pocket costs in the county in which the crime took place. Funds to pay these claims come from fees and fines paid by convicted defendants. A victim of a crime or an act of international terrorism may apply for financial help if certain conditions are met. The maximum award is \$10,000.

A victim is eligible to receive compensation for crime-related:

- Medical expenses.
- Mental health counseling expenses (up to 12 months from date of first treatment).
- Loss of wages (limited to 40 hours per week at current federal minimum wage law; work loss up to 40 hours per month for parent of minor victim when accompanying victim for treatment).
- Funeral expenses (\$2,500).
- Emergency (\$500).
- Travel (for medical care and counseling).

Web address: <http://www.nacvcb.org/progdir/arizona.html>

Restitution (§§13-801 through -823)

In Arizona, a victim's right to restitution is protected both constitutionally and statutorily. Courts may order garnishment for money that is owed to a victim. The state or victim may file a restitution lien, and victims may bring an order for restitution as a civil judgment against the offender. A restitution order does not expire until it is paid in full.

Notoriety for Profit (§13-4202)

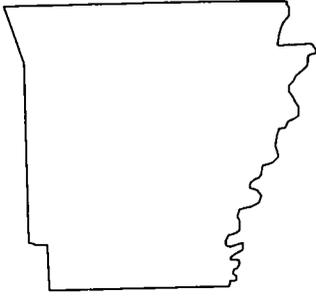
Arizona law voids any contracts entered into with a criminal regarding the reenactment or description of a crime by movie, book, article, radio, television or Internet presentation.

If any person does enter into such a contract, he or she must give any money made to the state for deposit in the crime victim account.

Legislation Passed in Arizona in 2003-2004

SB 1222 (2004) (§13-4202)

Requires that Superior Court judges read a statement at the beginning of all criminal dockets advising victims of their rights under the state Constitution.



ARKANSAS

Key Statute Citations

- Ark. Stat. Ann. §16-21-106 (2004)

Organization/Administration

The Arkansas Attorney General's Office has a Community Relations Division that assists victims of crime, networks with victim advocates, and works toward heightening public awareness about victims' issues.

In addition, the Arkansas Crime Information Center is the agency responsible for administering the Arkansas Crime Victim Information and Notification System in the state.

Web address: <http://www.acic.org/justice/index.htm>

Who Is a Victim? (§16-90-1101(8))

A victim is defined as a direct victim or, in the case that a victim is a minor or is incapacitated, incompetent, or deceased, a member of the victim's family may exercise the rights of the victim under Arkansas law. Victims' rights apply to victims of sex offenses, felonies resulting in injury, felonies involving the use of a deadly weapon, terrorist threatening in the first degree, and stalking.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Ark. Stat. Ann. §16-21-106)

The Arkansas Crime Victim Rights Law became effective on January 1, 1998. The law mandates certain basic rights for people victimized by crime (*see* "Who is a victim?" section above).

The state's statutory victims' rights provisions follow.

Victim Notice (§§16-21-106(a)(1) through (3); §§16-90-1107 through -1111)

Victims in Arkansas must be notified of:

- Their rights, in writing, under Arkansas law. Includes notice of the victim's right to compensation under the Arkansas Crime Victim Rights Law, and how to contact that agency; and of types of assistance available to them, including medical, housing, counseling, financial, social, legal and emergency services. Victims also must receive notice of their right to protection, including protective court orders and of their right to gain access to public records related to the case.
- Identity of the suspect; and whether he or she has been taken into custody, has escaped, or has been released, and any release conditions when such information has been made known to the law enforcement agency.

- The file number of the case and the name, office address, and office telephone number of a law enforcement officer assigned to investigate the case.
- The prosecuting attorney's name, office address, and office telephone number.
- Written notice of the anticipated release from incarceration of a person serving a sentence for a sex offense.
- Anticipated release from incarceration of a person committed following an acquittal on the grounds of mental disease or defect for a sex offense. Notice must include information about the released person's anticipated future residence.
- Date, time and place of any post-conviction hearing, and decision in that action.
- Scheduling of parole hearing, including notice of the victim's right to submit a victim impact statement, with 30 days' advance notice, and the decision of the Post Prison Transfer Board.
- Upon request, the estimated date of the defendant's release from confinement.
- Release of the defendant on furlough or to a work-release, halfway house, or other community program, with notice at least 30 days in advance.
- Escape, recapture of the offender.
- Decision to commute the sentence or to pardon or, upon request, notice of executive clemency granted to the offender.
- Death of the defendant.

In addition, the Arkansas legislature authorized the state's Crime Information Center to develop an automated victim information and notification system. The Arkansas Crime Victim Information and Notification System allows anyone to check the location and status of offenders and to register for notification of events related to a particular offender.

Victim Participation (§16-90-1103; §§16-90-1112, -1113)

Victims have the following rights of participation in Arkansas:

- To be present at any proceeding concerning the crime at which the defendant has a right to be present.
- To have another individual present with them in court to provide them support.
- To confer with the person preparing the pre-sentence report. If the victim is not available or declines to confer, the person preparing the report shall record that information in the report.
- To submit a victim impact statement (VIS) to the court, orally or in writing, before the court imposes a sentence.
- To present a victim impact statement to the Post Prison Transfer Board before the board determines whether to release the defendant on parole. At the victim's option, the victim may present the statement orally at the parole hearing.

Homicide survivors and other crime victims are permitted to testify via videotape at parole hearings, post-prison transfer hearings, and pardon and executive clemency hearings.

Victim Protection and Confidentiality (§16-21-106)

A victim may not be compelled during a criminal justice proceeding to disclose a residential address or place of employment on the record in open court unless the court finds that disclosure of the information is necessary.

Law enforcement agencies cannot disclose information to the public about the identity of the victim of a sex crime except under limited circumstances. The address and telephone number of the victim also is protected from release under the Freedom of Information Act.

Additionally, the prosecuting attorney must provide the following services to victims and witnesses of crimes and the family members of all homicide victims:

- Assist victims in obtaining protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;
- Assist victims in applying for financial assistance and other social services available as a result of being a witness or victim of a crime;
- Assist victims in applying for any witness fees to which they are entitled;
- Provide, when possible, a secure waiting area during court proceedings that does not require such persons to be in close proximity to the defendants and families and friends of the defendants, which otherwise make a reasonable effort to minimize unwanted contact between the victim and the defendant during and immediately after a judicial proceeding.

Employment Rights (§16-90-1105)

An employer may not discharge or discipline a victim or a representative of the victim for participation at the prosecuting attorney's request in preparation for a criminal justice proceeding or for attendance at a criminal justice proceeding if the attendance is reasonably necessary to protect the interests of the victim.

The prosecuting attorney is responsible for interceding with victims' employers to ensure that the employers cooperate with the criminal justice process in order to minimize loss of pay and other benefits resulting from court appearances.

Property Rights (§16-90-1106)

Any person holding property of a victim must take reasonable care of the property. The responsible official must promptly return the property to the victim when it no longer is needed for evidentiary purposes, unless it is contraband or subject to forfeiture.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Crime Victims Reparations Board is administered by the Office of the Attorney General, Community Relations Division. The maximum award is \$10,000, with an additional \$15,000 available in catastrophic injury cases. Compensable costs, with limits noted, are:

- Medical expenses (up to 75 percent of charged medical expenses, with providers who accept payment precluded from seeking balance from the victim).
- Mental health counseling (\$3,500 inpatient and \$3,500 outpatient).
- Lost wages or support (no cap, paid at actual salary).
- Funeral (\$5,000).
- Replacement services.
- Crime-scene cleanup: homicide cases only; \$3,000 cap.
- Travel, including extraordinary transportation to medical providers. No cap; \$300 cap for travel related to victim's participation in criminal justice activities.
- Rehabilitation.
- Attorney fees for guardianship of minor who has received award (\$250).
- Emergency (\$500).
- Security: \$500 cap for replacement of locks and windows for victims of sexual assault and domestic abuse when the crime occurred within their primary residence.
- Lodging: \$300 cap when directly related to medical necessity of victim who suffered personal injury; \$3,000 cap when directly related to victim's participation in criminal justice activities.

Web address: <http://www.nacvcb.org/progdir/arkansas.html>

Restitution (§5-4-205)

Victims in Arkansas have the right to court-ordered restitution from the offender in order to make that victim whole with respect to the financial injury suffered. The circuit judges of each judicial district may establish a restitution fund to be administered by the circuit judge, the prosecuting attorney, or probationary agency. If the court decides not to order restitution or orders restitution of only a portion of the loss suffered by the victim, the court must state the reasons in detail on the record. A restitution judgment may be enforced by the state or victim in the same manner as a judgment for money in a civil action.

Notoriety for Profit (§16-90-308)

Any convicted offender who contracts to reenact the crime by way of a book, motion picture, magazine article, radio, etc. must pay any profits over to the circuit court. The circuit court must then deposit the money in an escrow account for the benefit of any victim of crimes committed by the defendant.

Legislation Passed in Arkansas in 2003-2004

HB 2486 (2003) (§5-4-205(a)(5))

Adds "governmental entity or agency" to the definition of a crime victim who suffers property damage, monetary loss or physical injury as a result of the defendant's offense. Requires that individuals who violate the Uniform Controlled Substances Act must make restitution to the state or local agency for site cleanup.



CALIFORNIA

Key Statute Citations

- Cal. Penal Code §679.02 (West 2004)
- Cal. Cons. art. 1, §28

Organization/Administration (§13820)

In California, victims' services are handled by the Governor's Office of Emergency Services (OES). Recent legislation in California also requires the secretary of state and the consumer services agency to review and report to the Legislature on crime victims' services in the state.

Web address: <http://www.oes.ca.gov/Operational/OESHome.nsf/1?OpenForm>

Who Is a Victim? (§679.01(b))

A victim is a person who is the direct victim of a misdemeanor or felony. However, most rights also apply to homicide survivors and to the parent or guardian of minor victims.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Cal. Cons. art. 1, §28)

California passed a Constitutional Amendment for Victims' Rights in 1982. The provisions and laws that ensure a bill of rights for victims of crime include safeguards in the criminal justice system to fully protect those rights. The rights of victims pervade the criminal justice system, encompassing not only the right to restitution from the wrongdoers for financial losses suffered as a result of criminal acts, but also the more basic expectation that people who commit felonious acts that cause injury to innocent victims will be appropriately detained in custody, tried by the courts, and sufficiently punished so that the public safety is protected and encouraged as a goal of highest importance. Such public safety extends to public primary, elementary, junior high, and senior high school campuses, where students and staff have the right to be safe and secure. To accomplish these goals, broad reforms in the procedural treatment of accused people and the disposition and sentencing of convicted people are necessary and proper as deterrents to criminal behavior and to serious disruption of people's lives. These rights generally include the following.

- All victims have the right to restitution from those convicted of the crimes for losses they suffer. Restitution shall be ordered from those convicted in every case, regardless of the sentence or disposition imposed.
- All students and staff of public primary, elementary, junior high and senior high schools have the inalienable right to attend campuses that are safe, secure and peaceful.
- The right to truth-in-evidence: relevant evidence shall not be excluded in any criminal proceeding.

- In setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, the seriousness of the offenses charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case.
- Any prior felony conviction of any person in any criminal proceeding, whether adult or juvenile, shall subsequently be used without limitation for purposes of impeachment or enhancement of sentence in any criminal proceeding. When a prior felony conviction is an element of any felony offense, it shall be proved to the trier of fact in open court.

The state's statutory victims' rights provisions follow.

Victim Notice (§679.02)

California must provide "notification of eligibility" cards for victims that include the following information: "If you have been the victim of a crime that meets the required definition, you or others may be eligible to receive payment from the California State Restitution Fund for losses directly resulting from the crime." Other required victim notification includes:

- Where the case involves a violent felony or homicide, notice of a pending pretrial disposition before a change of plea is entered before a judge.
- Notice if the defendant is convicted.
- Upon request, to be informed by the prosecuting attorney of the final disposition of the case.
- Notice if the offender is placed in probation and notice of the proposed date upon which the person will be released from custody.
- That a court proceeding to which he or she has been subpoenaed as a witness will not proceed as scheduled.
- The right to be notified of all sentencing proceedings, and the right to appear and to reasonably express his or her views for the court to consider. Also includes notice of the right to have those views preserved by audio or video means.
- Upon request, notice of a parole hearing and of the right to appear and to reasonably express his or her views and to have his or her statements considered.
- Notice if the defendant is placed on parole.
- Upon request, notice of an inmate's placement in a reentry or work furlough program. Also upon request, notice of the release, escape, scheduled execution or death of a violent offender.
- Notice that the victim may be entitled to witness fees and mileage.
- The right to be provided with information concerning the victim's right to civil recovery and the opportunity to be compensated from the restitution fund.
- Law enforcement agencies are authorized to inform a sex offense victim whether a DNA profile was obtained from evidence gathered and whether there was a match to the state's database.
- The Department of Mental Health must notify the victim when a patient committed as a sexually violent predator petitions the court for discharge.

Victim Participation (§1191.1)

Victims have the following rights of participation in the criminal justice process:

- To appear at all proceedings and to reasonably express the victims' views.
- To have those views preserved by audio or video means.
- To have the court consider his or her statements made in court.
- The right to an expeditious disposition of the criminal action.
- In a capital case, to be present at the execution.

Victim Protection and Confidentiality (Cal. Govt. Code §6206)

California was the first state to institute a victim address confidentiality program for victims of domestic violence or stalking. The program is administered by the secretary of state.

Victims of sexual assault have the right to have victim advocates and a support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys or defense attorneys.

Employment Rights (Cal. Labor Code §230(b))

In California, employers are prohibited from firing, threatening or coercing crime victims who take time off from work to attend judicial proceedings.

District attorneys and victim/witness offices are encouraged to make information regarding such workplace rights available at their offices.

Property Rights (§13835.5(a)(6))

If requested, victims have the right to receive assistance in obtaining the return of a their property held as evidence by law enforcement agencies.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The State Board of Control, under the Victims Crime Board, handles California the Victims of victim compensation claims. The program, created in 1965, operates with staff in a central office and through contracts with 20 victim/witness centers throughout the state. The maximum award is \$70,000 (for crimes that occurred on or after January 1, 2001). Compensable costs, with limits noted, are:

- Medical expenses (using worker's compensation fee schedule to set limits).
- Mental health counseling (limited to 50 sessions, unless justification for further treatment is provided and approved, with a \$10,000 cap for direct victims, family of homicide victims, and custodial parents or primary caretakers of minor victims, and \$3,000 for other derivative victims. Session limits for individual therapy of \$90 for physicians and licensed psychologists and \$70 for licensed clinical social workers and licensed marriage, family, and child counselors. Group or family therapy reimburse-

ment is limited to a maximum of 40 percent per session of the provider's individual hourly session rate, per individual victim, not to exceed maximum).

- Lost wages and support (generally limited to three years after the crime; may pay up to five days for one person to arrange funeral).
- Funerals (\$5,000).
- Moving expenses, allowed as a one-time cost when recommended by a doctor or police.
- Rehabilitation.
- Attorney fees (limit of lesser of 10 percent of award or \$500).
- Emergency (\$2,000; \$5,000 for funeral/burial).

Web address: <http://www.nacvcb.org/progdir/california.html>

Restitution (§§1191-1210.5)

All victims have the right to collect restitution from the offender for losses they suffer. Restitution is ordered from the convicted person in every case, regardless of the sentence or disposition imposed. Victims have the right to receive a copy of the restitution order from the court and to enforce the restitution order as a civil judgment.

Notoriety for Profit (Cal. Civil Code §2235)

California's notoriety for profit law applies to contractual income concerning depictions of thoughts, feelings, etc. the offender has about the crime.

California recently expanded its notoriety for profit law to also impose an involuntary trust upon the profits from any felony-related memorabilia.

Legislation Passed in California in 2003-2004

AB 1504 (2004) (Cal. Penal Code 1603§1)

Requires a prosecutor to notify the victim or next of kin of the victim before the offender who was previously found to be not guilty by reason of insanity is released from the state hospital.

SB 58 (2004) (Cal. Penal Code §964)

Require local prosecutors to establish a procedure with the courts for protecting victim's and witnesses' confidentiality of personal information in any reports submitted to the Court.

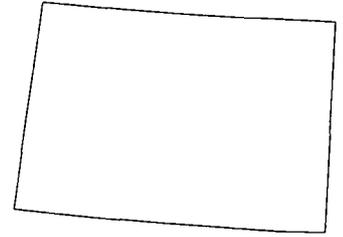
SB 631 (2004) (Cal. Penal Code §1202.44)

Requires a defendant who has an unpaid balance on a restitution order to prepare and file a specified signed financial disclosure statement prior to release from probation. Requires a court clerk to notify the Victim Compensation and Government Claims Board of an order requiring a defendant to pay restitution. Requires that parole revocation restitution fines to be deposited in the Restitution Fund. Provides for civil judgment for parole revocation fines.

SB 1516 (2004) (Cal. Penal Code §3043)

Provides that two victim representatives have the right to appear at any Board of Prison Terms hearing to review the offender's parole status or the setting of a parole date. Requires that the representatives designated by the victim must be either a family or household member of the victim.

COLORADO



Key Statute Citations

- Colo. Rev. Stat. §24-4.1-301 et seq. (2004)
- Colo. Cons. art. II, §16a

Organization/Administration (§24-4.1-117.5.(2)(a))

The Office for Victims Programs with the Division of Criminal Justice of the Department of Public Safety is responsible for development and implementation of public policy and standards for the administration of victim programs. The agency provides training and education; administers federal and state grant programs; collects data and reports to the legislature, the public and funders; and oversees enforcement of and compliance with constitutional and statutory requirements that protect the rights of crime victims.

Web address: <http://dcj.state.co.us/ovp/>

Who Is a Victim? (§24-4.1-302(5))

A victim is any person against whom any crime has been perpetrated or attempted, unless the person is accountable for the crime. If such person is deceased or incapacitated, the person's spouse, parent, child, sibling, grandparent, significant other, or other lawful representative is considered the victim. A "crime" means any of the following offenses as defined by the statutes of the state of Colorado, whether committed by an adult or a juvenile: murder in the first or second degree; manslaughter; criminally negligent homicide; vehicular homicide; assault in the first, second or third degree; menacing; kidnapping in the first or second degree; sexual assault in the first, second or third degree; sexual assault on a child; robbery or aggravated robbery; incest; child abuse, sexual exploitation of a child; crimes against at-risk adults or at-risk juveniles; vehicular assault; unlawful sexual conduct; stalking; ethnic intimidation; careless driving that resulted in the death of a person; failure to stop at the scene of an accident where accident resulted in death of another person; retaliation against a witness or victims; tampering with a witness or victim; and any crime determined to include domestic violence.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Colo. Cons. art. II, §16a.)

Colorado voters approved a victim rights constitutional amendment in November 1992 (Article II, Section 16a), which went into effect upon the signature of the governor in January 1993. The act provides that any person who is a victim of a criminal act or such person's designee, legal guardian, or surviving immediate family members if such person is deceased shall have the right to be heard when relevant, informed and present at all critical stages of the criminal justice process. Victims have the right to be treated with fairness, dignity and respect and to be free from intimidation, harassment or abuse throughout the criminal justice process.

Enabling legislation in Colorado's revised statutes provides definitions and describes the specific responsibilities of each system regarding how the amendment is to be applied.

The state's statutory victims' rights provisions follow.

Victim Notice (§§24-4.1-302.5; §24-4.1-302(2))

Victims must be notified of:

- Their right to be informed of all rights pursuant to the Colorado state constitution and the process of enforcement of their rights.
- Dates, time and places of proceedings at all critical stages of the criminal process. Victims also have the right to be informed of the status of the case and schedule changes regarding proceedings. This includes notice of any pending motions that may delay prosecution.
- All information regarding the case, including phone numbers of appropriate agencies involved.
- What charges have been filed against the accused.
- The function of the presentence report, including name, address and phone number of the probation office.
- That the defendant has the right to review the presentence report and victim impact statement.
- The date of the offender's termination for probation supervision and the name and address of the probation officer.
- Upon request, when the accused or convicted is released from custody, paroled or escapes.
- Transfer of the offender to a less secure facility.
- Their right to pursue a civil judgment against the offender for any damages incurred by the victim, regardless of whether the court has ordered restitution;
- Upon request, of any post-conviction proceeding that would reconsider the sentence or provide for consideration of parole or commutation of sentence.
- Their right to be informed as to the availability of financial assistance, medical, emergency and community services availability, as well as name, address and phone number of contacts they may call.
- To be informed of steps they can take if they are being intimidated or harassed by the defendant.

Victim Participation (§24-4.1-302.5; §§18-1.3-1201 through 18-1.4-102)

Victims of crime in Colorado have the right to be present at all critical stages of the criminal proceeding, including:

- To be present and heard at any court proceeding that involves a bond reduction or modification, the acceptance of a plea agreement, or the sentencing of the accused.
- The right to consult with the prosecution after the crime has been charged.
- The right to be present at the sentence hearing and to submit an oral or written victim impact statement regarding the harm the victim has sustained as a result of the crime.

- The right to provide a written statement to be included with any referral made by the Department of Corrections for placement of the offender in a community corrections facility or program.
- The victim may have an individual present for support at all times.

Victim Protection and Confidentiality (§§24-4.1-303(2),(5); §24-4.1-302.5(p))

Upon request of a victim, his or her address, telephone number, place of employment and any other personal information, including that of the victim's immediate family, must be kept confidential. Victims must be informed of the steps that can be taken if there is any intimidation or harassment by the offender. All reasonable attempts must be made to protect the victim and victim's family from harm, harassment, intimidation or retaliation by the offender.

Victims have the right to be provided with a secure waiting area whenever possible during court proceedings so that the victim is separated from the offender.

Employment Rights (§24-4.1-302.5(n))

Victims have the right to be provided with appropriate employer intercession services to encourage the victim's employer to cooperate with the criminal justice system. An employer may not discharge or discipline any victim or member of a victim's immediate family for honoring a subpoena to testify in a criminal proceeding or for participating in the preparation of a criminal proceeding.

An employer also is prohibited from discharging or penalizing an employee who is a victim of sexual assault, stalking or domestic violence for taking up to 30 days off (paid or unpaid) from work.

Property Rights (§24-4.1-302.5(k))

Victims have the right to promptly receive any property belonging to them that is being held by a prosecutorial or law enforcement agency, unless there are evidentiary reasons for its retention.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Colorado Crime Victim Compensation Act provides protection and assistance to victims and members of their immediate families to lessen the financial burden that results from a crime committed against them. The maximum total award allowed per statute is \$20,000.

Losses compensable to a victim include:

- Reasonable medical and hospital expenses, including dentures, eyeglasses, hearing aids, or other prosthetic or medically necessary devices. Also includes outpatient care.
- Mental health counseling.
- Lost earnings or lost support to dependents.

- Homemaker and home health services.
- Burial expenses.

A relative of a victim, even though he or she was not a dependent of the victim, is eligible for compensation for reasonable medical or burial expenses for the victim.

Web address: <http://www.nacvcb.org/progdir/colorado.html>

Restitution (§17-28-101; §16-18.5-107)

In Colorado, a victim has the right to collect court-ordered restitution from the offender. The judicial department must develop informational brochures for victims explaining the process of restitution and the victim's rights and remedies. A victim may pursue a civil judgment against the offender for any damages incurred, regardless of whether the court has ordered the offender to pay restitution.

Notoriety for Profit (§24-4.1-201)

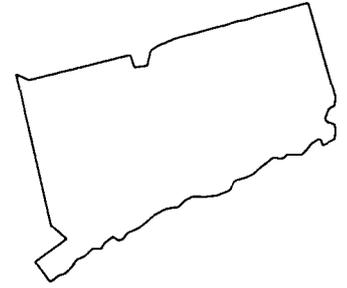
Colorado law disallows any person who has been convicted of a crime from profiting from the crime. The law requires that any profits from a crime received by the convicted offender be made available as restitution to the victims of the crime. Any person who contracts with a convicted offender must submit a copy of the contract to the victim assistance and law enforcement advisory board and pay to the board any money that, by the terms of the contract, otherwise would be owed to the convicted offender. A civil penalty is imposed for failure to comply with these restrictions.

Legislation Passed in Colorado in 2003-2004

SB 46 (2004) (§18-3-407)

Allows the prosecution, in an unlawful sexual behavior case, to motion the court for a protective order to protect the identity of the victim and require the use of a pseudonym. Requires the court to grant the motion if cause is shown. Allows the court to sanction a party for repeated violation or a willful violation of the order.

CONNECTICUT



Key Statute Citations

- Conn. Gen. Stat. §§54-201 to 54-249 (2004)
- Conn. Cons. art. XXIX

Organization/Administration (§54-203)

An Office of Victim Services in the state's Judicial Department is responsible for administering victims' rights and services, including notice of rights, compensation for losses, development and operation of direct service programs, and training and technical assistance to victim service providers. Victim advocates, contracted for with public or private agencies and overseen by the office, screen cases and work with courts to provide direct assistance to victims of crimes. The office also provides staff services to a state advisory council, which makes recommendations to the legislature and Office of Victim Services for improving services to victims of crime.

Web address: <http://www.jud.state.ct.us/crimevictim/>

Who Is a Victim? (§54-201(1); §54-209)

A victim is a person who suffers personal injury or death as the result of a crime which is a felony or misdemeanor involving personal injury and includes any crime committed by a juvenile.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights

(Conn. Cons. art. XXIX)

In 1996, the Connecticut Constitution was amended to include rights for victims of crime. Article XXIX provides that, in all criminal prosecutions, victims have the right to:

- Be treated with fairness and respect.
- Timely disposition of the case, provided no right of the accused is abridged.
- Be reasonably protected from the accused.
- Notification of court proceedings.
- Attend the trial and other court proceedings, unless the victim is to testify and the court determines that his or her testimony would be materially affected by hearing other testimony.
- Communication with the prosecution.
- Object to or support a plea agreement and to make a statement to the court prior to the court's acceptance of a plea.
- Make a statement to the court at sentencing.
- Restitution, which shall be enforceable in the same manner as any other cause of action.
- Information about the arrest, conviction, sentence, imprisonment and release of the accused.

The state's statutory victims' rights provisions follow.

Victim Notice (§54-203; §54-222; §§54-227 through -232)

The Office for Victim Services is required to direct hospitals to display prominently in emergency rooms the availability of compensation and assistance to victims or their dependents and to direct law enforcement agencies to inform victims and dependents of their rights. A concise, bilingual card developed by the Office of the Chief Court Administrator explains victim rights and services. Law enforcement officers are required to present the card to victims.

Victims may request that the Office of Victim Services notify them when an inmate makes application for release or sentence reduction or review to the Board of Parole, Department of Corrections, sentencing court or judge, or when an inmate is scheduled to be released from a correctional institution. Notice to the victim is to include nature of the inmate's application, the board or agency to which application is being made, the address and telephone number of the board or agency, and the date and place of the hearing or session, if any. Agencies and courts are required to provide this information to the office for notification purposes. States attorneys, assistants and deputies may similarly ask for such notification. Certain minor and sex crime victims also may ask to be notified when an offender who is found not guilty by reason of mental illness files application to be exempt from sex offender registration requirements.

In addition, Connecticut law requires superior court judges to issue an advisement regarding the rights of victims under state law at the opening of every court session.

Victim Participation (§54-203; §53a-46d)

The constitutional amendment assures victims of the right to attend the trial and other court proceedings, unless the victim also will testify and the court determines that his or her testimony would be *materially affected* by hearing other testimony. Victims also have the right to:

- Communicate with the prosecution, including to object to or support a plea agreement prior to acceptance of such an agreement with the defendant.
- To make a statement to the court prior to the court's acceptance of a plea; and to provide a victim impact statement to the court at sentencing or at any hearing regarding *reduction or discharge of sentence*.
- To make a statement concerning parole release of an inmate or conditions to be imposed upon release.
- The right to prepare a victim impact statement, with the assistance of a victim advocate, to be read in court prior to imposition of sentence upon a defendant found guilty of a *crime punishable by death*.

The right to participate and be heard extends to the representative of a homicide victim entitled to be present at trial.

Connecticut law allows the prosecutor to display a picture of the victim during opening and closing arguments in homicide cases.

Victim Protection and Confidentiality (§§54-240 through -249)

Connecticut established an address confidentiality program in the office of the secretary of state to provide a substitute mailing address for any person who has been a victim of family violence, injury or risk of injury to a child, sexual assault or stalking, and who wishes to keep such person's residential address confidential because of safety concerns.

Employment Rights (§54-203(G))

Employers are prohibited from firing, penalizing, threatening, or coercing an employee who is a victim of crime and leaves work to attend a court proceeding.

Property Rights (§54-203(b)(7)(E); §54-36(a))

Victims have the right to have any property returned that was seized by police in connection with an arrest.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

A crime victim may make application for compensation with the Office of Victim Services, which administers the Criminal Injuries Compensation Fund. Compensation is capped at \$25,000 for dependents of a homicide victim and at \$15,000 for victims of other crimes. Lump sum or periodic payments may be ordered for losses that include:

- Medical costs not covered by insurance.
- Loss of earning power as a result of a victim's partial or total incapacity.
- Monetary loss to spouse or dependants of a deceased victim, including zero to 1 percent loans of up to \$100,000.
- Monetary loss to dependants of a deceased victim for attendance at court proceedings.
- Other related losses, at the discretion of the Office of Victim Services or compensation commissioner.
- Attorney fees.
- Emergency (up to \$2,000).

Web address: <http://www.nacvcb.org/progdir/connecticut.html>

Restitution (§54-216)

The Office of Victim Services may order restitution for services including, but not limited to, medical, psychiatric, psychological, social and rehabilitation.

Restitution is enforceable as in any other cause of action. (§53a-28)

Notoriety for Profit (§54-218)

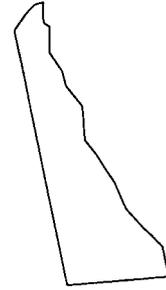
Those accused or convicted of a crime of violence must pay to the Office of Victim Services any money gained by contract with respect to reenactment of their crime, by book, movie, magazine article, radio, television or live presentation, or from the expression of one's thoughts, feelings, emotions or opinions regarding the crime. Money is to be deposited into an account and payable to the accused for the expenses of his or her defense and for any civil judgment ordered as a result of action brought by the victim within five years. If no civil action is brought within five years, the money is paid to the Criminal Injuries Compensation Fund. If there is affirmative finding within the five years that an accused person is not guilty, the money in the account is returned to him or her.

Legislation Passed in Connecticut in 2003-2004

HB 5296 (Public Act 04-121)

Establishes a separate, nonlapsing "Sexual Assault Victim Account" within the general fund to be accessed by the Department of Public Health to furnish sexual assault crisis services to victims of sexual assault.

DELAWARE



Key Statute Citations

- Del. Code Ann. tit. 11, §9401 et seq. (2004)

Organization/Administration (§9003)

The Victim/Witness Program, in the state Attorney General's Office, assists victims as they proceed through the criminal justice system. In addition, the Violent Crimes Compensation Board, composed of five members appointed by the governor, has sole jurisdiction for crime victim compensation awards. All state agencies with victims' rights duties must submit an annual report to the governor and to the Criminal Justice Council that contains data that shows compliance with law.

Web address: http://www.state.de.us/attgen/main_page/victims/victims_guide.htm

Who Is a Victim? (§9401(5))

A victim is the person, organization, partnership, business, corporation, agency or governmental entity identified as the victim of a crime in a police report a criminal complaint or warrant, an indictment or information or other charging instrument. It includes the parent, guardian or custodian of a victim who is unable to meaningfully understand or participate in the legal process due to physical, psychological or mental impairment. Victim includes the spouse, adult child or stepchild, parent, or sibling of a deceased victim other than the defendant, codefendant or conspirator. Victim specifically includes qualifying neighborhood or homeowner associations

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Del. Code Ann. tit. 11, ch. 94)

The legislature enacted a statutory Victims' Bill of Rights, which was signed into law in 1992. This law entitles victims to be notified of and to participate in all major aspects of the criminal case process.

The state's statutory victims' rights provisions follow.

Victim Notice (§§9410 through 9413; §9416)

Victims must be notified of the following:

- Explanation of the victim's statutory rights in Delaware.
- A statement regarding all procedural steps a criminal case.
- Availability of social services and other victim assistance, including if a victim's service unit exists within the police department involved in the case and, in the absence of such a unit, information about the Statewide Victim Center.

- Information about the Violent Crimes Compensation Programs.
- A copy of the initial incident report and information about the law enforcement investigation and the agency with which the victim may check on the status of the case.
- Information concerning pretrial release of the accused.
- Written information by the investigating law enforcement agency about whom to contact regarding the defendant's release from custody and the procedures that the victim may follow if threatened or intimidated or if conditions of bail are violated.
- Their right to confer with the prosecutor.
- The crimes for which the defendant has been convicted.
- The date, time and place of each court proceeding relative to the case.
- The specifics of any sentencing order, including any sentence reduction, modification or reversal.
- Information concerning the offender's compliance with terms of any sentence imposed.
- The date, time and place of any appeal or post-conviction remedy hearing.
- In writing, the projected release date of the offender from the Department of Corrections and the Parole Board hearing date, including notice of the victim's right to address the Parole Board in writing or person and the decision of the board to parole or pardon.
- The defendant's escape from corrections custody.

Victim Participation (§§9404 through 9405; §9407; §§9415-9416)

The victim or the victim's immediate family has the right to present during all stages of a criminal proceeding where the defendant has a right to be present, even if called to testify. When the victim is present at court, he or she may have an individual there at all times for support unless the court finds this is against the defendant's right to a fair trial. The court must consider the victim's interest in a speedy prosecution of the case. Victims also have the right to:

- Confer with the prosecutor before the state dismisses a charge or agrees to a plea.
- Confer with the Investigative Services Officer (ISO) who prepares the pre-sentence report. If the victim is not available or declines, the ISO must record that information in the report. The victim has the right to present a victim impact statement for the report.
- Address the Parole Board or Board of Pardons, in writing or in person, about the victim's opinions on the offender's parole or pardon.

Victim Protection and Confidentiality (§§9403; §9406)

The court must provide a waiting area for victims separate from the defendant, if such an area is reasonably available. If not, the court must provide other safeguards to minimize contact between the victim and defendant. The victim must be provided written information by the investigating law enforcement agency about who the victim can contact to see if the defendant is released from custody and the procedures that the victim may follow if threatened or intimidated or if conditions of bail are not met.

A victim's address, telephone number, place of employment or family's personal information must remain confidential and not be disclosed by law enforcement personnel, prosecutor or

the corrections department. The court may not compel the victim to reveal such information in court while testifying.

Employment Rights (§9409)

An employer may not discharge or discipline a victim for any participation at the prosecutor's request in preparation for a criminal justice proceeding, response to a subpoena or any attendance at a proceeding if the attendance is reasonably necessary to protect the interest of the victim.

Property Rights (§9408)

The agency holding the property must promptly return the property to the victim when it no longer is needed for evidentiary purposes, unless it is contraband or subject to forfeiture.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Delaware's Violent Crimes Compensation Board is responsible for victim compensation claims and awards. All appropriate fines collected must be deposited into a Victims' Rights Fund established within the state treasurer's office. The maximum award is \$25,000, and victims may be compensated for the following, with limits noted:

- Medical expenses. The state Victim/Witness Program has contracts with hospitals and other health care providers to accept 80 percent in lieu of full payment.
- Mental health counseling (including and limited to \$1,200 for assessment and short-term counseling for children who may be victims or witnesses, outside of regular application process).
- Lost wages and support.
- Funerals (up to \$8,500, to include \$6,000 limit for funeral, \$1000 for plot, \$750 for opening/closing grave and \$750 for marker).
- Attorney fees (limited to exceed 15 percent of award or \$1,000, whichever is less).

Victim compensation program in Delaware applies to residents who are victims of terrorist acts.

Web address: <http://www.nacvcb.org/progdir/delaware.html>

Restitution (§§4101 through 4105)

Victims have the right to court-ordered restitution from the offender wherever a victim suffers a monetary loss as a result of the defendant's criminal conduct in such amount as to make the victim whole, insofar as possible, for the loss sustained. The court may hold an offender's driver's license as security for payment of restitution or other costs or assessments. If the offender fails to pay as ordered, the driver's license is suspended. Courts are required to retain jurisdiction over an offender until restitution is paid in full to the victim. Courts may impose "restitution only" unsupervised probation sentences on offenders. Orders of restitution are fully enforceable in the same manner as other judgments of the court.

Notoriety for Profit (§9103)

It is against public policy in Delaware to allow a criminal to benefit financially from a public reenactment of the crime. If the offender does collect any such money, state law requires that it be distributed to compensate the victim. Similarly, no individual or corporation may contract with the offender to reenact any part of the crime. If this occurs, the money must be turned over the Victim Compensation Board. Any person convicted of this violation will be guilty of a Class A misdemeanor.

Legislation Passed in Delaware in 2003-2004

SB 104 (2003) (§1312(a), (e))

Updates Delaware's stalking statute to ensure that it prohibits stalking that threatens a victim's property and employment status (as opposed to simply prohibiting threats against personal safety). Allows a misdemeanor crime of stalking, which occurs without the victim's knowledge. Provides for a felony offense where an adult (with or without the child's knowledge) stalks a child.

FLORIDA



Key Statute Citations

- Fla. Stat. §§960.001 through 960.298 (2004)
- Fla. Cons. art. I, §16

Organization/Administration (§960.001; §960.05)

Florida's Department of Legal Affairs includes a Crime Victims' Services Office that is responsible for advocating for and representing the needs of crime victims statewide and for ensuring that the rights of crime victims are properly publicized and encouraged. The office administers federally funded victims' assistance programs and coordinates the flow of information between all agencies and organizations that provide services to victims. Responsibilities also include assisting in the development and administration of crime victim programs and services; seeking to identify victims and inform them of their rights; serving as a clearinghouse for information related to problems encountered by victims; enlisting the assistance of public and voluntary health, education, welfare and rehabilitation agencies in an effort to aid victims; and investigating all claims for awards.

The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Parole Commission, administrators of state and circuit courts, and law enforcement entities are required to develop and implement guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems. Certain training is required. The governor may contract with and authorize a direct support organization to assist in addressing the needs of victims of adult and juvenile crime.

Witness coordination offices must gather information about victim services in the geographic boundaries of their respective circuits and provide it to each law enforcement agency within such boundaries.

Web address: <http://www.dc.state.fl.us/oth/victasst/>

Who Is a Victim? (§§906.03 (13)(a) through (c))

A victim is a person who suffers personal physical injury or death as a direct result of a crime. This may include a person against whom a forcible felony was committed and who suffers a psychiatric or psychological injury as a direct result of that crime but who does not otherwise sustain a personal physical injury or death. The definition of victim also includes a person younger than age 16 who was present at the scene of a crime, saw or heard the crime, and suffered a psychiatric or psychological injury because of the crime, but who was not physically injured. For purposes of victim rights, a crime is felony or misdemeanor offense committed by either an adult or a juvenile, that results in physical injury or death. The term also includes any such criminal act that is committed within the state but that falls exclusively within federal jurisdiction.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Fla. Cons. art. I, §16)

Florida passed a Constitutional Amendment for Victims' Rights in 1988. These rights generally include:

- The right to be informed;
- The right 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.

This includes the victims of the actual crime or their lawful representatives, including the next of kin of homicide victims.

The victim, victim's parent or guardian, or the state attorney (if the victim is a minor) has standing to assert the rights of a crime victim that are provided by law of or the state constitution.

The state's statutory victims' rights provisions follow.

Victim Notice (§960.0021)

Law enforcement personnel must distribute to victims a victim's right information card or brochure at the crime scene and during the criminal investigation to notify them of the following.

- The availability of crime victim compensation.
- Courts are required to notify victims of their constitutional and statutory rights through verbal advisement by the judge or by displaying posters on the courtroom doors.
- Notice of crisis intervention services, supportive or bereavement counseling, social service support referrals and community-based victim treatment programs.
- Notice of the role of the victim in the criminal or juvenile justice process, including what the victim may expect from the system and what the system expects from the victim.
- Notice of the stages in the criminal or juvenile justice process that are of significance to the victim and the manner in which information about such stages can be obtained.
- Notice of the right of the victim to be informed, to be present, and to be heard, when relevant, at all crucial stages of a criminal or juvenile proceeding.
- In the case of incarcerated victims, the right to be informed and to submit written statements at all crucial stages of the criminal proceedings, parole proceedings, or juvenile proceedings.

To ensure that victims can effectively understand and exercise their rights under the state constitution and to ensure that law enforcement personnel considers the interests of crime victims, victims must be properly advised of their rights in the courts. This requires the courts to either make an announcement at any arraignment, sentencing or case management proceeding advising victims of the all of their general rights, or to prominently display posters on the courtroom doors giving notification of the existence of all their general rights.

In addition, victims of sexual offenses, attempted murder or sexual offense and next of kin or other designated contact of a victim in a homicide case have the right to notice of:

- Arrest of the accused.
- The release of the defendant on bail or from incarceration or, in the case of a juvenile, release from residential commitment within four hours.
- Scheduling of any proceedings in the case, and of any scheduling changes that occur.
- Their right to receive court-ordered restitution from the offender and enforcement rights if the offender does not comply. Victims also must be informed of a restitution order.
- Their right to submit an oral or written impact statement.
- The release of the accused pending judicial proceedings or any modification of release conditions.

Victim Participation (§960.0021)

Victims have the to a prompt and timely disposition of the case in order to minimize the period during which the victim must endure the responsibilities and stress involved in the criminal case. Victim participation rights also include:

- That a victim (or victim's parent, guardian or lawful representative) may not be excluded from any portion of any trial, hearing or proceeding having to do with the offense.
- The right to be consulted and express their views concerning release of the accused pending judicial proceeding, plea agreements, participation in pretrial diversion programs, and the sentencing of the defendant.
- Upon request, victims have the right to review a copy of the pre-sentence investigation report.
- Victims have right to submit oral or written impact statement. The state attorney must assist in the preparation of such statement, if needed.
- Upon request, a victim advocate may be permitted to attend and be present during any deposition of the victim.

Victim Protection and Confidentiality (§960.001(5)(c))

Florida instituted an address confidentiality program for victims of sexual assault or domestic violence that is administered by the attorney general. Victims may apply to have an address designated by the attorney general serve as the person's address. (Fl. Stat. Ann. §741.403)

Victims must be furnished with information on steps they may take to enlist police and state attorneys in protecting them from intimidation. Victims of domestic violence have the right to receive information about the state's address confidentiality program.

Victims must be provided with a separate pretrial waiting area, parking and translator services.

Employment Rights (§960.001(1)(j))

Upon request, victims must be provided assistance by law enforcement agencies and the state attorney in informing his or her employer that cooperation with prosecution may necessitate work absence. Victims also have the right to assistance in dealing with creditors due to absence from work and cooperation with prosecution.

Property Rights (§960.001(1)(h))

Law enforcement agencies and the state attorney must promptly return a victim's property held for evidentiary purposes, unless there is a compelling law enforcement reason for retaining it.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

In Florida, the Division of Victim Services and Criminal Justice Programs is administered by the Office of the Attorney General. Florida established the Crimes Compensation Trust Fund under this office to provide for payment to victims. The maximum crime victim compensation award is \$25,000, with an additional \$25,000 available in catastrophic injury cases. Compensable costs, with limits noted, are:

- Medical expenses (66 percent of total bill, up to maximum of \$10,000; in-state providers must accept this portion as payment in full).
- Mental health counseling (\$2,500 for adults or child witnesses and up to \$10,000 for child victims).
- Lost wages and support (up to \$25,000 over three years after date of crime).
- Funerals (\$5,000).
- Moving/relocation (up to \$1,500 for domestic violence victims; \$3,000 lifetime cap).
- Replacement services.
- Property loss directly affecting quality of life, limited to disabled or victims age 60 and older (up to \$500).
- Travel for crime-related treatment (.29 cents per mile).
- Rehabilitation.
- Emergency (up to \$1,000)

Web address: <http://www.nacvcb.org/progdir/florida.html>

Restitution (§775.089)

Victims in Florida have the right to receive court-ordered restitution from the offender. An order of restitution may be treated as a civil judgment or civil lien against the defendant and may be enforced in the same manner as a judgment in a civil action, including levy against personal property and foreclosure against nonexempt real property.

Notoriety for Profit

No notoriety for profit provisions currently are codified in Florida law.

Legislation Passed in Florida in 2003-2004

HB 561 (2003) (§784.046)

Creates the Victim's Freedom Act, which provides victims of sexual violence the opportunity to obtain protective relief from the offender.

GEORGIA



Key Statute Citations

- Ga. Code §§17-17-1 to -16 (2004)

Organization/Administration

The Office of Victim Services within the Georgia Department of Correction provides assistance to victims and their family members. Its mission is to be a ready friend to victims in their time of need and to serve as an integral part of the criminal justice system's response to their care and concerns. The attorney general's office in Georgia also provides assistance to and responds to the victims or family members of victims in any case for which it has responsibility. In addition, an Office of Victim's Advocacy was established in the State Board of Pardons and Paroles to advocate victims' rights, to answer their questions about parole, to ensure their views and concerns reach board members prior to parole decision-making, and to keep them notified of activity on their case.

District attorneys are authorized to employ a victim assistance coordinator and such other victim assistance personnel as may be necessary to carry out victim-related duties. It is among stated duties of district attorneys within their respective circuits to assist victims and witnesses of crimes through the complexities of the criminal justice system and ensure that victims are apprised of the rights afforded them under the law.

Web address: <http://www.dcor.state.ga.us/COMMISSIONER/VictimServices/VictimServices.html>

Who Is a Victim? (§17-17-3(11))

A victim is a person against whom a crime has been perpetrated or, in the event of the death of the crime victim, relatives that include a spouse or adult child, parent, sibling or others. The definition also includes a parent, guardian or custodian of a crime victim who is a minor or a legally incapacitated person except if such parent, guardian or custodian is in custody for an offense or is the defendant. A crime is an act committed in Georgia and includes crimes against the person, murder, sexual offenses, burglary, arson, theft, armed robbery, the sexual exploitation of children, homicide by vehicle, feticide by vehicle or serious injury by vehicle.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Ga. Code §17-17-6(b))

Georgia enacted a statutory Crime Victims' Bill of Rights in its state code. These rights are listed in the subsequent sections of this summary.

If a victim is physically unable to exercise privileges and rights, the victim may designate by written instrument his or her spouse, adult child, parent, sibling or grandparent to act in place of the victim during the duration of the physical disability.

Victim Notice (§§17-17-5 through -8; §§17-17-12 through -13)

Victims in Georgia have the right to be notified of:

- Arrest of the defendant.
- The possibility of pretrial release of the accused.
- Procedural steps in a criminal case, the victims' rights and role in the stages of the criminal justice process, and the means by which additional information may be obtained.
- Requirement that the victim must provide a landline telephone number to receive certain notices.
- The availability of victim compensation and of community -based victim service programs.
- Any judicial proceeding at which the release of the accused will be considered.
- The offender's release from custody.
- Procedures to follow if the victim is subjected to threats or intimidation.
- Twenty days' advance notice by the State Board of Pardons and Paroles whenever it considers making a final decision to grant parole or any other manner of executive clemency action to release a defendant for a period exceeding 60 days. Includes required notice of the victim's opportunity to file a written objection to such action.
- Notice that the offender is to be released from imprisonment, including release on extended furlough; transferred to work release; released by mandatory release upon expiration of sentence; escape from confinement; or if the offender has died.
- Notice of the names and telephone numbers of contacts at both the office of the custodial authority and in the prosecuting attorney's office.
- The status of all pending appeals, collateral attacks, and other litigation concerning such conviction that is being defended by the attorney general at least every six months until the offender dies or the sentence or conviction is overturned or commuted.

In addition, upon written request victims also may be notified:

- That the accused has filed a motion for new trial or an appeal of his or her conviction.
- That the accused has been released on bail or other recognizance pending the disposition of the motion or appeal.
- Of the time and place of any appellate court proceedings relating to the motion or appeal and any changes in the time or place of those proceedings.
- Of the result of a post-conviction motion or appeal.
- In capital offense cases, the filing and disposition of all collateral attacks on such conviction that are being defended by the attorney general, including, but not limited to, petitions for a writ of habeas corpus and the time and place of any such proceedings and any changes in the time or place of those proceedings.

Victim Participation (§17-17-11)

Victims in Georgia have the following rights of participation in the criminal justice process:

- The right to give an opinion on the disposition of an offender's case, including those relating to plea or sentence negotiations or the defendant's participation in pretrial or post-conviction diversion programs.
- The opportunity to express their opinion on the release of the accused pending judicial proceedings.

Victim Protection and Confidentiality (§§17-17-9, -10)

Victims have the right during any judicial proceeding to a waiting area separate from the accused, from the family and friends of the accused, and from witnesses for the accused, if available. If not, the court, upon request, must attempt to minimize the victim's contact with the accused during any proceedings.

If the court has granted a pretrial release, the victim has the right to file a written complaint with the prosecuting attorney asserting acts or threats of physical violence or intimidation by the accused against the victim. Based on the victim's complaint, the prosecuting attorney may ask the court to revoke the bond or personal recognizance of an accused.

Employment Rights

No such provisions are codified in Georgia law at this time.

Property Rights

No such provisions are codified in Georgia law at this time.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Crime Victim Compensation Program within the Criminal Justice Coordinating Council, under a director appointed by the governor, carries out victim compensation. A five-person board hears appeals. The maximum award is \$25,000. Compensable costs, with limits noted, are:

- Medical expenses (\$15,000).
- Mental health counseling (\$3,000).
- Lost wages or support (\$10,000).
- Funerals (\$3,000).
- Crime scene sanitation (\$1,500).
- Rehabilitation.

Web address: <http://www.nacvcb.org/progdir/georgia.html>

Restitution (§§17-14-1 through -16)

Victims in Georgia have a right to court-ordered restitution from the offender. The amount of restitution ordered may be equal to or less than, but not more than, the victim's damages. In determining the nature and amount of restitution, the ordering authority must consider:

- The present financial condition of the offender and his dependents;
- The probable future earning capacity of the offender and his dependents;
- The amount of damages;
- The goal of restitution to the victim and the goal of rehabilitation of the offender;
- Any restitution previously made; and
- The period of time during which the restitution order will be in effect.

An order for restitution does not bar any civil action against the offender by the victim.

A restitution order is enforceable as is a civil judgment by execution. If an offender willfully refuses to comply with a restitution order, the order may be enforced by attachment for contempt, upon the application of the prosecuting attorney or the victim.

Notoriety for Profit (§17-14-31)

An individual or corporation who contracts with a convicted criminal regarding his thoughts or feelings on the reenactment of the crime in a movie, book, article, tape, television or the like must submit a copy of the contract to the Board of Corrections and pay to the board such money owed to the offender. The funds are to be deposited to an escrow account for the benefit of and payable to the victim of crime. It is a misdemeanor for any person or corporation to fail to comply with this requirement; and each day that a person, firm, corporation, partnership, association, or other legal entity continues in violation of this article shall constitute a separate offense.

Georgia also makes it illegal for a judge, prosecutor, investigating officer or law enforcement officer who is a witness in a case to receive or agree to receive remuneration during the period of time between indictment and the completion of direct appeal in any criminal case in which the judge, prosecuting attorney or law enforcement officer is involved, for publishing a book, article, public appearance or any other commercial activity concerning the case.

Legislation Passed in Georgia in 2003-004

SB 457 (2004) (§19-5-2)

Improves assistance to victims of sexual assault by requiring each judicial circuit to establish a sexual assault protocol for dealing with the victims of sexual assault and for investigating and prosecuting the offenders.

HAWAII



Key Statute Citations

- Hawaii Rev. Stat. §801D-4 (2004)

Organization/Administration

The Department of the Attorney General includes a victim-witness assistance program, charged with providing information, assistance and support services to the victims of and witnesses to crimes committed in the state. The attorney general is responsible for allocating and awarding appropriated funds to counties that have victim-witness assistance units that are in compliance with the policies and criteria established. Statute also requires that the attorney general and county prosecutors work together to establish such criteria; the prosecutors must implement the program in their respective counties. In addition, Hawaii statute requires that the county prosecutor, the police, local social service agencies, the courts, and all other agencies in the criminal system cooperate with each other to ensure that victims and witnesses of crime receive the rights and services to which they are entitled under state law.

Web address: <http://www.cpja.ag.state.hi.us/victims/>

Who Is a Victim? (§351-2)

A victim is a person against whom a crime has been committed by either an adult or a juvenile and includes surviving immediate family members of a homicide victim.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights

(Hawaii Rev. Stat. §801D-4)

A statutory bill of rights applies to victims, surviving immediate family members and witnesses of crimes. It is the intent to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy and sensitivity. The statutory bill of rights includes:

- The right to be informed of the final disposition of the case. If the crime is a felony, victims must be notified of major developments in the case, any changes in schedule, and release of the defendant from custody and must be consulted and advised about plea bargaining.
- The right to receive protection from threats or harm.
- The right to have any stolen or other personal property expeditiously returned by law enforcement agencies when the property no longer is needed as evidence.
- The right to be informed about financial assistance and other social services available and information about how to apply for the assistance and services.
- The right to be provided with a secure waiting area that is not in close proximity to the defendant during court proceedings.
- The right to be informed of any release, escape, furlough, work release or final discharge at the end of the prison term of the victim's offender.

- Upon written request, victims of felony sexual assault have the right to receive notice of the HIV status of the offender, whether adult or juvenile.
- Right to notice of income received from a civil judgment by the offender that exceeds \$10,000.
- The right to have the payment of restitution as a precondition for release of the offender from parole.

Victim Notice (§§801D-4(a), (1), (2), (4), (7); (b))

Victims must be notified of:

- The defendant's release from custody.
- Financial assistance and other social services available to victims and how to apply for such assistance.
- Plea bargaining negotiations.
- Notice of any changes in court proceedings.
- The final disposition of the case.
- If the crime is a felony, victims must be notified of major developments in the case and of any changes in schedule.
- Release to the community after convictions of a defendant who harmed a victim.
- A victim's right to restitution and the procedure to obtain restitution.
- Any release, escape, furlough, work release or final discharge at the end of the prison term of the victim's offender.
- Upon written request, notice of the HIV status of the offender, whether adult or juvenile.
- Income exceeding \$10,000 received by the offender from a civil judgment.
- Victims of domestic violence, or their guardian, must be notified by the defendant's probation officer when the defendant has committed any probation violation or when the officer has any information that relates to the safety of the victim.

Victim Participation (§801D-4(a))

Victims have the following rights of participation in the criminal justice process:

- To be consulted as part of plea bargaining.
- To comment at minimum-term parole hearings.
- To be heard in the pre-sentence report.
- To be present and heard at sentencing.

Victim Protection and Confidentiality (§§801D-4(a)(3), (5))

Victims have the right to receive protection from threats or harm. Victims also have the right to be provided with a secure waiting area that is not in close proximity of the defendant during court proceedings. Victims and witnesses have the right to testify at trial via a televised two-way closed-circuit video that will be viewed by the court, the accused and the jury.

Employment Rights

No such provisions are codified in Hawaii law at this time.

Property Rights (§801D-4(a)(6))

Victims have the right to have any stolen or other personal property expeditiously returned by law enforcement agencies when the property no longer is needed as evidence. If feasible, all the property, except weapons, currency, contraband and property subject to evidentiary analysis must be returned to the person within 10 days of being taken.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Crime Victims Compensation Commission, within the Department of Public Safety, acts as an appeals and policy board for victim compensation claims in the state. The maximum award is set at \$20,000 by statute; however, the dollar limits on specific compensable costs are set by the Crime Victim Compensation Commission and can change upon their action. Compensable costs, with limits noted, include:

- Medical expenses.
- Mental health counseling (\$5,000).
- Lost wages and support (\$3,000).
- Funerals (\$4,000).
- Moving expenses (\$3,000).
- Replacement services (\$500 for housekeeping and child care).
- Crime-scene cleanup and evidence (\$500 for cleanup \$3,000 for repair or installation of locks/security; \$200 for clothing taken as evidence).
- Travel by air, if services are not available on island of residence.
- Rehabilitation.
- Attorney fees (\$150).
- Pain and suffering (\$2,000).

Web address: <http://www.nacvcb.org/progdir/hawaii.html>

Restitution (§706-646)

The court may order the defendant to make restitution to the victim. The restitution order does not affect the right of a victim to recover from the victim compensation fund. Victims have the right to have the payment of restitution as a precondition for release of the offender from parole. Victim may enforce a restitution order in the same manner as a civil judgment.

Notoriety for Profit (§351-81)

Every person, firm, corporation, partnership, association or other legal entity upon entering into a contract with any criminal offender must submit a copy of the contract to the commission if:

- The contract provides for monetary compensation payable to the person indicted or charged or payable at the person's direction; and
- The subject matter of the contract is the reenactment of the crime, or the expression of the thoughts, feelings, opinions or emotions of the person about the criminal offense for which the person is indicted or charged which is to be reflected in a movie, book, article, radio or television program, or other form of communication.

Legislation Passed in Hawaii in 2003-2004

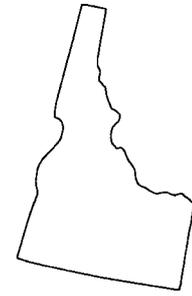
HB 1003 (2003) (§846-51; §706-662)

Requires that restitution payments collected for a victim who cannot be located be deposited in the Crime Victim Compensation Fund. Allows the Crime Victim Compensation Commission to transfer compensation awards to minors. Gives the commission the authority to expand coverage to mental health services.

IDAHO

Key Statute Citations

- Idaho Code §19-5301-5306 (2004)
- Idaho Cons. art. 1, §22



Organization/Administration

The Idaho Industrial Commission provides compensation to innocent victims of crime through the Crime Victims' Compensation Program.

Web address: <http://www2.state.id.us/iic/crimevictims.htm>

Who Is a Victim? (§19-5306(5)(a))

A victim is an individual who suffers direct or threatened physical, emotional or financial harm. Rights apply to victims, including victims of juvenile offenders, of felonies or misdemeanors that involve physical injury, threat of physical injury or a sexual offense. Victims' rights also apply to immediate family members of homicide victims and minors.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights

(Idaho Cons. art. 1, §22)

Idaho amended its constitution in 1994 to include rights for victims of crime. These rights generally include:

- To be treated with fairness, respect, dignity and privacy throughout the criminal justice process.
- To timely disposition of the case.
- To prior notification of trial court, appellate and parole proceedings and, upon request, to information about the sentence, incarceration and release of the defendant.
- To be present at all criminal justice proceedings.
- To communicate with the prosecution.
- To be heard, upon request, at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration or release of the defendant, unless manifest injustice would result.
- To restitution, as provided by law, from the person committing the offense that caused the victim's loss.
- To refuse an interview, ex parte contact, or other request by the defendant, or any other person acting on behalf of the defendant, unless such request is authorized by law.
- To read pre-sentence reports relating to the crime.
- To the same rights in juvenile proceedings, where the offenses is a felony if committed by an adult, as guaranteed in this section, provided that access to the social history report shall be determined by statute.

The Legislature has power to enact laws to define, implement, preserve and expand the rights guaranteed to victims under the state's constitution.

The state's statutory victims' rights provisions follow.

Victim Notice (§§19-5306(d), (j))

Victims must be notified of the following:

- Upon filing of the complaint, the victim must be informed of all his or her rights under law.
- Prior notification of trial court, appellate, probation and parolee proceedings.
- Upon request, notice of information about the sentence, incarceration, probation or release of offender.
- Notification of release or escape of the offender from custody or parole.

Victim Participation (§§19-5306(b), (c), (e) through (h))

Victims have the following rights of participation in the criminal justice process:

- Permitted to be present at all criminal justice proceedings, including probation proceedings.
- Entitled to a timely disposition of the case.
- Consulted about the pre-sentence report.
- Upon request, the right to be heard at all proceedings considering a plea of guilty, sentencing, probation or release of offender.
- Afforded the opportunity to communicate with the prosecution in criminal offenses and be advised of plea agreement in criminal offenses involving crimes of violence, sex crimes or crimes against children.
- Allowed to refuse an interview with the defendant or his attorney.
- Opportunity to submit a victim impact statement to be included in the pre-sentence report.

Victim Protection and Confidentiality (§19-5306(2))

Victims' addresses must be kept confidential by the court.

Employment Rights

No such provisions are codified in law at this time.

Property Rights (§19-5306(i))

Victims have the right to be assured of the expeditious return of any stolen or other personal property by law enforcement agencies when it no longer is needed as evidence.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

It is the intent of the Legislature to provide compensation for the injuries of victims suffered as a direct result of the criminal acts of other people. Idaho's Crime Victims Compensation Program operates as a division of the Idaho Industrial Commission. The program provides compensation to victims of crime. The maximum award is \$25,000. Compensable costs, with limits noted, are:

- Medical expenses.
- Mental health counseling (\$2,500 for direct victims).
- Lost wages and support (\$175 per week).
- Funeral and burial (\$2,500).
- Replacement services.
- Travel to obtain medical treatment.
- Attorney fees (not to exceed 5 percent of award).
- Other emergencies.

The mental health benefits that are available to immediate family members of homicide and sexual assault victims are referred to in Idaho as "Family Assistance Benefits." These benefits are a separate benefit category under state law. It is independent of the mental health benefit cap related to mental health treatment for the direct victim of the crime. Under the Family Assistance Benefits, immediate family members of homicide and sexual assault victims are eligible to receive benefits for mental health counseling for crime-related issues. These benefits are limited to a \$1,500 family maximum, with a maximum of \$500 per individual. Expenditures under this benefit category do not count against the \$2,500 benefit available to the direct victim, but are subject to the statutory aggregate total of \$25,000 per claim.

Web address: <http://www.nacvcb.org/progdir/idaho.html>

Restitution (§19-5304)

The definition of "victim" in Idaho is different for purposes of restitution. Victim in this case means:

- The directly injured victim, which means a person or entity who suffers economic loss or injury as the result of the defendant's criminal conduct and also includes the immediate family of a minor and the immediate family of the actual victim in homicide cases; or
- Any health care provider who has provided medical treatment to a directly injured victim if such treatment is for an injury resulting from the defendant's criminal conduct, and who has not been otherwise compensated for such treatment by the directly injured victim or the immediate family of the directly injured victim;
- The account established pursuant to the crime victims' compensation act, from which payment was made for medical treatment, services or monetary benefits for injury resulting from the defendant's criminal conduct;
- A person or entity who suffers economic loss because such person or entity has made payments to or on behalf of a directly injured victim pursuant to a contract including, but not limited to, an insurance contract. (§19-5304(1)(e))

Victims in Idaho have the right to court-ordered restitution from the offender. After 42 days from the entry of an order of restitution, such order may be recorded as a civil judgment and the victim may take action to enforce it as provided by law for civil judgments.

An order of restitution is a separate written order in addition to any other sentence the court may impose, including incarceration, and may be complete, partial or nominal. The court also may include restitution as a term and condition of judgment of conviction.

Restitution may is not affected by any recovery from any insurance policy covering the victims. (§19-5304 (2))

An order of restitution does not preclude the victim from seeking any other legal remedy. (§19-5304(11))

Notoriety for Profit (§19-5301(1))

Any person or corporation who contracts with an accused of a crime in the state of Idaho regarding the reenactment of the crime must pay to the state treasurer any money arising from the contract. The money will be held in an escrow account for the benefit of the victim. The victim must bring a civil action within five years of the date the escrow account has been established to recover such a money judgment.

Legislation Passed in Idaho in 2003-2004

HB 609 (2004) (§19-2515)

Makes victim impact evidence concerning the victim and the impact of the victim's death both relevant and admissible at the sentencing phase of a capital case. Provides guidelines for the content of such testimony.

ILLINOIS



Key Statute Citations

- Ill. Rev. Stat. ch. 725, §120 (2004)
- Chapter 725 ILCS §120/4.5
- Ill. Cons. art. 1, §8.1

Organization/Administration

Illinois created the Violent Crime Advisory Commission, consisting of 18 members, to serve victims of crime in the state. The advisory commission has the following responsibilities:

- To study the operation of all victims' laws and policies in the state.
- To promote and conduct studies, research, analysis and investigation of matters affecting the interest of crime victims.
- To recommend legislation to improve victims' rights policies.
- To serve as a clearinghouse for public information relating to victims' problems and programs.
- To coordinate, monitor and evaluate the activities the of victims' rights program under Illinois law.
- To make necessary outreach efforts to encourage the development and maintenance of victims' services throughout the state.
- To make an annual report to the General Assembly.

The Office of the State's Attorney, with the approval of the county board, is authorized to contract with a private entity to operate a crime victim and witness notification service. The attorney general also may establish a crime victim and witness notification system to assist public officials to carry out their duties to notify and inform crime victims and witnesses of their rights. Illinois established in the Attorney General's office a Crime Victim and Witness Notification Advisory Committee to consult and advise the attorney general on the notification system.

Web address: <http://www.ag.state.il.us/victims/>

Who Is a Victim? (725 ILCS §120/3(a))

A victim is defined a person physically injured in the state of Illinois as a result of a violent crime perpetrated or attempted against that person. A victim also is a person who suffers injury to or loss of property as a result of a violent crime perpetrated or attempted against that person. This may be a single representative who is the spouse, parent, child or sibling of a person killed as a result of a violent crime, or the spouse, parent, child or sibling of any person granted rights under law who is physically or mentally incapable of exercising such rights, except where the spouse, parent, child or sibling is also the defendant or prisoner.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Ill. Cons. art. 1, §8.1)

Illinois passed a state victim's rights constitutional amendment in 1992. These rights generally include the right to:

- Be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.
- Notification of court proceedings.
- Communicate with the prosecution.
- Make a statement to the court at sentencing.
- Information about the conviction, sentence, imprisonment and release of the accused.
- Timely disposition of the case following the arrest of the accused.
- Be reasonably protected from the accused throughout the criminal justice process.
- Be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.
- Have present at all court proceedings, subject to the rules of evidence, an advocate or other support person of the victim's choice.
- Restitution.

The state's statutory victims' rights provisions follow.

Victim Notice (725 ILCS 120/4(2), (5))

Victims must be notified of:

- The status of the investigation, upon written request.
- Filing of information, return of an indictment, or the filing of a petition to adjudicate a minor.
- Upon written request by the victim, reasonable notice in advance of the following court proceedings: preliminary hearing, any hearing regarding the release of the defendant from custody or to alter the conditions of bond, and the sentencing hearing.
- Upon written request by the victim, any cancellations of the court proceeding in sufficient time to prevent an unnecessary appearance in court.
- Upon written request by the victim, notice of the release of the defendant on bail.
- Upon written request by the victim, notice and explanation in nontechnical language of the details of any plea or verdict of a defendant.
- Scheduled date, time and place of trial.
- Upon written request by the victim, notice of the ultimate disposition of the case and any appeal.
- Social services and financial assistance available to victims and how to apply.
- The right to have a translator present at all court proceedings.
- The right to be present at all court proceedings, with an advocate or other support person.
- The right to retain an attorney who may receive copies of all notices, motion and court orders filed thereafter in the case as if the victim were a named party in the case.
- At the sentencing hearing, the right to notification and explanation of the minimum time the defendant may actually be physically imprisoned.

- Notice of the victim's right to request from the Prison Review Board information concerning the release of the defendant.
- Upon written request by the victim, notice of any request by the defendant for post-conviction review and of the date, time and place of any hearing concerning the petition.
- Upon written request by the victim, notice of any release of the offender on parole, work release, escape, discharge or death.
- Upon written request by the victim, the right to receive a recent photograph of the offender (convicted of a felony) upon his or her release from custody.
- Upon written request by the victim, notice of the times and dates of release of a prisoner sentenced to periodic imprisonment.

In addition, Illinois established an automated victim notification system in 1999. Victims are able to call a toll-free number and receive basic information about their offender. The system automatically contacts the victim if the offender is released or escapes.

Victim Participation (725 ILCS 120/4(3), (4), (6), (8), (9))

Victims have the following rights of participation in the criminal justice process:

- The right to be present at all court proceedings and to address the court at any time about the effects of the crime upon the victim or prepare a victim impact statement.
- The right to consult with prosecutor before an offer of plea bargain is made.
- The right to submit a victim impact statement prior to plea bargaining begins with the defendant, and requirement that the statement be considered.
- The right to inspect the registry of parole decision.

A 2003 law requires the Prisoner Review Board to establish a toll-free number that may be accessed by a victim of a violent crime to present information for consideration by the parole board at a parole hearing. (725 ILCS 120/4.5)

Victim Protection and Confidentiality (725 ILCS 120/4.5(b)(6)); 725 ILCS 120/4(7))

Victims have the right to a secure waiting area during court proceedings that does not require victims to be in close proximity to defendants accused of violent crime and their families and friends.

Illinois established address confidentiality program for victims of domestic violence. The program enables state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence. It also enables such agencies to accept a program participant's use of an address designated by the attorney general as a substitute mailing address. (750 ILCS 61/)

Employment Rights (725 ILCS 120/4.5(b)(5))

Victims have the right to receive appropriate employer intercession services to ensure that employers of victims will cooperate with the criminal justice system to minimize an employee's loss of pay and other benefits resulting from court appearances.

Property Rights (725 ILCS 120/4.5(b)(4))

Victims have the right to have returned as expeditiously as possible any stolen or other personal property held by law enforcement for evidentiary or other purposes.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Illinois Court of Claims and the Crime Victim Services Division, Crime Victims Compensation Bureau in the Office of the Attorney General handle victim compensation claims. Awards are made from a special Violent Crime Assistance Fund in the Illinois state treasury.

The maximum award is \$27,000. Compensable costs, with limits noted, are:

- Medical expenses.
- Mental health counseling.
- Lost wages and support (\$1,000 per month).
- Funerals (\$5,000).
- Replacement services.
- Travel to medical providers.
- Rehabilitation.
- Attorney fees set by court if hearing is held.
- Transportation and travel services of victims of homicide to secure the victim's body; replacement of clothing and bedding used as evidence; temporary lodging or relocation necessary as a result of the crime; and locks or windows necessary as a result of the crime.

In addition, victims of crime have a cause of action against a defendant who has been convicted of a crime or found not guilty by reason of insanity or guilty but mentally ill of a crime, to recover damages suffered. Such a case will be tried as any other civil case.

Web address: <http://www.nacvcb.org/progdir/illinois.html>

Restitution (725 ILCS 120/4(10))

Victims have the right to collect court-ordered restitution from the offender. The state's attorney must request restitution at sentencing and consider restitution in any plea negotiation.

Individuals on probation, parole or mandatory supervised release who seek transfers to another state (subject to the Interstate Compact for Adult Offenders) are required to make restitution payments to victims before being awarded the transfer.

Notoriety for Profit (720-5 ILCS 132-4c)

Illinois has enacted a law prohibiting witnesses from receiving “ ... any payment or benefit in consideration for providing information obtained as a result of witnessing an event or occurrence or having personal knowledge of certain facts in relation to the criminal proceeding ... “ until after a verdict or judgment in the case.

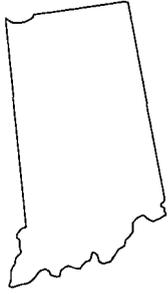
Legislation Passed in Illinois in 2003-2004

HB 4288 (2004) (730 ILCS 5/59-1.5)

Creates the Sexual Assault Services Fund to make grants to sexual assault organizations to provide community services to sexual assault victims. Increases the sexual assault fine to \$200.

HB 4777 (2004) (725 ILCS 120/6)

Allows the grandparent of a victim of a violent crime to present a victim impact statement to the court. Gives the court the discretion to determine how many oral presentations of victim impact statements will be allowed. Requires that any written victim impact statement submitted to the Office of the State's Attorney be considered by the court during its consideration of aggravating and mitigating circumstances.



INDIANA

Key Statute Citations

- Ind. Code §35-40-5 (2004)
- Ind. Cons. art. 1, §13(b)

Organization/Administration

Guided by a Board of Trustees representing all components of Indiana's criminal and juvenile justice systems, the Indiana Criminal Justice Institute serves as the state's planning agency for criminal justice, juvenile justice, traffic safety and victim services. Within the institute is the Victim Services Division, which provides a variety of programs for victims and agencies that assist them.

In addition, a prosecuting attorney may contract with a person to operate a victim assistance program to provide victims' right and services.

Web address: <http://www.in.gov/cji/victim/>

Who Is a Victim? (§35-40-4-8)

A victim is a person who has suffered harm as a result of a crime that was perpetrated directly against the person. The term does not include a person who has been charged with a crime arising out of the same occurrence. Crime includes a delinquent act.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Ind. Cons. art. 1, §13(b))

Indiana amended its constitution in 1996 to include rights for crime victims. These rights generally include:

- The right to be treated with fairness, dignity and respect throughout the criminal justice process.
- The right to be informed of and present during public hearings.
- The right to confer with the prosecution.

Victims have these rights to the extent that exercising them does not infringe upon the constitutional rights of the accused. A victim has standing to assert the rights established.

The state's statutory victims' rights provisions follow.

Victim Notice (§35-40-5-2; §§35-40-5-8 through -9; §35-40-6-4; §35-40-6-7; §35-40-6-9 through -10; §§35-40-8-1 through -2; §§35-40-7-1 through -3)

Victims must be notified of the following:

- The right to be informed of the constitutional and statutory rights afforded victims, including notice of the right to be present at all public stages of the criminal justice process. If needed an interpreter or translator must be provided to advise a victim of rights granted to him or her under law.
- Services available to victims—including compensation and other financial assistance; legal resources; crisis intervention; social, rehabilitative, health and mental health services; transportation; and child care services—that facilitate participation of a victim or a member of victim's family in the criminal justice proceedings.
- Notice of the scheduling of a bond hearing, the death of the accused, or any post-arrest release of the offender.
- The right to assistance and notice regarding how the request form for revocation of bond is completed.
- Upon request, notice of the terms and conditions of release of the offender.
- Timely notification of all criminal justice hearings and proceedings that are scheduled and any cancellations or rescheduling.
- Upon request, notice of the function of the pre-sentence report and the name and phone number of the probation department that is preparing the report.
- The defendant's right to view the pre-sentence report and the victim's right to review the pre-sentence report.
- The victim's right to be present and heard at any sentencing procedure and the time, place and date of the proceeding.
- The right to make a victim impact statement.
- Disposition of the criminal case, the conviction, sentence and release of the offender.
- Notice that the court may order the offender to pay restitution to the victim; and information about how to prepare verified documentation necessary to obtain a restitution order.
- Upon request, notice of any probation revocation proceeding in which the court is asked to terminate the probation of the offender.
- Upon request, notification of a modification of the terms of probation of the offender if the modification will substantially affect the offender's contact with or safety of the victim, or if the modification affects the offender's restitution or confinement status.
- Upon request, the right to notice of offender's release or escape from custody, including from a mental health treatment agency or hospital.
- Notice of victim's right to submit a written statement regarding the offender's assignment to a community correction program.
- Notice of any appellate review of the case and the status and decision of the court.

Victim Participation (§35-40-5-3, -5, -6)

Victims have the following rights of participation:

- To confer with the prosecution before the trial or any disposition of the criminal case.
- To make a written or oral statement for use in preparation of the pre-sentence report.

- To read pre-sentence reports relating to the crime committed against the victim.
- To be present and heard at court proceedings, via an oral statement or submission of a written statement or an audio or video statement.
- To be heard at any proceeding involving a sentence or a post-conviction release decision.
- In a county that has a victim-offender reconciliation program (VORP), the victim must be provided the opportunity to meet with the offender in a safe, controlled environment, give the offender a summary of the effects of the crime on the victim and family, and negotiate a restitution agreement to be submitted to the sentencing court for damages incurred by the victim.
- To submit a written statement regarding the offender's assignment to a community correction program.
- In a death penalty or life-without-parole murder case, a victim representative is permitted to make a victim impact statement regarding the crime after the judge has pronounced the sentence.

Victim Protection and Confidentiality (§35-40-5-4, -6)

A victim has the right to have his or her safety considered in determining release from custody of the accused.

If the physical safety of a victim or the victim's immediate family is in danger, a victim may not be required as part of sworn testimony to give personal information such as phone number, address or place of employment.

The court must provide safeguards to minimize the contact of the victim with the defendant. These may include separate waiting areas from that of the defendant in a courthouse.

Under an address confidentiality program, victims in Indiana also may apply to the attorney general's office to have a substitute, designated address (§5-26.5-2).

Employment Rights

No such provisions are codified in Indiana law at this time.

Property Rights

No such "return of property" rights are codified in Indiana law at this time.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Violent Crime Victim Compensation Fund, as part of Indiana's Criminal Justice Institute, handles victim compensation claims in the state. The maximum award is \$15,000, and victims may be compensated for the following, with limits noted:

- Medical expenses.

- Mental health counseling. (Up to \$1,500 for fees based on sliding-scale according to income, and up to \$1,000 absent a sliding-scale fee schedule. Limit of \$1,000 for family of victims of homicide, sex assault and domestic violence).
- Lost wages or support.
- Funerals (\$3,000).
- Attorney fees (limited to 15 percent of first \$5,000 of award and 10 percent if award exceeds \$5,000).
- Emergency (\$500).

Web address: <http://www.nacvcb.org/progdir/indiana.html>

Restitution (§35-40-5-7)

Victims have the right to pursue an order of restitution and other civil remedies against the offender convicted of the crime committed against them. The Victim Services Division of the Indiana Criminal Justice Institute shall deposit the restitution received under this subsection in the violent crime victims' compensation fund.

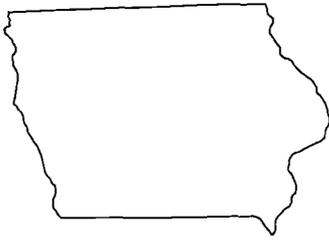
Notoriety for Profit (§5-2-6.3-3)

If an individual contracts with an offender for the publication, broadcasting of, or speaking engagement about the felony, the person must pay 90 percent of the money that would otherwise be owed to the offender to the Victims Services Division of the Indiana Criminal Justice Institute.

Legislation Passed in Indiana in 2003-2004

SB 515 (2003) (§5-2-6.1-32)

Clarifies current law to reduce an award from the violent crime victims' compensation fund by the amount of restitution actually received from the offender and benefits actually received from a third party on behalf of the offender—not benefits to be received.



IOWA

Key Statute Citations

- Iowa Code §§915.1 to 100 (2003)

Organization/Administration (§13.31)

Within the Attorney General's Office, the Crime Victims Assistance Division, was created to be responsible for providing services and assistance to victims of violent crimes and for state-level administration of victims' programs.

Web address: <http://www.state.ia.us/government/ag/cva.html>

Who Is a Victim? (§915.10(3))

A victim is a person who has suffered physical, emotional, or financial harm as the result of a public offense or a delinquent act, other than a simple misdemeanor, committed in the state. Victim also includes the immediate family members of a victim who died or was rendered incompetent as a result of the offense or who was at the time of the offense younger than age 18.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Iowa Code §915)

Iowa passed a statutory Bill of Rights providing basic rights for victims of crime in the state.

The state's statutory victims' rights provisions follow.

Victim Notice (§915.11; §§915.13 through .19)

A local police department or county sheriff's department must advise victims of their right to register with the county attorney and must provide a request-for-registration form to each victim. Victim registration means providing the county attorney with the victim's written request for notification along with the current mailing address and telephone number. Those victims must be notified of the following:

- Upon request, status of the investigation, until the alleged assailant is apprehended or the investigation is closed.
- The offender's release from custody on bail, including the date of release and the terms or conditions of the release.
- Plea agreements related to the crime.
- The scheduled date, time and place of trial and the cancellation or postponement of a court proceeding that was expected to require the victim's attendance.
- The possibility of assistance through the crime victim compensation program, and the procedures for applying for that assistance.

- The right to restitution for pecuniary losses suffered as a result of crime and the process for seeking such relief.
- The right to make a victim impact statement and procedures for delivering such a statement in court or providing a written, audio or video statement that is to be presented in court in the presence of the defendant.
- Dispositional orders of the case regarding custody or confinement.
- Filing of an appeal, the expected date of decision on the appeal, all dispositional orders in the appeal, and the outcome of the appeal.
- The offender's final release from local custody.
- The offender's escape from custody or any transfer from local custody to custody in another locality. Includes the date on which the offender is expected to be released from custody on work release and whether the offender is expected to return to the community where the registered victim resides. Also includes the date on which the offender is expected to be temporarily released from custody on furlough and whether the offender is expected to return to the community where the registered victim resides.
- The recommendation by the department of the offender for parole consideration.
- For violent offenders, notification of the interview not less than 20 days prior to conducting a parole hearing at which the board will interview an offender. Notice must include informing the victim that he or she may submit a statement personally or via counsel concerning the offender's release. Victim also must be notified of the board's decision whether a statement is expressed.
- Date of release pursuant to parole or discharge of sentence.
- The procedures for contacting the department to determine the offender's current institution of residence.
- Upon request, information pertaining to or the procedures for obtaining information of the offender's current employer.
- Application by a violent offender for a reprieve, pardon or commutation, including notice that the victim that may submit a written opinion concerning such application. Victim also must receive prior notice of governor's decision in granting a reprieve, pardon or commutation.

Victim Participation (§915.21)

A victim may present a victim impact statement to the court using one of several methods. A victim may file a signed victim impact statement with the county attorney, which will be included in the pre-sentence investigation report and also presented at the sentencing hearing in the presence of the defendant. A victim may personally present a victim impact statement at the sentencing hearing, in the presence of the defendant. Victims also have the option of making an audio or video recording of a statement or may make such statement to the court and in the presence of the defendant from a remote location via a video monitor or speakerphone.

Victim Protection and Confidentiality (§915.22)

Upon application, a court may issue a temporary restraining order prohibiting the harassment or intimidation of a victim or witness in a criminal case.

Employment Rights (§915.23)

Employment discrimination against witnesses in Iowa is prohibited. An employer must not discharge an employee, or take or fail to take action regarding an employee's promotion or proposed promotion, or take action to reduce an employee's wages or benefits for actual time worked, due to the service of an employee as a witness in a criminal proceeding.

Property Rights

No such "return of property" rights are codified in Iowa law at this time.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Crime Victim Assistance Division within the Department of Justice handles crime victim compensation. A Crime Victim Assistance Board adopts rules and hears appeals. There is no overall maximum award. Victims may be compensated for the following needs, with each category of compensable costs having limits, as noted:

- Medical expenses (limited to \$15,000 for primary victims and \$3,000 for survivors of homicide victims).
- Mental health counseling (limited to \$3,000 for primary victims and for each family member of homicide victim, and to \$1,000 per family member of victim in other than homicide cases).
- Lost wages or support (limited to \$6,000 in cases of disability, and \$2,000 per dependent in cases of homicide or resulting disability of more than 60 days); \$1,000 for court attendance; \$1,000 for medical and counseling appointments.
- Funerals (limited to \$7,500).
- Crime-scene cleanup (limited to \$1,000 in a homicide, with an additional \$100 for clothing).
- Travel for medical emergencies, as well as for nonemergency medical or mental health care provided outside the victim's county of residence.
- Attorney fees.

Web address: <http://www.nacvcb.org/progdir/iowa.html>

Restitution ((§910, et seq.; §915.100)

Victims in Iowa have a right to collect court ordered restitution from the offender in all criminal cases. When restitution is ordered by the sentencing court and the offender is placed on probation, restitution shall be a condition of probation. If an offender fails to comply with restitution requirements during probation, the court may hold the offender in contempt, revoke probation, or extend the period of probation.

A judgment of restitution may be enforced by the state, a victim entitled under the order to receive restitution, a deceased victim's estate, or any other beneficiary of the judgment in the same manner as a civil judgment.

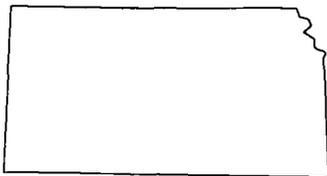
Notoriety for Profit (§910.15)

Iowa's notoriety for profit law forbids "... any profit which, were it not for the commission of the felony, would not have been realized."

Iowa law provides that the attorney general may bring an action to require all proceeds received by a *convicted felon or representative of the convicted felon* to be deposited in an escrow account.

Legislation Passed in Iowa in 2003-2004

No relevant legislation was passed in Iowa in 2003 or 2004.



KANSAS

Key Statute Citations

- Kan. Stat. Ann. §19-4801 through -4813 (2004)
- Kan. Cons. art. 15, §15

Organization/Administration

Kansas established the Attorney General's Crime Victims' Rights Office to help ensure efficient and effective statewide coordination of local crime victim and witness assistance programs and direct assistance to crime victims and their families. The office responds to requests from victims with information on rights and services and also prepares and distributes brochures, manuals and other printed materials for victims. The office also staffs statewide victims' associations.

The attorney general also is responsible for appointing a statewide victims' rights coordinator, who works with county and district attorneys to create, coordinate and assist in the operation of local victims' rights programs.

Web address: http://www.accesskansas.org/ksag/Divisions/CVR/Crime_victims.htm

Who Is a Victim? (§19-4802(h))

Victims are those who suffer direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime against them. Rights apply to victims of all crimes, except for most local ordinances.

Victims' Rights Constitutional Amendment/Statutory Bill of Rights (Kan. Cons. art. 15, §15)

Kansas passed a state constitutional amendment for victims' rights in 1992. These rights generally include:

- The right to be informed of and to be present at public hearings in the criminal justice process.
- The right to be heard at sentencing or at any other time deemed appropriate by the court.

In addition, the Kansas code contains a bill of rights for crime victims. These rights include that victims:

- Be treated with courtesy, compassion and respect for their dignity and privacy and suffer the minimum of necessary inconvenience from their involvement in the criminal justice system.
- Receive, through formal and informal procedure, prompt and fair redress for the harm they have suffered.
- Receive information regarding restitution, recovery of damages in a civil cause of action, the crime victim compensation fund and other remedies.

- Receive information about their participation in criminal proceedings, the scheduling progress and the ultimate disposition of the case.
- Have their views and concerns ascertained and be provided with appropriate assistance throughout the criminal process.
- Have their personal interests and views brought to the attention of the court, when appropriate.
- Be provided with measures to protect their safety and that of their families, including protection from intimidation and retaliation.
- Be informed of the availability of health, social service and other relevant assistance.

The code also provides that criminal justice personnel should be trained to be sensitive to the needs and concerns of victims and that guidelines should be put in place to support this purpose.

The state's statutory victims' rights provisions follow.

Victim Notice (§§74-7333(a)(2) through (4), (9); §§22-3701(3), (4); §22-3727; §74-7335)

Victims must be notified of the following:

- The availability of emergency and medical services numbers, the police report number in writing, and the contact information for the prosecutor's office and for the local victim compensation board.
- That the details of the crime may be made public and advise victims of all their rights under law and constitution.
- To review the pre-sentence report.
- Status to dismiss to decline to prosecute any of the charges.
- The nature of any proposed plea agreement.
- Notification of any public comment sessions, which are held so comments can be received from any interested citizens concerning inmates who are up for parole.
- Notification of the right to be present at any public hearing regarding the accused or convicted offender or where probation or parole is considered.
- A request by the inmate to the parole board for early release based on medical necessity.
- The offender's release from custody or his or her escape or death.
- A pardon or commutation of the offender.

Victim Participation (§§74-7333(a)(4), (6); §21-4718)

Victims have the right to be present and heard in all proceedings of the criminal justice process. At parole hearings, victims and the victim's family are allowed to make in-person comments, contemporaneous comments and prerecorded comments by any technical means.

Victim Protection and Confidentiality (§60-31a06; §74-7333(a)(7))

Victims have the right to have measures be taken when necessary to provide for the safety of victims and their families and to protect them from intimidation and retaliation.

A court may issue a protection from stalking order to restrain the defendant from following, harassing, telephoning, contacting or otherwise communicating with the victim.

Employment Rights

No such provision are codified in Kansas law at this time.

Property Rights

No such "return of property" rights are codified in Kansas law at this time.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Crime Victims' Compensation Board Office, under the Office of the Attorney General, is authorized to make payments to victims from the crime victim assistance fund, established within the state treasury. The maximum award is \$25,000, and victims may be compensated for the following, with limits noted:

- Medical expenses.
- Mental health counseling. (Limits are \$3,500, or \$1,000 for family members in homicide cases. Also limited at \$60 per hour; and a \$10,000 maximum for inpatient care). Counseling also may be reimbursed for victim-claimants who are required to testify in sexually violent predator civil commitment proceedings.
- Lost wages or support (currently limited to \$400 per week, and up to one year, including time to attend funeral).
- Funerals (up to \$5,000).
- Moving expenses, if recommended by law enforcement agency.
- Replacement services.
- Replacement of clothing or bedding seized as evidence.
- Travel to obtain medical assistance.
- Rehabilitation.
- Attorney fees (limited to \$45 per hour, and only for claim preparation).

Web address: <http://www.nacvcb.org/progdir/kansas.html>

Restitution (§§19-4807, 4809)

Victims in Kansas have the right to court-ordered restitution from the offender.

Records or information regarding the financial assets, income or employment of a criminal offender are subject to disclosure to the victim to whom the offender has been ordered to pay restitution, until it is paid in full.

Notoriety for Profit (§74-7319)

Any individual who contracts with a criminal to use the crime or the person's thoughts, feelings or opinions about the crime in any publication or movie, radio or television production must pay to the Kansas' Crime Victims' Compensation Board all the money that would be owed to the criminal.

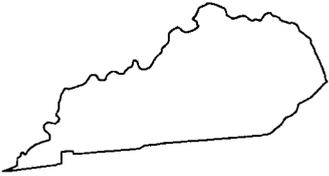
Legislation Passed in Kansas in 2003-2004

SB 256 (2004) (§74-7301; §74-7305)

Extends the coverage of the *Crime Victims Compensation Act* to include residents of Kansas living outside the United States who are victims of violent crimes that posed a substantial threat or caused personal injury or death.

SB 552 (2004) (§74-7336)

Increases the percentage of fines, penalties and forfeitures credited to the Crime Victims Compensation Fund and the Crime Victims Assistance Fund.



KENTUCKY

Key Statute Citations

- Ky. Rev. Stat. §346.00 (2004)

Organization/Administration

The Victims' Advocacy Division within the Office of the Attorney General is responsible for providing services to and for the protection of crime victim and witnesses and their immediate families.

Also under statute, the Victim, Witness and Family Protection Program provides funding to the Kentucky State Police, sheriff's offices, and county and city police departments for protective services provided to crime victims, witnesses and their families.

Web address: <http://ag.ky.gov/victims/>

Who Is a Victim? (§346.020(6))

A victim is an individual who suffers harm as a result of specified crimes. A victim includes the parent, guardian, custodian or court-appointed special advocate for minor or legally incapacitated victims or the spouse or other family member of a deceased victim, if that person is not the defendant.

Crimes covered under the definition of a victim are homicide, robbery, rape, assault, stalking, unlawful imprisonment, terrorist threatening, use of minor in sexual performance, intimidating a witness, sodomy, kidnapping, harassing communications, burglary in the first or second degree, sexual abuse, wanton endangerment, criminal abuse or incest.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (§421.500)

Kentucky enacted a statutory victim's bill of rights. These rights generally include:

- The right to be informed of emergency services and community treatment programs;
- The right to be informed about the criminal justice process;
- The right to be notified when the accused is arrested;
- The right to be informed about protection from harassment, intimidation and retaliation;
- The right to be notified of important occurrences in the case;
- The right to consult on any plea bargain agreement;
- The right to receive assistance in contacting employers when prosecution requires much time away from work;
- The right to submit a victim impact statement before the sentencing of a defendant; and

- The right to be notified by the attorney general's office if a conviction is appealed and of any decision by the court.

More of the state's statutory victims' rights provisions follow.

Victim Notice (§§421.500(3) through (5))

General notice to victims must include preparation and distribution by the attorney general's office to victims and witnesses of a pamphlet that explains:

- How the criminal justice system functions from the point of complaint through trial.
- The role of the attorney for the Commonwealth.
- The role of the defense attorney and whether the victim or witness must talk to the defense attorney and under what conditions.
- The process for applying for crime victim compensation.
- How the victim or witness can be notified of the release of a person from a juvenile detention facility, jail or prison.
- Information about how the victim or witness can protect himself or herself from intimidation.

Victims have rights to specific notice of the following:

- Emergency services and community treatment programs.
- Information about the criminal justice process.
- Arrest of the accused.
- Judicial proceedings or schedule changes relating to the case, including the trial date.
- Verdict in the trial.
- Information about protection from harassment, intimidation and retaliation.
- Upon request, of the bond release of the offender and any special conditions of release.
- Upon request, of scheduling of a parole board hearing.
- Upon request, of the offender's release from confinement. Notice of release of an incarcerated person must take place before the actual release.
- Any changes in or escape of the offender from custody.

Kentucky was the first state to institute a system for automated telephone voice notification to crime victims regarding their offender's status and release date. This information can be accessed 24 hours a day, seven days a week.

Victim Participation (§421.520; §421.500(6))

Victims in Kentucky have the following participatory rights:

- To submit a victim impact statement to the court prior to sentencing or at a parole board hearing.
- To consult with the attorney for the Commonwealth on case disposition matters that include case dismissal, release of defendant, a negotiated plea agreement, or the defendant's entry into a pre-trial diversion program.

Victim Protection and Confidentiality (§421.500(5)(e))

Victims have the right to be protected from threats, intimidation, harassment or retaliation by the defendant.

Employment Rights (§421.500(8))

Upon request, victims have the right to assistance from law enforcement agencies and attorneys for the Commonwealth in informing employers that the need for victim cooperation in the prosecutor if the case may necessitate absence from work.

Property Rights

No such provisions are codified in Kentucky law at this time.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Kentucky established the Crime Victims' Compensation Board as an independent executive branch agency with responsibility for victim compensation claims in the state. The maximum award is \$25,000, and victims may be compensated for the following, with limits noted:

- Medical expenses.
- Mental health counseling.
- Lost wages or support (at up to \$150 per week).
- Funerals (up to \$5,000).
- Travel: for ambulance charges.
- Emergency (up to \$500).

Web address: <http://www.nacvcb.org/progdir/kentucky.html>

Restitution (§532.032; §533.030)

Victims in Kentucky have a right to court-ordered restitution from the offender. Restitution is a mandatory condition of parole.

Notoriety for Profit (§346.165)

Any person contracting with a convicted individual regarding the reenactment of the crime via movie, radio or television production or from the expression of the individual's feelings or opinions with respect to the crime, must pay the Crime Victims' Compensation Board any money that, by the terms of the contract, would be owed to the offender. The board must deposit such money into an account payable to the victims of crimes of the particular offender.

Legislation Passed in Kentucky in 2003-2004

SB 138 (2004) (§346.216B.400)

Establishes the sexual assault victim assistance fund to be administered by the Crime Victims' Compensation Board.



LOUISIANA

Key Statute Citations

- La. Rev. Stat. Ann, §§ 46:1844 - 1845
- La. Cons. art. 1, §25

Organization/Administration (§46:1844(A)(2); §46:1844(N))

Louisiana has a Victims' Assistance Program within the district attorney's office in each judicial district. The programs assist victims and their families throughout the criminal justice process and facilitate delivery of victims' services and rights as provided under state law.

The Department of Public Safety and Corrections is responsible for maintaining a Crime Victims Services Bureau. The Crime Victims Services Bureau is charged with informing victims and their families about the criminal justice system, including the appeals process; parole or pardon board hearings; time served and dates of possible release from custody; and corrections policies and programs for inmates.

The Crime Victims Reparations Board and the Louisiana Commission on Law Enforcement and Administration of Criminal Justice is jointly developing a statewide crime victim's assistance hotline.

In order to obtain victim's rights provided by law, a victim must complete the Victim Notice and Registration form of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice. The crime for which the victim is registering must have been reported to law enforcement authorities within 72 hours of its occurrence or discovery, unless extenuating circumstances exist for later reporting. Victim registration may take place at anytime thereafter in order to receive rights guaranteed.

All law enforcement agencies, correctional agencies and institutions, and other criminal justice system personnel are required to install and maintain records needed for the automated victim notification and must, upon request of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, report any related information requested.

Victim assistance and training education must be offered to individuals who are taking courses at law enforcement training facilities. Sheriffs of each parish also are permitted to establish and maintain a victims' assistance program.

Web address: <http://www.cole.state.la.us/cvr.htm>

Who Is a Victim? (§46:1842(9))

A victim is a person against whom a homicide, sexual offense or any other felony offense has been committed, or the offenses of vehicular negligent injuring and first-degree vehicular negligent injuring. The definition includes the family of a homicide victim.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (La. Cons. art. 1, §25)

In 1998, Louisiana voters ratified constitutional protections for victims' rights found in Title 46 of the Louisiana Revised Statutes. These rights generally include:

- The right to be treated with fairness, dignity and respect.
- The right to be informed all constitutional rights.
- The right to reasonable notice.
- The right to be present and heard during all critical stages of pre-conviction and post-conviction proceedings.
- The right to be informed of the offender's release or escape from custody.
- The right to confer with the prosecution prior to final disposition of the case.
- The right to refuse to be interviewed by the accused or a representative of the accused.
- The right to review and comment upon the pre-sentence report prior to imposition of sentence.
- *The right to seek restitution.*
- The right to a reasonably prompt conclusion of the case.

The Legislature enacted laws to implement the constitutional rights.

The state's statutory victims' rights provisions follow.

Victim Notice (§46:1844(0); §46:894.3)

Victims must be notified of the following:

- Availability of emergency, social and medical services as soon as possible. All hospital emergency rooms must prominently display posters that notify victims of the existence of the crime victims' reparations program.
- Information on registration with the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, including an explanation of the rights this provides.
- The accused's arrest, release or posting of bond.
- Scheduled judicial proceedings and the right to be present, and any scheduling changes.
- Upon written request, notice of right to schedule a conference with the district attorney to obtain the victim's view regarding dispositional matters and restitution.
- Upon request, certified mail notice of an appeal, discharge or parole of inmate.
- Scheduled pardon or parole hearing.
- Upon request, a written report of the estimated prison time their offender or offenders will serve, to include "good time" sentence credits that may affect the term of imprisonment and the prospective parole eligibility date.
- In cases where the sentence is the death penalty, the victim's family must be notified of the time, date and place of the execution.

Louisiana is developing an automated victim notification system (LAVNS). Established within the Louisiana Commission of Law Enforcement and Administration of Criminal Justice, it will

automatically provide victims who register with notification information such as court events and custody status of the offender.

Victim Participation (§46:1844(D)(2))

Victim participation rights include:

- To be present in any court proceeding and seated at the counsel table of any prosecutor or other attorney who is prosecuting the case.
- To retain their own attorney regarding the disposition of his or her case.
- To refuse request for an interview from the defendant or his attorney.
- To review and comment on the pre-sentence report relating to the crime.
- To be present and heard at all critical stages of the proceedings and to make or submit a written a victim impact statement to the court. This includes the right to make a victim impact statement at a parole or pardon hearing either in person or via telephone.
- In homicide cases, and with prior court approval, one member of the victim's family is allowed to display in the courtroom a photograph of the deceased victim that is not larger than eight by ten inches and is not inflammatory in nature.
- In cases where the sentence of death is imposed, a minimum of two representatives of the victim's family have right to be present at the execution.

Victims also have the right to a speedy trial. A court considering a defense motion for continuance is required to consider the effect on the victim.

Victim Protection and Confidentiality (§§46:1844(T)(2); (W))

In order to protect the identity and provide for the safety and welfare of crime victims who are under age 18 and who are victims of any sex offenses, the name, address and identity of minor victims must remain confidential.

Public officers are required to keep confidential the identity of all victims of sex offenses.

All law enforcement and judicial agencies must provide a private setting for interviewing victims with limitations on who may be present during the interview. Victims have the right to a secure waiting area in court that is not in close proximity to the defendant.

Employment Rights (§46:1844(E))

Victims may request assistance from judicial and law enforcement agencies in informing employers of the need for victim cooperation in the prosecution of the case and the absence of the victim from work.

Property Rights (§46:1844(L))

All judicial and law enforcement agencies must expeditiously return any stolen or other personal property to victims or victims' families when it no longer is needed as evidence.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Louisiana established the Crime Victims' Reparations Fund for awards to victims of crime. The maximum award is \$10,000, with awards up to \$25,000 allowed as a result of total and permanent injuries. Victims may be compensated for the following costs, with limits noted:

- Medical expenses (limited to 70 percent of billed and approved amount).
- Mental health counseling. (Limits are up to 26 sessions or six months, whichever comes first, with \$5,000 maximum for the primary victim and \$2,000 maximum for secondary victims. Limit of \$300 for evaluations or testing; reimbursement rates for licensed or board-certified therapists are \$60 per hour for masters' level; \$75/hour for Ph.D. or M.D. level; and \$25 per session for group therapy. Limits and restrictions also apply to inpatient therapy).
- Lost wages or support (capped at \$10,000, or up to 52 weeks at a maximum of \$400 per week).
- Funerals (\$3,500).
- Crime-scene cleanup or property damage (capped at \$10,000 for loss of an abode by arson; expenses resulting from evidence collection and securing crime scene).
- Replacement services (limited to \$1,000, including up to \$50 per week per child, \$100 per week per family).
- Travel (generally limited to \$300 or \$500 for air medical evacuation).
- Attorney fees (requiring hearing of board and limited to \$50 per hour, up to \$250).
- Emergency (limited to \$500).

Web address: <http://www.nacvcb.org/progdir/louisiana.html>

Restitution (§§46:1844(M)(1) through (3)); Art. 883.2)

Victims in Louisiana have the right to court-ordered restitution from the offender where there is found an actual pecuniary loss to the victim or the victim has incurred costs in connection with the criminal prosecution. The collection of a judgment may be enforced by the victim in the same manner as a money judgment in a civil case. A judgment against a defendant occurs when restitution has not been paid within 60 days of sentencing.

Notoriety for Profit

No such provisions currently are codified in Louisiana law.

Legislation Passed in Louisiana in 2003-2004

HB 877 (2004) (§46:1844(k)(2)(g))

Allows victim impact statements to include testimony regarding the overall effect of the crime upon the victim and the victim's family.



MAINE

Key Statute Citations

- Me. Rev. Stat. Ann. tit. 17-A, §§1171-1175 (2004)

Organization/Administration

The Office of Victim Services in the Department of Corrections is responsible for assisting victims to gain access to the victim compensation fund, collecting restitution, and otherwise advising them of their rights.

In addition, each county is encouraged to establish a victim and witness support program in cooperation with prosecution functions. The district attorney for each county is to administer the program.

Web address: <http://www.state.me.us/corrections/VictimServices/default.htm>

Who Is a Victim? (Title 17-A, §1171(2))

A victim is a person who is the victim of specified crimes. It also includes the immediate family of a victim of a crime if the underlying crime is one of domestic violence or sexual assault; or one in which the family suffered serious physical trauma or serious financial loss; or due to death, age, physical or mental disease, disorder or defect, the victim is unable to participate. Crimes that give rise to victims' rights include 16 crimes against the person, including acts of terrorism, operating under the influence of intoxicating liquor or drugs or with an excessive blood-alcohol level, robbery, kidnapping, leaving the scene of a motor vehicle accident involving personal injury or death and crimes in which the victim of family suffered serious physical trauma or serious financial loss.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Title 17-A, Chapter 48)

Maine's statutory victims' rights provisions are found in Title 17-A, Chapter 48 of its code.

The state's statutory victims' rights provisions follow.

Victim Notice (Chapter 517 §6101 and Title 17-A, Chapter 48, §§1172 and 1175)

Victims must be notified of the following:

- Their rights in general, via a printed pamphlet.
- The details of a plea agreement before it is submitted to the court and their right to comment on the agreement.
- The proposed dismissal or filing of an indictment or complaint before action is taken.

- The time and place of trial, sentencing and the right to participate at sentencing.
- Any release of the offender from institutional confinement in all felony cases, to include the address and workplace of the offender, if known, and if the victim has filed a request for such notification. This notification right includes victims of stalking.
- That a defendant is released due to having been found not criminally responsible by reason of mental disease or defect.

Victim Participation (Title 17-A, Chapter 48 §1173, §1174)

The victim has the right to be present throughout all criminal proceedings in which the defendant has the right to be present. This includes:

- The right to voice objections to a plea agreement and address the court on this matter.
- The opportunity to participate at sentencing by making an oral or written statement to the court, which the court must consider. (This right does not extend to family members of the victim.)
- The right to access inmate records.

In addition, guardians of minor victims of sex offenders are permitted to testify at parole hearings.

Victim Protection and Confidentiality (Title 15, Chapter 105-A, §1026)

Maine has established an Address Confidentiality Program (ACP) to protect victims of domestic violence, stalking or sexual assault by authorizing the use of designated addresses for such victims. The ACP is administered by the secretary of state. (5 M.S.R. §90-B)

Law requires that, as a condition for bail, the offender is to avoid all contact with the victim, witnesses or victim family members.

Employment Rights (Title 26, Chap. 7, §850)

An employer must grant reasonable and necessary leave from work to employee-victims to prepare for and attend court proceedings, receive medical treatment for themselves or a child, parent or spouse victim as a result of the following: domestic violence, sexual assault or stalking crime. Civil penalties may be imposed by the state Department of Labor for failure to comply, and the department may fine the employer civil penalties for violation.

Property Rights

No such provisions currently are codified in Maine state law.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Maine Victims' Compensation Program in the Office of the Attorney General provides financial reimbursement for losses suffered by victims of violent crime and their families. The maximum award is \$15,000 for actual and unreimbursed losses and eligible expenses, which are, with limits noted:

- Medical expenses, limited at 75 percent of charges or of balance after insurance payments.
- Forensic examination for alleged victims of gross sexual assault.
- Mental health counseling.
- Lost wages or support.
- Funerals (\$4,500, plus \$500 for marker).
- Crime-scene cleanup, \$500; additional \$500 for repair or replacement of locks/security devices.
- Psychological injury incurred by a victim who has sustained bodily injury or threat of bodily injury.

Web address: <http://www.nacvcb.org/progdir/maine.html>

Restitution (Title 17-A, Chapter 54, §§1321 through 1330-B)

In Maine, victims have the right to court-ordered restitution. The court must explain reasons in any case in which it determines that restitution should not be imposed. Any restitution order will be deducted from the amount of any judgment awarded in a civil action brought by the victim. Either the attorney for the state or the court may initiate a motion to enforce payment of restitution. Maine allows the court to order collection of restitution through garnishment of the defendant's wages.

Notoriety for Profit (Title 14, Chapter 205 §752-E)

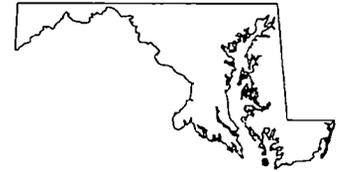
Any person or organization who agrees to pay any profits from a criminal offense must make reasonable efforts to notify the victim.

Legislation Passed in Maine in 2003-2004

HB 898 (2003) (Chapter 517 §6101)

Adds stalking to the list of crimes for which a victim must be informed of the release of the defendant. Requires notification to a victim of the defendant's release when the defendant is institutionalized after being found incompetent to stand trial.

MARYLAND



Key Statute Citations

- Maryland Criminal Procedure Code §§11-101 through 11-1005 (2004)
- Md. Cons. art. 47

Organization/Administration (§11-911)

In Maryland, the Department of Public Safety and Correctional Services provides services to victims of crime. This includes information regarding the status and whereabouts of offenders, help in navigating the criminal justice process, and information on financial compensation available to victims of crime.

Maryland also established the Governor's Office of Crime Control and Prevention. It is responsible for ensuring that all crime victims in Maryland are treated with dignity, respect and compassion during all phases of the criminal justice process. A board is responsible for the Maryland Victims of Crime Fund, providing funding for victim assistance programs throughout Maryland.

Web address: <http://www.dpscs.state.md.us/victimservs/>

Who Is a Victim? (§11-501(b))

A victim is defined as an individual who suffers direct or threatened physical, emotional or financial harm as result of a crime; includes family members of minor, incompetent or homicide victim.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Md. Cons. art. 47)

Maryland voters passed a state constitutional amendment for victims' rights in 1994. These rights generally include:

- A victim of crime shall be treated by agents of the state with dignity, respect and sensitivity during all phases of the criminal justice process.
- In a case originating by indictment or information filed in a circuit court, a victim of crime shall have the right to be informed his or her rights.
- Upon request and if practicable, victims are to be notified of, allowed to attend, and allowed to be heard at criminal justice proceedings.

The state's statutory victims' rights provisions follow.

Victim Notice (§11-104; §§11-503 through -508)

Victims must be notified of the following:

- The right to be informed of all of their rights, including receipt of a pamphlet outlining all victims' rights.
- Dates and times of trial court proceeding or hearing on a motion for a new trial. In the event of other post-conviction proceedings, notice of these upon written request.
- Schedule changes for a court proceeding for which the victim has been subpoenaed.
- A defendant's conviction or commitment, if a warrant or subpoena is issued, or of confinement.
- The right to request restitution and be given help preparing the request.
- Available financial assistance, criminal injury compensation and other services, and how to receive assistance applying for them.
- Arrest of a suspect and closing of the case, upon written request. Notice also must include information about whom in law enforcement or with the state attorney they may contact for information about the case.
- Parole actions, including hearings on provisional release from custody and each time the criminal will receive a provisional release, upon written request to the parole authority.
- Escape of the offender or any mandatory supervision release.
- Notice of post-conviction proceedings.

Victim Participation (§11-102(a); §11-302; §11-402)

Victims have the following rights of participation in the criminal justice process:

- If a victim has filed a notification request form, the victim has the right to attend any criminal justice proceeding in which the defendant has a right to appear.
- To be heard at criminal justice proceedings. This includes addressing the sentencing judge. Victims' representatives may address the jury in a death penalty sentencing. Victims also have the right to be heard at post-conviction proceedings.
- To submit a victim impact statement in pre-sentence investigation or at a hearing to consider temporary leave status.

Victims also are entitled to a speedy disposition of the case to minimize the length of time they must endure responsibility and stress in connection with the case.

Victim Protection and Confidentiality (§11-102(b); §11-203 and §11-301)

A court may prohibit the release of the address or telephone number of the victim or witness upon request by the victim or motion of the court, during a criminal trial or a juvenile delinquency adjudicatory hearing. Also upon request, victims have the right to be protected to the extent reasonable, from harm or threats of harm arising out of the victim's cooperation with law enforcement and prosecution efforts.

During each phase of the investigative or court proceedings, victims should be provided, to the extent practicable, with a waiting area that is separate from a suspect and the family and friends of the suspect.

Maryland has established a Victim and Witness Protection Relocation Program and Fund. (See Witness Protection section.) (§§11-901 through -907)

Employment Rights (§11-1002(b)(7))

Maryland law states that a victim may not be deprived of employment solely because of job time lost because the person attended a criminal justice proceeding that the victim has a right to attend.

Upon request, victims have the right to be informed of and given appropriate employer intercession services, when appropriate, or other available resources to seek employer cooperation in the minimizing an employee's loss of pay or other benefits resulting from participation in the criminal justice process.

Property Rights

No such provisions are codified in Maryland state law at this time.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Victim compensation in Maryland is handled by the Criminal Injuries Compensation Board, which operates within the Department of Public Safety and Correctional Services. The maximum award is \$45,000, and victims may be compensated for the following, with limits noted:

- Medical expenses (with an additional award of up to \$25,000 allowed if injury sustained to a victim results in permanent, total disability).
- Mental health counseling (limited at \$2,000).
- Lost wages or support (which includes eligibility of a parent or guardian being compensated for lost wages as a result of caring for a victim).
- Funerals (\$2,500).
- Attorney fees (as determined by the board, and only in lost-wage cases).
- Emergency (limited at \$2,000).

Web address: <http://www.nacvcb.org/progdir/maryland.html>

Restitution (§§11-601 through -618)

Victims in Maryland have a right to court-ordered restitution from the offender.

Circuit or district courts are authorized to extend a defendant's probation beyond a specified time if such extension is for making restitution to the victim.

Notoriety for Profit (§11-633)

Maryland law disallows individuals from entering into contracts with a defendant for reenactment of their crimes.

Legislation Passed in Maryland in 2003-2004

SB 883 (2004) (Correctional Services Article §8-10-103(a))

Requires the secretary of Public Safety and Correctional Services to adopt regulations that establish minimum mandatory standards applicable to victim notification and restitution.

MASSACHUSETTS



Key Statute Citations

- Mass. Gen. Laws Ann. ch. 279, §4B (West 2004)
- Mass. Gen. Laws Ann. §§258B §§1 through 13 (West 2004)

Organization/Administration (Chapter 258B: §4)

Massachusetts established the Office for Victim Assistance (MOVA) as an independent state agency with the primary mission to advocate for crime victims. MOVA works closely with other state agencies to effectively implement victim rights laws and to ensure coordination of victim services. The agency also collaborates at the local level to network and build coalitions among community groups—such as schools, colleges and universities, business professionals, the media, private citizens and social services organizations—that also are concerned about victim rights and services.

Massachusetts also has established a victim and witness assistance board to serve and assist victims in the state. The board is responsible for preparation of materials that explain victim and witness rights and services established under law and for making such items available to social service agencies, medical facilities and law enforcement agencies. The board also is to work with law enforcement agencies to orient officers and other employees to the crime victims' rights and to assist local law enforcement agencies to establish victim and witness notification procedures.

In addition, each district attorney is responsible for creating and maintaining a program to afford victims and witnesses of crimes the rights and services under law. The Massachusetts Department of Correction has established a Victim Service Unit (VSU) that provides qualified individuals with offender information, post-conviction information, emotional support, crisis intervention, and safety planning and referral services.

Web address: <http://www.mass.gov/mova/>

Who Is a Victim? (Chapter 258B: §1)

A victim is any person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime or delinquency offense, as demonstrated by the issuance of a complaint or indictment. A victim includes the family members of such person if the person is a minor, incompetent or deceased.

Any crime committed in the Commonwealth is included in providing victims' rights, and this includes an act that may result in an adjudication of delinquency that would constitute a crime if committed by a competent adult.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights

(§§258B §§1 through 13)

Massachusetts enacted a statutory victim bill of rights in its state code. These rights are listed in subsequent sections of this summary.

Victim Notice (Chapter 279: §4B); (Chapter 258B: §§1(a), (c), (e), (h), (j), (q), (s), (t), (u))

Victims have the right to be notified of the following:

- Victim's rights and role in the criminal process, including what the system may expect from the victim and why the system requires this.
- Upon request, of significant developments in the case.
- Timely notice when a court proceeding will not occur as scheduled.
- The right to request confidentiality in the criminal justice system.
- Information via the prosecutor as to protection available.
- Information via the prosecutor about financial assistance and other social services available and how to apply for them.
- Procedures to be followed to apply for and receive any witness fee.
- The right to submit to or decline an interview by defense counsel. If the victim or witness decides to submit to an interview, he or she must be informed of the right to impose reasonable conditions on the interview.
- Information about final disposition of the case, including an explanation of the type of sentence imposed by the court and a copy of the court order setting forth the conditions of probation. In addition, victims must receive the name and telephone number of the probation officer, if any, assigned to the defendant.
- Information via the parole board regarding the defendant's parole eligibility and status in the criminal justice system.
- Temporary, provisional or final release from custody of the defendant. This includes advance notice if a defendant is moved from a secure facility to a less-secure facility and if a defendant escapes from custody.
- Information about notification rights and the certification process required to access the criminal offender record information files.
- Information concerning the victim's right to pursue a civil action for damages relating to the crime, regardless of whether the court has ordered the defendant to make restitution to the victim.

Victim Participation (Chapter 258B: §§1(b), (f), (g), (l), (m), (n), (p))

Victims have the following rights of participation:

- Victims and family members have the right to be present at all court proceedings related to the offense committed against the victim.
- To confer with the prosecutor before the trial begins, before any hearing on motions by the defense to obtain psychiatric or other confidential records, before a filing by the Commonwealth terminating the prosecution, or before the Commonwealth's proposed sentence recommendation to the court is submitted. The prosecutor is required to inform the court of the victim's position, if known, regarding the prosecutor's sentence recommendation.

- To confer with the probation officer prior to the filing of the full pre-sentence report.
- To be heard through an oral or written victim impact statement at sentencing, and at any other time that the court deems appropriate.
- To submit a victim impact statement to the parole board for inclusion in its records regarding the perpetrator of the crime.

In addition, victims have the right to a prompt disposition of the case.

In homicide cases, one family member of the victim has the right to possess a photograph in the courtroom, which is not of an inflammatory nature, of the deceased victim. The photo may not be larger than eight by ten inches.

Victim Protection and Confidentiality (Chapter 258B: §1(d), (h), (i))

Victims have the right to request confidentiality in the criminal justice system. Upon the court's approval, no law enforcement agency, prosecutor, defense counsel, or parole, probation or corrections official may disclose or state in open court the residential address, telephone number, or place of employment or school of the victim, a victim's family member or a witness (Mass. Gen. Laws Ann., Ch 9A, §2).

Victims and their family members have the right to be provided, subject to available resources, with a secure waiting area or room that is separate from the waiting area of the defendant or the defendant's family, friends, attorneys or witnesses during court proceedings. The court must designate a waiting area at each courthouse and develop reasonable safeguards to minimize contact between victims and the defendant.

Victims have a right to protection provided by local law enforcement agencies from harm and threats of harm arising from their cooperation with law enforcement and prosecution efforts.

Employment Rights (Chapter 258B: §1(k))

Victims may not be discharged, threatened with discharge, or penalized by an employer for attendance as a witness in a criminal proceeding. Sanctions apply to employers who violate this right.

Victims have the right to be provided with employer and creditor intercession services by the prosecutor to intervene, if necessary, to seek the employer's cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process. This includes seeking consideration from creditors if the victim is temporarily unable to continue payments.

Property Rights (Chapter 258B: §1(r))

Victims in Massachusetts have the right to the expedited return of their property.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Victim Compensation and Assistance Division within the Office of the Attorney General is responsible for victim compensation in Massachusetts. The maximum award is \$25,000, and victims may be compensated for the following, with limits noted:

- Medical expenses.
- Mental health counseling.
- Lost wages or support.
- Funerals (\$4,000).
- Replacement services, including homemaker services and child care.
- Travel to obtain treatment.
- Attorney fees (limited to 15 percent of the victim's award).

Web address: <http://www.nacvcb.org/progdir/massachusetts.html>

Restitution (Chapter 258B: §1(0))

Victims in Massachusetts have a right to court-ordered restitution from the offender. If restitution is ordered as part of a case disposition, the victim has the right to receive from the probation department a copy of the schedule of restitution payments and the name and telephone number of the probation officer or other official who is responsible for supervising the defendant's payments.

If the offender seeks to modify the restitution order, the offender's supervising probation officer must provide notice to the victim. The victim will have the right to be heard at any hearing relative to a proposed modification.

Notoriety for Profit

The Massachusetts "Son of Sam" law was ruled unconstitutional in 2002; the Massachusetts Supreme Judicial Court ruled that the law was too broad. The Court found the bill was not narrow enough because it would include anyone who "voluntarily admitted the commission of a crime," even if they were never charged.

Legislation Passed in Massachusetts in 2003-2004

No relevant legislation was passed in Massachusetts in 2003 or 2004.

MICHIGAN



Key Statute Citations

- Mich. Comp. Laws §§780.751 through 780.834
- Mich. Cons. art. 1, §24

Organization/Administration

The Crime Victim Services Commission is the state agency in Michigan concerned with all aspects of services for victims of crime. The commission is composed of five members appointed by the governor. The members include an attorney, a prosecuting attorney, a law enforcement officer, a community-based victim advocate, and a member of the medical profession.

The commission administers three crime victim service programs—crime victim compensation, crime victim rights, and crime victim assistance. The commission provides an advisory role in disbursement of funding and acts as the appeals forum for compensation claims. In addition, the commission monitors general forfeiture activity, provides training opportunities for state victim advocates, and works toward upgrade of the information management infrastructure of Michigan's victim service agencies.

Web address: http://www.michigan.gov/mdch/0,1607,7-132-2940_3184---,00.html

Who Is a Victim? (§780.752(1)(j))

Victims' rights in Michigan apply to victims of felonies, serious misdemeanors and juvenile offenses that would be felonies or serious misdemeanors if committed by adults.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights

(Mich. Cons. art. 1, §24)

In 1985, the Michigan Legislature passed the Crime Victim's Rights Act, which statutorily established the rights of victims of crime and juvenile offenses.

Michigan also enacted a victims' constitutional amendment in 1988. These rights generally include 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 the 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 trials 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 state's statutory victims' rights provisions follow.

Victim Notice (§780.753; §§780.755 through 780.756; §780.763, .763(a); §780.768a; §780.772; §78-.772(a), articles 2, 3)

Victims must be notified of the following in writing and within 24 hours of the initial contact between the victim and the investigating law enforcement agency:

- The availability of emergency and medical services.
- The availability of victim's compensation benefits and the address of the crime victims' compensation board.
- The address and telephone number of the prosecuting attorney the victim should contact to obtain information about victim's rights.
- Notification by law enforcement personnel of any pretrial release of the defendant on bail.
- The telephone number of the sheriff or juvenile facility and notice that the victim may contact the sheriff or juvenile facility to determine whether the defendant has been released from custody.
- These statements:
- "If you would like to be notified of an arrest in your case or the release of the person arrested, or both, you should call [identify law enforcement agency and telephone number] and inform them."
- "If you are not notified of an arrest in your case, you may call this law enforcement agency at [the law enforcement agency's telephone number] for the status of the case."

Not later than seven days after the defendant's arraignment, but not less than 24 hours before a preliminary examination, the prosecuting attorney shall give to each victim a written notice in plain English of each of the following:

- A brief statement of the procedural steps in the processing of a criminal case.
- A specific list of the rights and procedures under Michigan law.
- A convenient means for the victim to notify the prosecuting attorney that the victim chooses to exercise his or her rights under this article.
- Details and eligibility requirements for compensation from the crime victim services commission.
- Suggested procedures if the victim is subjected to threats or intimidation and the person to contact for further information.
- Upon request, notice of any scheduled court proceedings and any changes in that schedule.
- Notice of the defendant's conviction, the crimes for which convicted, and the final disposition of the case.
- The right to make a written or oral impact statement for use in the preparation of a pre-sentence investigation report.
- The address and telephone number of the probation office, which is to prepare the pre-sentence investigation report.

- Notice that a pre-sentence 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.
- The right to make an impact statement at sentencing.
- The time and place of the sentencing proceeding.
- Notice of a defendant's application to have a conviction for an assault crime set aside.

Victims have a right to notification if the defendant files an appeal of his or her conviction or sentence, the time and place of the appellate court proceedings, any changes in the schedule, and the result of the appeal. The prosecuting attorney must provide the victim with a brief explanation in plain English of the appeal process, including the possible dispositions. Victims must receive prompt notice from the prosecutor if an appeal overturns or if the conviction is significantly modified.

Victims also must be notified of:

- Calculations of the prisoner's earliest parole eligibility date, with all potential good time or disciplinary credits considered, if the sentence of imprisonment exceeds 90 days. The victim may request one-time only notice of this calculation.
- The prisoner's transfer or pending transfer to a minimum security facility and the facility's address.
- The prisoner's release.
- Escape of the offender.
- 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 and the decision of the parole board.
- Any scheduled public hearing regarding a reprieve, commutation or pardon of the prisoner's sentence by the governor and notice that a reprieve, commutation or pardon has been granted.
- The offender's legally changing his or her name while on parole or within two years after release from parole.
- A prisoner's conviction of a new crime.
- A prisoner's return from parole status to a correctional facility due to an alleged violation of the conditions of his or her parole.

Victim Participation (§§780.759 through .762, §§780.764 through .765; §780.769 through .770 (a), (b); §780.771, articles 2, 3)

Victims have the following rights of participation in the criminal justice system:

- The right to be present throughout the entire trial of the defendant, unless the victim will be called as a witness. If the victim will be called as a witness, the court may, for good cause shown, order the victim to be sequestered until the victim first testifies. The victim must not be sequestered after he or she first testifies.
- Before any decisions are made, the opportunity to consult with the prosecuting attorney to obtain the victim's views about the disposition of the prosecution for the crime, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs.

- The right to a speedy trial for any case in which the victim is a victim of child abuse, including sexual abuse or any other assaultive crime; or 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. The same speedy trial rights apply if a victim is age 65 years older or is an individual with a disability that inhibits the individual's ability to attend court or participate in the proceedings.
- Upon request, the prosecuting attorney must confer with the victim prior to the selection of the jury and prior to the trial of the defendant.
- The right to make an oral impact statement at the sentencing or review hearing of the defendant. If the victim is physically or emotionally unable to make the oral impact statement, the victim may designate any other person age 18 or older who is neither the defendant nor incarcerated to make the statement on his or her behalf. The other person need not be an attorney.
- The right to address or submit a written statement for consideration by a parole board member or a member of any other panel that has authority over the prisoner's release on parole.

Victim Protection and Confidentiality (§§780.757 through .758)

Based upon any credible evidence of 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. Based on the same concerns, the prosecuting attorney may ask that the victim or any other witness not be compelled to include in pretrial or trial testimony the victim's address, place of employment, or other personal identification without the victim's consent.

The work and home addresses and phone numbers must 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. Personal identifying information of a victim—including the home or work address and telephone number, any picture, photograph, drawing, or other visual representation of a victim—is exempt from disclosure under the Freedom of Information Act.

The court must 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, the court must provide other safeguards to minimize the victim's contact with the defendant during court proceedings.

Employment Rights (§780.822)

An employer may not threaten to or actually discharge or discipline a victim because the victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony. An employer who does so is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500, or both, and may be punished for contempt of court. An employer also may not discipline or discharge a victim representative if he or she attends court to be present during the testimony of the victim. The same penalties apply.

Property Rights (§780.754)

Victims in Michigan have the right to the prompt return of property taken during an investigation.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Michigan Crime Victims' Services Commission is responsible for victim compensation claims and state and federal victim-assistance funding. The maximum award is \$15,000, and victims may be compensated for the following, with limits noted:

- Medical expenses.
- Mental health counseling (up to 26 sessions).
- Lost wages or support (up to \$200 weekly).
- Funerals (\$2,000).
- Replacement services, including housekeeping and child care.
- Rehabilitation.
- Travel, other than local.
- Attorney fees (limited at 15 percent of the victim's award).
- Emergency (\$500).

Web address: <http://www.nacvcb.org/progdir/michigan.html>

Restitution (§§780.766 through 767)

Victims have a right to court-ordered restitution from the offender. The sentencing court must order that the defendant make full restitution to the victim. In determining the amount of restitution to order, the court must consider the amount of the loss sustained by the victim as a result of the offense.

The probation officer is required to report to the judge on the amount of any arrearage and the court is to take any legal means necessary to satisfy the order of restitution. The court may revoke probation or impose imprisonment under the conditional sentence if the defendant fails to comply with the restitution order and if the defendant has not made a good faith effort to comply with the order.

An order of restitution lasts for the lifetime of the defendant or until satisfied in full and must be paid before other fees and assessments. An order of restitution may be enforced in the same manner as a judgment in a civil action or a lien.

Notoriety for Profit (§§780.768; §780.831)

In Michigan, a person convicted of a crime is forbidden from deriving any profit from the sale of his or her recollections of the offense committed until the victim receives any restitution or compensation and expenses of incarceration are recovered.

The attorney general or other attorney may petition the court to order that defendant forfeit all or any part of proceeds received 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 up to five years. Proceeds in the account shall be distributed to satisfy restitution orders, civil judgments in favor of the victim against that defendant, or any reimbursement orders.

Legislation Passed in Michigan in 2003-2004

SB 442 (2003) (MCL 780.766a(16a, -44a & -76a))

Revises the order of priority for paying victim's compensation by adding the payment for the state costs for conviction for first-degree sexual assault.

MINNESOTA



Key Statute Citations

- Minn. Stat. §611A.01 et seq. (2004)

Organization/Administration

Minnesota's Office of Justice Programs in the Department of Public Safety provides victim compensation and awards grants to local agencies to assist victims and advocate on their behalf.

The commissioner of Public Safety is required to operate at least one statewide, toll-free 24-hour telephone line to provide crime victims with referrals for victim services and resources.

Web address: <http://www.dps.state.mn.us/OJP/>

Who Is a Victim? (§611A.01(b))

A victim is a person who incurs loss or harm as the result of a crime, including good faith efforts to prevent crime. For purposes of restitution, a victim also includes the surviving spouse or the next of kin of a deceased victim.

A crime is conduct that is prohibited by local ordinance and results in bodily harm to an individual or conduct that is prohibited by statute and for which the actor may be sentenced to imprisonment, with or without a fine.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (§611A.01 et seq.)

Rights for victims of crime are found in Minnesota Statute §611A.01 et seq. and are summarized in the following section.

Victim Notice (§§611A.02 - .03; §611A.0315; §611A.037(2); §611A.0385; §611A.039; §611A.0392; §611A.0395; §611A.06)

Victims must be notified of the following:

- A victim's right to apply for reparations, and how to apply.
- A victim's right to receive notice of restitution hearing.
- Available victim crisis centers and hotlines; programs for victims of sexual assault, incest abuse and domestic violence; special services for elderly victims projects; and victim-witness programs.
- A victim's right to notice of diversion.
- A victim's right to participate in the process.

- Contents of the plea agreement recommendation, including the amount of time recommended for the defendant to serve in jail or prison if the court accepts the agreement.
- The charge for which the defendant has been convicted or pleaded guilty.
- The time and place of the sentencing and the victim's right to be present at the sentencing hearing and to express orally or in writing, at the victim's option, any objection to the agreement or to the proposed disposition.
- The victim's right to object in writing to the court, prior to the time of sentencing, to the proposed sentence or to the terms of the proposed plea agreement.
- Schedule changes for any court proceedings to which a victim has been subpoenaed or requested to testify.
- The victim's right to request restitution.
- The final disposition of the criminal case.
- Consideration by the court to modify the sentence.
- Release of the offender and of actions to expunge the criminal record.
- An extended furlough or work release of the offender, escape from a facility, and any release from a facility to which an offender found incompetent was confined.
- The victim's right to request that the law enforcement agency withhold personal identifying information from the public.
- A pending appeal in the criminal case.

Victim Participation (§611A.0301; §611A.031; §611A.033; §611A.037(1); §611A.038)

Victims have the following rights of participation in the criminal justice process:

- To confer with the prosecutor prior to referring a person into a pretrial diversion program in lieu of prosecution.
- To be present at the plea presentation, sentencing or disposition hearing and to express orally or in writing an impact statement and any objection to the agreement or to the proposed disposition. *If the victim is not present when the court considers the recommendation but has communicated objections to the prosecuting attorney, the prosecuting attorney must make these objections known to the court.*
- The right to submit a victim impact statement to be included in the pre-sentence report.
- The right to request that the prosecutor make a request for the trial to begin within 60 days.
- The right to submit a statement to the court hearing a request to expunge the criminal record.

Victim Protection and Confidentiality (§§611A.034, .035)

Victims have the right to request that a law enforcement agency withhold from public access any personal identifying information about the victim. In court testimony, victims and witnesses may not be compelled to state a home or employment address, telephone number or date of birth. Such information is required on the record in open court only if the court finds that the information is relevant evidence. A prosecutor also may certify to the trial court that disclosure of personal identifying information about a victim or witness raises concerns about safety or security.

Victims have a right to a waiting area during court proceedings that is separate from the waiting area used by the defendant, the defendant's relatives and defense witnesses, if such a waiting area is available and its use is practical. If a separate waiting area for victims is not available or practical, the court must provide other safeguards to minimize the victim's contact with the defendant.

Employment Rights (§611A.036)

Employers are prohibited from discharging, disciplining, or threatening to discharge or discipline a victim or witness who is subpoenaed or requested by the prosecutor to attend court for the purpose of giving testimony. An employer in violation of these provisions is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court will order the employer to offer job reinstatement to any victim or witness discharged from employment in violation of this section and to pay appropriate back wages to the victim.

Property Rights

No such provisions are codified in Minnesota law at this time.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Minnesota Crime Victims' Reparations Board within the Department of Public Safety handles victim compensation in the state. The maximum award is \$50,000, and victims may be compensated for the following, with limits noted:

- Medical expenses (limited at 70 percent of amount billed).
- Mental health counseling (limited at \$7,500, with limit of \$102 per hour for individual therapy depending on licensure, and \$40 per hour for group therapy group session). Counseling allowed for parents, siblings, spouse or partner, children and grandparents in homicide cases or other violent crime (up to 20 sessions).
- Lost wages/support: up to 52 weeks for lost wages. Claimants who are primary caregivers for an injured victim may receive up to \$2,000 for lost wages, transportation and lodging. Immediate family members may receive lost wages to attend funeral. No cap for lost support, but verification of financial need required after three years.
- Funerals: \$7,500.
- Replacement services (limited to \$250 per week for child care for one child and \$350 per week for two or more children).
- Travel to obtain medical assistance and to attend funeral (for immediate family members only).
- Rehabilitation in the form of physical therapy.
- Return of abducted child, including airfare, meals and lodging for parent and child.

In addition, an emergency fund is available through the Office of Justice Programs to make grants to prosecutors and victim assistance programs to provide emergency assistance to victims. This may include, but is not limited to:

- Replacement of property lost, damaged or stolen in a crime.
- Purchase and installation of home security devices.

- Transportation and other expenses for a victim to medical facilities or to attend proceedings, other interaction with the criminal justice system.
- Crime scene cleanup.

Web address: <http://www.nacvcb.org/progdir/minnesota.html>

Restitution (§611A.04)

A victim of a crime has the right to receive restitution from the offender as part of case disposition. In determining whether to order and the amount of restitution, courts are required to consider the economic loss sustained by the victim as a result of the offense and the income, resources and obligations of the defendant.

An order of restitution may be enforced by any person named in the order to receive the restitution or by the crime victims' reparations board in the same manner as a judgment in a civil action.

A victim has the right to ask the offender's probation officer to request a probation review hearing if the offender fails to pay restitution as required in a restitution order. (§611A.046)

A civil action cannot be used to deny a victim's right to receive restitution. (§611A.05)

Restitution payments in Minnesota must be a priority above that of established correctional fees.

Notoriety for Profit (§611A.68)

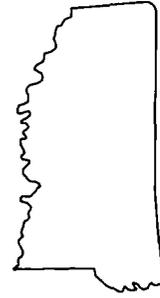
Any person who enters into a contract with a convicted offender regarding his thoughts, emotions and actions regarding a crime that occurred in the state must pay money owed to the offender to the Crime Victims' Reparations Board if the crime occurred in the state of Minnesota. Receipt of such a payment by the board requires it attempt to notify any known victims of the crime. It is a gross misdemeanor to willfully fail to notify the board of the existence of such a contract.

Legislation Passed in Minnesota in 2003-2004

SB 964 (2003) (§243.166)

Allows victims to give input earlier in the plea agreement process by allowing their presence and input at the hearing during which the plea is presented to the court.

MISSISSIPPI



Key Statute Citations

- Miss. Code Ann. §26A and §§99-43-1 through 99-43-49 (2004)
- Miss. Cons., §26A

Organization/Administration

The Division of Victim Services (DVS) was established within the Department of Corrections to develop policies, procedures and victim service programs, including training. The primary function of DVS is to notify victims prior to an inmate's release from prison. The office also provides referral services—such as counseling, crisis intervention and support groups—to victims with specific needs; provides information about the Crime Victim Compensation Program and other services; and responds to other questions and concerns regarding victims' rights.

In addition, the district attorney in each circuit court district in Mississippi must employ one person to serve as a "victim assistance coordinator," responsible for working closely with law enforcement agencies, prosecuting attorneys, judges and others to ensure that victims are afforded the rights granted to them.

Web address: <http://www.mdoc.state.ms.us/Victims%20Crime.htm>

Who Is a Victim? (§99-36-3(a))

A victim is any person against whom a felony has been committed or attempted. Rights apply to victims, close relatives of a deceased victim, or the guardian of a victim who is a minor or is physically or mentally incompetent.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights

(Miss. Cons., §26A)

In 1998, Mississippi voters passed state constitutional amendment for victims' rights. These rights generally include:

- The right to be treated with fairness, dignity and respect throughout the criminal justice process.
- The right to be informed, to be present and to be heard during public hearings.

In addition, the Mississippi Legislature enacted a statutory Crime Victims' Bill of Rights. The provisions are detailed in the sections that follow.

Victim Notice (§§99-36-5(1)(c), (d), (f); §99-43-7; §§99-43-9, -29, -35, -41, -43)

Victims have the right to notice of the following:

- Release of the defendant on bond, upon request.
- Scheduled court proceedings and any cancellations or rescheduling.
- General information, via the district attorney's office and upon request, regarding criminal justice system procedures, including such aspects as plea negotiations.
- Available compensation for victims of crime.
- Status of any post-conviction court review or appellate proceeding, within five business days of the time the status is known.
- Escape of a prisoner and return to custody, by the agency having physical custody of the offender, upon request.
- The right to submit a written statement or audio or video recording to be entered into the prisoner's Department of Corrections records. Upon written request, the statement or recording is to be considered during any review for community status of the prisoner, when parole or pardon is considered, or prior to release of the prisoner.

Within 72 hours of the time a law enforcement agency becomes responsible for investigating the crime, the agency must provide the victim with the following information:

- The availability of emergency and crisis services.
- The availability of victims' compensation benefits and the name, address and telephone number of the victim compensation hearing officer.
- The name of the law enforcement officer and telephone number of the law enforcement agency with the following statement attached: "If within 60 days you are not notified of an arrest in your case, you may call the telephone number of the law enforcement agency for the status of the case."
- The procedural steps involved in a criminal prosecution.
- A recommended procedure if the victim is subjected to threats or intimidation.
- The rights authorized by the Mississippi Constitution for victims of crime, including a form to invoke these rights.
- The existence of and eligibility requirements for restitution and compensation.
- The name and telephone number of the office of the prosecuting attorney to contact for further information.

The prosecuting attorney is required to notify victims of:

- All charges filed against the defendant and any criminal proceedings, other than initial appearances, upon written request of the victim.
- The date of a conviction, acquittal or dismissal of the charges filed against the defendant and prior to sentencing. This is to include the criminal offense for which the defendant was convicted or acquitted or the effect of a dismissal of the charges filed against the defendant.
- The existence and function of the pre-sentence report and the victims' right to view the report, along with the name, address, and telephone number of the office that is preparing the pre-sentence report.
- The right to make a victim impact statement.
- The time, date, place and the victim's right to be present and be heard at any sentencing proceeding.

Victims have a right to receive a transcript of any criminal proceedings, at their own cost.

Any custodial agency having physical custody of the prisoner, if provided with a request for notice, must mail to the victim the following information:

- Notice of release upon expiration of sentence or notice of medical release within 15 days prior to the end of the sentence of the prisoner.
- Notice of the death after the prisoner has died, within 15 days of death.

Victim Participation (§§99-36-5(1)(e), (2); §99-36-7; §§99-43-11, -19, -27, -31, -33, -37)

Victims have the following participation rights in Mississippi:

- To be present throughout all criminal proceedings.
- To provide a victim impact statement prior to any sentencing of the offender.
- To be present at all public court proceedings related to the prosecution of the accused, consistent with the rules of evidence.
- To confer with the prosecuting attorney prior to the final disposition of a criminal offense, including the views of the victim about dismissal or reduction of charge, sentence recommendation, and pre-trial diversion programs. The prosecuting attorney also must confer with the victim before the commencement of a trial.
- To be present at any proceeding at which a negotiated plea for the person accused of committing the criminal offense against the victim will be presented to the court. Agreement by the court to a plea requires demonstration of reasonable efforts to inform and confer with the victim.
- To make a written or oral impact statement to the probation officer for use in preparing a pre-sentence report. Probation officers are required to consider the economic, physical and psychological effects that the criminal offense has had on the victim and family of the victim.
- To present an impact statement or information that concerns the criminal offense or the sentence during any entry of a plea of guilty, sentencing or restitution proceeding.

Victims also have the right to a final disposition of the criminal proceeding free from unreasonable delay. Courts must make every reasonable effort to consider whether granting continuances will be prejudicial to the victim.

Victim Protection and Confidentiality (§§99-36-5(a), (b); §§99-43-13, -23, -25)

Victims in Mississippi have the right to receive protection from harm and threats of harm arising from cooperation with prosecution efforts. Circuit and county judges also are required to consider the safety of the victim or the victim's family in fixing the amount of bail for the accused.

During proceedings, the court must provide a waiting area for the victim separate from the defendant, relatives of the defendant and defense witnesses, if practical. If a separate waiting area is not available, the court must take other steps to minimize contact of the victim with the defendant during court proceedings.

Based upon the reasonable apprehension of the victim of acts or threats of physical violence or intimidation by the defendant, the prosecutor may petition the court to direct that the victim not be compelled to testify facts that could divulge the identity, residence, or place of employment of the victim. Such hearing must be held with spectators excluded.

The address, phone number, place of employment, and other related information about the victim contained in the prosecuting attorney's file shall not be public record. Also, items such as victim impact statements and letters of support on behalf of victims that are contained in records on file with the Department of Corrections and Parole Board are sealed and not available to the public under the Freedom of Information Act.

Employment Rights (§99-43-45)

Law provides that, when victims respond to a subpoena to testify in a criminal proceeding or otherwise participate in preparation of the criminal case, they should be expected to do so without loss of employment, intimidation, or threat or fear of the loss of employment.

Property Rights (§99-43-39)

Victims have the right to have returned as soon as possible any property belonging to them that was taken during the investigation. (If the property is necessary evidence, the prosecuting attorney may ask to be allowed to substitute photographs where possible.)

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Crime Victim Compensation Program within the Department of Finance and Administration handles victim compensation for the state. The maximum award is \$15,000, and victims may be compensated for the following, with limits noted:

- Medical expenses (limited to \$10,000).
- Mental health counseling (limited to \$3,500).
- Lost wages. (Limited to \$600 per week, not to exceed 52 weeks, for recovery from physical injuries or psychological trauma. To make arrangements and/or attend funeral service, or to attend court proceeding, limited to one week at \$600).
- Loss of support for dependents of a deceased victim (limited to \$600 per week, not to exceed 52 weeks).
- Funeral expenses (limited to \$5,000, with \$4,500 for the funeral, cremation or burial and another \$500 for related transportation costs).
- Travel to obtain medical or counseling services if provider is more than 45 miles from the applicant's residence (limited at \$500).
- Medical and vocational rehabilitation.
- Emergency (limited to \$500).

Web address: <http://www.nacvcb.org/progdir/mississippi.html>

Restitution (§§ 99-37-1 through 99-37-25)

Victims in Mississippi have a right to collect court-ordered restitution from the offender. If the court determines that restitution is inappropriate or undesirable, an order describing the reasoning for such finding must be part of the court record. Restitution ordered may not exceed \$5,000.

Victims may sue to recover damages from the defendant in a civil action. Evidence that the defendant has paid or been ordered to pay restitution may not be introduced in any civil action arising out of the facts or events that were the basis for the restitution. However, the court must credit any restitution paid by the defendant to a victim against any judgment in favor of the victim in such civil action.

Notoriety for Profit (§99-37-5; §99-38-7, -11)

Every person, firm, corporation or partnership that contracts with any person accused or convicted of a crime with respect to the reenactment of the crime for a movie, book, magazine article, or the like, or for other expression of their thoughts, feelings, opinions or emotions regarding the crime, must submit a copy of such contract to the state treasurer and pay to the state any money that would, by the terms of such contract, be owed to the defendant.

Legislation Passed in Mississippi in 2003-2004

SB 2466 (2004) (§99-43-37)

Provides victims the right to make both an oral and written victim impact statements to the sentencing judge.



MISSOURI

Key Statute Citations

- Mo. Rev. Stat. §595.010 et seq. (2004)
- Mo. Cons. art. 1, §32

Organization/Administration

The Office for Victims of Crime within the Department of Public Safety is responsible for coordinating public and private agencies that deliver services to victims and exercise the rights afforded to victims by statute and constitution. The office also works to promote awareness of and reduce the incidence of domestic violence, sexual assault and other such crimes. The office is to develop, implement and maintain an automated crime victim notification system within the criminal justice system and to assess and report to the governor the costs and benefits of the system.

Missouri law also requires that prosecuting attorneys, local law enforcement agencies, local social services agencies, and courts must cooperate to afford victims and witnesses of crimes the rights and services the law and state constitution affords them.

In addition, Missouri has the Missouri Victim Assistance Network (MoVA). MoVA is a network of organizations and individuals who work together to create a responsive community to crime victims.

Web address: <http://mova.missouri.org/>

Who Is a Victim? (§595.010.(29))

A victim is a person who suffers direct or threatened physical, emotional or financial harm, or a family member of a minor, incompetent or homicide victim. Rights apply to victims of any crime, including an act of terrorism, which has been committed outside the United States against a resident of Missouri.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Mo. Cons. art. 1, §32)

Missouri voters passed a constitutional amendment to include rights for crime victims in 1992. These rights generally include:

- The right to be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult;
- Upon request of the victim, the right to be informed of and heard at guilty pleas, bail hearings, sentencing, probation revocation hearings, and parole hearings, unless in the determination of the court the interests of justice require otherwise;
- The right to be informed of trials and preliminary hearings;

- The right to restitution, which is enforceable in the same manner as any other civil cause of action, or as otherwise provided by law;
- The right to the speedy disposition and appellate review of their cases, provided that nothing in this subdivision shall prevent the defendant from having sufficient time to prepare his or her defense;
- The right to reasonable protection from the defendant or any person acting on behalf of the defendant;
- The right to information concerning the escape of an accused from custody or confinement, the defendant's release, and scheduling of the defendant's release from incarceration; and
- The right to information about how the criminal justice system works, the rights and the availability of services, and, upon request of the victim, the right to information about the crime.

The state's statutory victims' rights provisions follow.

Victim Notice (§595.209; §595.209(5) through (12))

Victims of dangerous felonies, murder, voluntary manslaughter or attempt of any of those and victims of all other crime, upon written request, are to receive notice of:

- Information and status on the filing of charges, preliminary hearing dates, trial dates, continuances and the final disposition of the case. Victims also must receive notice of bail hearings, release of the offender on bond or for any other reason, guilty pleas, sentencing, and probation revocation hearings.
- Information about the availability of victim compensation assistance and assistance in obtaining documentation of the victim's losses and notice of the right to restitution.
- Information about emergency crisis intervention services in the community.
- Escape of the offender from a detention or correctional facility, within 24 hours.
- Release of any kind of the offender. Upon written request, victims also may receive notice of the projected date of the offender's release from confinement and any hearing-related release.
- Death of offender, within 30 days.
- Information about creditor intercession services if the victim is unable, as a result of the crime, to meet financial obligations.

Victims of sexually violent offenses must be given written notice of the decision of the prosecutor about whether the offender is a sexually violent predator, that a petition has been filed, and the outcome of trial. Victims also are to be notified before payment of any monetary damages are awarded to an offender in a civil action.

Victim Participation (§§595.209(1) through (4); §595.209(16))

Victims of murder, voluntary manslaughter or attempt of one of those crimes, other dangerous felonies and victims of other crimes, upon written request, are afforded rights that include:

- To be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult.

- To confer with the prosecutor regarding bail hearings, guilty pleas, sentencing and probation revocation hearings, the right to be heard at such proceedings and the right to offer a written statement, video or audio tape in lieu of an appearance.
- Speedy disposition of the case and the right to speedy appellate review of their case.

Victim Protection and Confidentiality (§595.209(17))

Victims have the right to reasonable protection from the defendant from harm and threats. Victims have the right to be provided with a secure waiting area during court proceedings.

Employment Rights (§§595.209(14), (15))

An employer may not discharge or discipline any witness, victim or member of victim's family for honoring a subpoena to testify in criminal proceedings or for participating in the preparation of a criminal proceeding.

Property Rights (§595.209(13))

When a victim's property no longer is needed for evidentiary reasons or needs to be retained pending an appeal, the prosecuting attorney or any law enforcement agency having possession of the property must, upon request of the victim, return such property to the victim within five working days unless the property is contraband or subject to forfeiture proceedings or must provide written explanation of the reason why such property will not be returned.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Missouri statute establishes within the state treasury the Crime Victim's Compensation Fund as a unit of the Department of Labor and Industrial Relations. The maximum award is \$25,000, and victims may be compensated for the following needs, with limits noted:

- Medical expenses.
- Mental health counseling (up to \$2,500).
- Lost wages/support (up to \$200 per week).
- Funeral (up to \$5,000).
- Travel for purpose of medical assistance.
- Attorney fees (up to 15 percent of the award or \$100 per hour, whichever is least).

Web address: <http://www.nacvcb.org/progdir/missouri.html>

Restitution (§595.040)

Victims in Missouri have the right to court-ordered restitution from the offender. Restitution orders are enforceable in the same manner as any other civil cause of action.

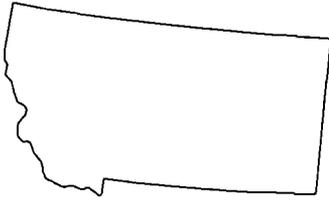
Notoriety for Profit

No such provisions currently are codified in Missouri state law.

Legislation Passed in Missouri in 2003-2004

SB 5 (2003) (§488.026; §56.807; §217.760)

Requires that presentence or pre-parole reports include both the recommended sentences established by the Sentencing Advisory Commission and cover available alternatives to incarceration, including opportunities for restorative justice. Gives courts discretion to depart from commission-recommended sentences and to order restorative justice methods that may include restitution; offender treatment programs; mandatory community services, community-based residential and nonresidential programs. Amends victim right-to-be present provisions to allow the right to be present at proceedings even if the victim is or may be called to testify.



MONTANA

Key Statute Citations

- Mont. Code Ann. §§46-24-101 et seq.; 46-24-201 et seq. (2004)
- Mont. Cons. art. II, §28

Organization/Administration

Under the Department of Justice and supervision of the attorney general, Montana created the Office of Victim Services to ensure that victims and witnesses of crime receive fair and proper treatment and are provided important services and assistance as required by law.

Web address: <http://www.doj.state.mt.us/victims/default.asp>

In addition, the Montana law enforcement academy offers education and training in victim assistance to law enforcement officers and prosecutors to ensure that victims may receive proper assistance. (§46-24-102)

Who Is a Victim? (§46-18-243(2)(a))

A victim in Montana means a person who suffers loss of property or bodily injury as a result of the commission of an offense or the good faith effort to prevent an offense or to apprehend a person reasonably suspected of committing an offense. The definition of victim includes a member of the immediate family of a homicide victim.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights

(Mont. Cons. art. II, §28)

Although no broad constitutional amendment addresses victims' rights, in November 1998, 71 percent of Montana voters approved a constitutional amendment to broaden the purposes of the criminal justice system, to include restitution to the crime victim.

The state's statutory victims' rights provisions follow.

Victim Notice (§§46-24-201 through -204; §46-24-211 through -213)

Victims must be notified of the following:

- Availability of crime victim compensation, how to access information about the case, the role and rights of the victim in the criminal justice process, and the stages of the process. Notice of these items must be in writing.
- Availability of community-based victim treatment programs, including medical, housing, counseling and emergency services. This notice also must be in writing.
- Availability of services to protect the victim or witness from intimidation.

- Arrest of an accused and his or her release pending further judicial proceedings.
- The crime the defendant is being charged with, including any necessary explanation, and the function of the pre-sentence report.
- Scheduling changes in the proceedings that may affect the victim's appearance.
- The right to be present at sentencing proceedings and present a victim impact statement.
- The right to receive information regarding the convicted person's incarceration and any information about confinement situation and status, including custody level, projected discharge or parole eligibility date.
- Time and place of a scheduled parole hearing and the victim's right to submit a statement to the board.
- Escape, recapture, commutation, release or death of the offender.
- The community in which the offender will reside after parole.
- Appeals filed by the defendant.

Victim Participation (§§46-24-104, -106)

The victim and victim's family have the right to be present during the criminal proceedings. This includes:

- Prior to disposition of the case, the prosecutor must consult with the victim to obtain the victim's view on dismissal, release, plea negotiations and pretrial diversion.
- Any trial or hearing by a court that pertains to the offense.
- The victim's right to give his or her views regarding the disposition of the case.
- A judge may exclude a victim from a trial hearing if facts support exclusion for disruptive behavior. If a victim is excluded, however, the victim must be allowed to address the court on the issue of exclusion.

Victim Protection and Confidentiality (§44-5-311)

At the victim's request, criminal justice agencies may not disseminate the address, telephone number or place of employment of the victim or family member. The court may not compel a victim or family member who is testifying to disclose on the record an address or place of employment.

Employment Rights (§46-24-205)

At the victim's request, law enforcement personnel or the prosecutor must assist a victim or witness in informing an employer of absence necessary in order to cooperate with prosecution. An employer may not discharge or discipline a victim or a member of the family for absence from work to participate at the prosecution's request in preparation for or attendance at a criminal proceeding.

Law enforcement personnel also are to assist a victim or witness who is subject to serious financial strain due to the pending criminal case in communicating their situation to creditors.

Property Rights (§46-24-206)

Victims have the right to the prompt return of any the victim's property held for evidentiary purposes, unless there is a compelling law enforcement reason for retaining the property.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Crime victim compensation is handled by the Crime Victims' Unit within the Board of Crime Control.

Benefits

Maximum award: \$25,000.

Compensable Costs (with limits)

- Medical expenses.
- Mental health counseling: for primary victims, \$2,000 or 12 months with possibility of extension (peer review required); secondary victims: maximum of \$2,000 or 12 consecutive months per person for the spouse, parent, child, brother or sister of a homicide victim; and for the parent, brother, or sister of a minor who is a victim of a sex crime. Per-session cost limit is \$76.84 per hour for individual therapy.
- Lost wages/support: two-thirds of average gross weekly wage up to half the state's average weekly wage (currently \$205.32) for employed workers; \$100 per week for a victim who was unemployed but actively seeking work at the time of injury.
- Funerals: \$3,500.
- Travel: to obtain medical assistance only if there is no therapist or doctor within 50 miles of victim.
- Attorney fees: no more than 5 percent of award, paid in addition to the award.
- Emergency awards.

Compensation eligibility is extended to acts of international terrorism committed outside the United States.

Web address: <http://www.nacvcb.org/progdir/montana.html>

Restitution (§§46-18-241, -249)

In Montana, a victim has the right to court-ordered restitution from the offender. The duty to pay full restitution does not expire with the sentence, but remains in force until the offender has paid restitution in full.

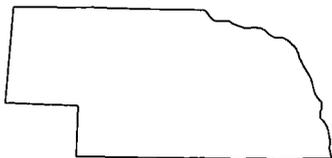
The amount ordered by the court to be paid to the victim may be treated as a civil judgment against the offender and may be collected by the victim at any time, using any method allowed by law.

Notoriety for Profit (§53-9-104(d))

The Office of Victims' Services requires any person who contracts with a criminal for any rendition, interview, statement, book, photograph, movie, television production, play or article relating to the crime to deposit any proceeds paid under the terms of the contract into an escrow fund. The fund will benefit any victims of the qualifying crime.

Legislation Passed in Montana in 2003-2004

No relevant legislation was passed in Montana in 2003 or 2004.



NEBRASKA

Key Statute Citations

- Neb. Rev. Stat. §29-2289 (2004); §81-1848, R.R.S.
- Neb. Cons. art. I, §28

Organization/Administration (§81-1846)

The Nebraska Commission on Law Enforcement and Criminal Justice administers the Crime Victim and Witness Assistance Fund. Any public or private nonprofit agency may apply to the commission for funding to operate as a victim and witness assistance center. The centers are designed to:

- Assist criminal justice agencies provide consideration and personal attention to victims and witnesses through the delivery of services to them.
- Provide a model for other community-based efforts to aid victims and witnesses.
- Sensitize law enforcement officials, communications technicians and supervisors to the needs of victims of crime and to encourage a concerned approach to such victims.
- Work to decrease the incidence of unreported crimes.
- Ensure that victims and witnesses are informed of the progress of the case in which they are involved.

Web address: http://www.ncc.state.ne.us/pdf/agency_policy_and_procedure/ncc_rules_and_reg/OI-4.pdf

Who Is a Victim? (§29-119)

A victim is defined as a person who, as a result of a homicide, a first or second degree sexual assault, a first or second degree assault, a sexual assault of a child, a first degree false imprisonment, or a robbery has had a personal confrontation with the offender. A victim also includes a person who has suffered serious bodily injury as a result of a motor vehicle accident when the driver was charged with driving under the influence of drugs or alcohol.

In the case of a homicide, a victim means at least one family representative but does not include the alleged perpetrator of the homicide. In the case of a sexual assault of a child, the victim is the child victim and the parents, guardians or duly appointed legal representative of the child victim, but does not include the alleged perpetrator of the sexual assault.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Neb. Cons. art. I, §28)

In 1997, Nebraska voters approved a constitutional victims' rights amendment. These rights generally include:

- The right to be informed of all criminal court proceedings.
- The right to be present at trial unless the trial court finds sequestration necessary for a fair trial for the defendant.

- The right to be informed of, be present at, and make an oral or written statement at sentencing, parole, pardon, commutation and conditional release proceedings.

The state's statutory victims' rights provisions follow.

Victim Notice (§§81-1848(1)(b), (d) through (f), (2)(a), (b), (d), (e), (j))

Victims and witnesses must be notified of the following:

- Scheduled court proceedings and changes in that schedule. This includes notice that a proceeding for which they have subpoenaed will not occur as scheduled.
- The time and place of the sentencing proceeding.
- The right to be informed of the final disposition of a felony case in which they were involved and to be notified whenever the defendant in such case is released from custody.
- Any judicial proceedings that follow a defendant being acquitted on the grounds of insanity.
- The earliest parole eligibility of the offender and the expected release date.
- Scheduling of any parole hearings and any action by or decision of the parole board.
- Eligibility to apply for witness fees, and how to apply, as a result of notices to appear.
- Availability of financial assistance and other social services, including how to apply.

Victim Participation (§§81-1848(1)(a), (c), (g); 2)(i))

Rights of crime victims to participate in the process include:

- Prior to reaching a plea agreement with the defendant, a prosecuting attorney must consult, or make a good faith effort to consult, with the victim regarding the content of and reasons for the plea agreement.
- Victims have the right to examine all information that is a part of public record.
- Victims may testify before the Board of Parole or can submit a written statement for consideration by the board.

In addition, victims have the right under law to a speedy disposition of the case.

Victim Protection and Confidentiality (§§81-1848(2)(c), (f))

Victims and witnesses have the right to receive protection from harm and threats of harm arising from their cooperation with law enforcement and prosecution efforts. Victims and witnesses must be provided with information about the level of protection available.

Victims and witnesses have the right to be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants.

Nebraska provides a state-sponsored post office box to facilitate address confidentiality for victims of stalking, sexual assault and domestic violence. (§§42-1201 through §42-1210)

Employment Rights (§81-1848(2)(h))

Victims and witnesses have the right to be provided with appropriate employer intercession services to ensure that employers cooperate with the criminal justice process and minimize an employee's loss of pay and other benefits resulting from any court appearance.

Property Rights (§81-1848(2)(g))

To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, must be returned to the person within ten days after being taken

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Crime Victim Reparations Program is responsible for crime victims' compensation in the state. Five members, appointed by the governor and subject to approval of the Legislature, meet quarterly to hear appeals of decisions made by administrative staff. The maximum award is \$10,000, and victims may be compensated for the following, with limits noted:

- Medical expenses.
- Mental health counseling (limited to \$2,000).
- Lost wages or support (limited to \$468 per week), which may include parent caring for a badly injured minor.
- Funerals (\$5,000).
- Crime-scene cleanup (limited to \$1,000).
- Attorney fees (limited to 5 percent of an award).
- Emergency (up to \$500).

Web address: <http://www.nacvcb.org/progdir/nebraska.html>

Restitution (§§29-2280, -2287)

Victims have the right to court-ordered restitution from the offender for actual physical injury or property damage or loss sustained by the victim as a direct result of the offense. Restitution may be ordered for losses even for an uncharged offense or an offense dismissed pursuant to plea negotiations.

An order of restitution may be enforced by a victim or victim's representative in the same manner as a judgment in a civil action.

Notoriety for Profit (§81-1836)

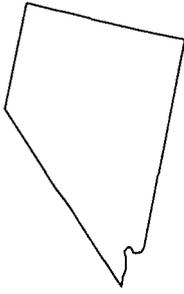
Nebraska law provides that any individual or corporation that contracts with any criminal offender regarding the reenactment the crime for a movie, book, television, or the like must pay

to the compensation committee any money that would otherwise, by terms of the contract, be owed to the offender. The money will go to the Victims' Compensation Fund.

Legislation Passed in Nebraska in 2003-2004

LB 270 (2004) (§28-111)

Amends Nebraska's hate crime statute to allow a jury to hear the discrimination-based allegation and the underlying criminal offense during the state's chief case. The discrimination-based allegation must be proved beyond a reasonable doubt, as must the underlying crime.



NEVADA

Key Statute Citations

- Nev. Rev. Stat. §§217.005 through 217.480 (2004)
- Nev. Cons. art. I, §8

Organization/Administration

The Victims of Crime Program within the Department of Administration is responsible for handling victim compensation in the state. The Victims' Service Unit within the Nevada Department of Corrections provides notification to victims regarding an offender's status and release during their incarceration, as well as other victim services information.

Web address: <http://www.doc.nv.gov/victims/index.php>

Who Is a Victim? (§217.070)

Definition of a victim under state law includes a relative of a person against whom a crime has been committed, or who has been injured or killed as a direct result of the commission of a crime, as well as the direct victim of such acts.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Nev. Cons. art. I, §8)

In 1996, Nevada passed a state constitutional amendment for victims' rights. These rights generally include:

- The right to be informed of the status or disposition of a criminal proceeding at any stage of the proceeding, upon written request.
- The right to be present at all public hearings involving the critical stages of a criminal proceeding.
- The right to be heard at all proceedings for the sentencing or release of a convicted person after trial.

The state's statutory victims' rights provisions follow.

Victim Notice (§209.521; §178.5698; §213.010)

Victims in Nevada have the right to be notified of:

- The status or disposition of a criminal proceeding at any stage of the proceeding, upon written request.
- The defendant's bail release or other release from custody at any time before or during the trial. Also, a certified copy of a no-contact with the victim order, as a condition of the offender's sentence, must be provided to the victim.
- Scheduling of all hearings and any schedule changes.

- The final disposition of the criminal case.
- Date of any parole hearing, with notice provided by Parole Board within five days of the time the board schedules a hearing. Notice of the victim's right to submit documents to the board and to testify at the meeting held to consider the prisoner for parole. The law requires that parole consideration not take place until the victim has been notified of and has opportunity to exercise those rights.
- The decision of the Parole Board following a parole hearing.
- An offender's application for clemency, upon written request and by the board at least 15 days before a clemency meeting.
- Notice of the time, date and place scheduled for the execution of the offender must be provided to immediate family members of a homicide victim.
- Application by the perpetrator of a violent crime (made and denied) to obtain a permit to carry a concealed firearm.

Victim Participation (§213.010)

Victims have the following rights of participation:

- To be present at all public hearings involving the critical stages of a criminal proceeding.
- To be heard at all proceedings for the sentencing or release of a convicted person after trial. At the sentencing hearing, the victim may express any views concerning the crime, the person responsible, the effect of the crime on the victim and the need for restitution.
- To submit a written response to the Board of Pardons regarding the offender's request for clemency.
- Immediate family members of a homicide victim have the right to be present at the offender's execution.

Victim Protection and Confidentiality (§§178.5691, .5692, .5696(1))

A victim of a crime who cooperates with the prosecuting attorney and who reasonably believes that he may suffer threats of harm arising out of that cooperation has the right, upon written request, to have the police investigate the circumstances and take adequate measures to protect.

Victims of crime also have the right to be provided with a secure waiting area that is not used by the members of the jury or the defendant and his or her family and friends.

Victims have a right to have all personal information, including, but not limited to, current or former address, to remain confidential. (§217.462)

Victims of sexual assault are permitted to apply for a fictitious address with the Secretary of State.

Employment Rights (§178.5694)

If the victim is being harassed or intimidated by his employer because of cooperation with the prosecuting attorney, the prosecutor must, upon written request, intercede on the victim's

behalf to minimize any loss of pay or other benefits that would result from his or her assistance or appearances in court.

Property Rights (§178.5696(2))

A court or law enforcement agency that has custody of any stolen or other personal property belonging to a victim must:

- Upon the written request of the victim or witness, make available to him or her a list describing the property held in custody, unless it is shown that the disclosure of the identity or nature of the property would seriously impede the investigation of the crime; or
- Return the property to him or her expeditiously when it no longer is needed as evidence.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

In Nevada, the Victims of Crime Program within the Department of Administration is responsible for handling victim compensation in the state. Each quarter, the Board of Examiners projects income and awards to determine what percentage of expenses requested can be paid, typically from 55 percent to 100 percent. The maximum award is \$50,000, and victims may be compensated for the following, with limits noted:

- Medical expenses.
- Mental health counseling (limited to \$3,500, with additional \$5,000 available in certain acute situations).
- Lost wages or support (limited to \$300 per week).
- Funerals (\$2,500).
- Crime-scene cleanup and security devices (limited to \$500).
- Travel to obtain medical assistance at more than 30-mile distance.
- Attorney fees.

A Nevada resident who is a victim of a crime that occurred in another state also may apply to the board for compensation if the state in which the crime occurred does not have a crime victim compensation program for which they are eligible.

Web address: <http://www.nacvcb.org/progdir/nevada.html>

Restitution (§176.033, -.064)

Victims in Nevada have a right to court-ordered restitution from the offender. The court may suspend the offender's driver's license, attach or garnish property and wages, or incarcerate him or her for unpaid fees, fines and restitution.

Notoriety for Profit (§217.007)

A victim may commence any action against the offender within five years of the offender's legal entitlement to receive money or royalties for contribution to a book, article, movie, television or other such appearance based on or related to the felony committed against the victim. Beyond the five years, the liability of the offender is limited to the value of any money or royalties actually received.

Legislation Passed in Nevada in 2003-2004

AB 336 (2003) (§178.5698)

Provides that a victim must be notified if a defendant is released before or during trial. Provides that a victim may request notification through an automated or computerized notification system, if such is available.



NEW HAMPSHIRE

Key Statute Citations

- N.H. Rev. Stat. Ann. §21- M: 8-K (2004)

Organization/Administration (§21-M: 8-b)

The Office of Victim/Witness Assistance, within the Department of Justice, is responsible for providing information and services to victims and witnesses in criminal cases prosecuted by the attorney general.

The office is responsible for developing and coordinating the state's Victim/Witness Rights Information Program. This program is charged with providing information to victims about locally available social, medical and emergency services and with gathering information from other victim/witness assistance programs throughout the county to make available to other agencies and programs in New Hampshire that provide assistance to victims. The program also sponsors conferences to bring together personnel who work in the field.

Web address: <http://www.state.nh.us/nhd/doc/victim.html>

Who Is a Victim? (§21-M:8-k)(1)(a))

A victim is a person who suffers direct or threatened physical, emotional, psychological or financial harm as a result of commission or attempted commission of a crime. The definition includes the immediate family of a minor, incompetent or the immediate family of a homicide victim.

A crime is any felony crime under New Hampshire law or any other penal violation for which the punishment is imprisonment for more than one year.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Nev. Rev. Stat. Ann. §21-M:8-k)

Statutorily, victims have the following rights:

- To be treated with fairness, dignity and respect.
- To be informed of the criminal justice process and how it progresses.
- To be free from intimidation and to be reasonably protected from the accused throughout the process.
- To be notified of all court proceedings.
- To attend trial and all court proceedings that the accused has the right to attend.
- To confer with the prosecution and be consulted about the disposition of the case, including plea bargains.
- To have inconveniences associated with participation in the criminal justice process minimized.

- To be notified if their presence in court is not required.
- To be informed about available resources, financial assistance and social services.
- To restitution and victim compensation for their losses.
- To be provided with a secure (but not necessarily separate) waiting area during court proceedings.
- To be advised of case progress and final disposition.
- To confidentiality of the victim's address, place of employment and other personal information.
- To prompt return of property when it is no longer needed in evidence.
- To have input in the probation, pre-sentence report.
- To appear and make a written or oral victim impact statement at the sentencing or plea bargaining.
- To notice of an appeal; an explanation of the process; and the time, place and right to attend the appeal.
- To be notified to attend sentence review and reduction hearings.
- To notice of change in status of prison release, transfer, escape, and the date of a Parole Board hearing and to submit input to the board.

The state's statutory victims' rights provisions follow.

Victim Notice (§173-B:11; §§21-M:8-k(b), (d), (h), (i), (l), (q) through (s))

Victims must be notified of the following:

- General information about the process and how it progresses.
- Scheduling of all court proceedings, and information about expected case progress and final disposition.
- When the victim's presence in court is not required.
- Availability of resources, financial assistance and social services.
- The filing of an appeal in the case, including explanation of this process, the times and places of hearing, and the victim's right to attend such proceedings.
- Scheduling of sentence review and reduction hearings.
- Any change in status of prison release, transfer, escape, and the date of any scheduled Parole Board hearing.

In addition, at least 15 days and not more than 30 days before any parole hearing, the adult parole board must twice publish in a newspaper of general circulation within the county where the offense occurred, a notice stating the intent of the person to seek parole. This information also must be sent to the victim or the next of kin by first class mail.

Victim Participation (§§21-M:8-k (e), (f), (o), (p), (t))

Victims' rights to participate include:

- To attend trial and all court proceedings that the accused has the right to attend;
- To confer with the prosecution and be consulted about the disposition of the case, including plea bargaining;
- To have input in the probation, pre-sentence report;

- To appear and make a written or oral victim impact statement at the sentencing or plea bargaining; and
- To submit input regarding the offender to the parole board.

In addition, before a judge may sentence, suspend or reduce the sentence of a person who committed a violent crime, the victim or next of kin may appear personally or by counsel to express views regarding the offense, the offender or the need for restitution, to allow the judge to consider these views in his or her decision-making.

A victim may designate a representative to help in making a victim impact statement to the court. The statement may include injuries, harm or damages that were not fully determined or discovered at the time the information or indictment was filed.

Victim Protection and Confidentiality (§§21-M:8-k (c), (k), (m))

Victims have the right of confidentiality of the victim's address, place of employment and other personal information. The program is administered by the New Hampshire Department of Justice.

Victims have the right to be free from intimidation and to be reasonably protected from the accused throughout the process. This includes the right to be provided with a secure (but not necessarily separate) waiting area during court proceedings.

In addition, New Hampshire has established an address confidentiality program for victims of domestic violence, stalking or sexual assault. (N.H. Rev. Stat. Ann. §7:43)

Employment Rights

No specific provisions are codified in New Hampshire law at this time.

Property Rights (§21-M:8-k)

Victims have the right to the prompt return of property when no longer needed as evidence.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

New Hampshire's Victims' Assistance Commission, within the Department of Justice, reviews and awards victim claims for compensation. The maximum award is \$10,000, and victims may be compensated for the following, with limits noted:

- Medical expenses.
- Mental health counseling (limited at \$3,000).
- Lost wages or support.
- Funerals (\$3,000, plus \$500 for grave marker).
- Moving expenses.
- Crime-scene cleanup, security and replacement items.

- Travel to obtain medical assistance.
- Attorney fees may be considered if for crime-related purposes other than applying for compensation or filing suit.

Web address: <http://www.nacvcb.org/progdir/newhampshire.html>

Restitution (§651:63; §651:62-67)

Victims in New Hampshire have the right to court-ordered restitution from the offender. In any case in which restitution is not ordered by the court, reasoning must be stated on the record or in its sentencing order.

Restitution may be ordered regardless of the offender's ability to pay and regardless of the availability of other victim compensation. However, restitution is not intended to compensate the victim more than once for the same injury.

Notoriety for Profit

No such provisions currently are codified in New Hampshire state law.

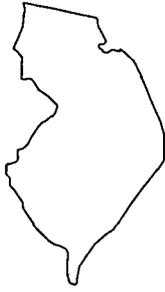
Legislation Passed in New Hampshire in 2003-2004

HB 248 (2003) (§169-B:34)

Requires that victims be given the juvenile offender's name, gender, age, address, offense charged, custody status, adjudicatory status and disposition in juvenile delinquency cases.

HB 389 (2003) (§21-M:8-k)

Provides that a crime victim may designate a representative to help in making a victim impact statement to the court. Provides that such victim impact statement may include injuries, harm or damages that were not fully determined or discovered at the time the information or indictment was filed.



NEW JERSEY

Key Statute Citations

- N.J. Rev. Stat. §52:4B-36 (2004)
- N.J. Cons. art. I, par. 22

Organization/Administration (§52:4B-43)

New Jersey's Office of Victim Witness Advocacy operates under the attorney general's standards to ensure the rights of crime victims. The office is responsible for advising all victims and witnesses of the current status of their case. In each of the 21 county prosecutors' offices, a county office of victim-witness advocacy assists and accompanies victims through every step of the criminal justice system.

Web address: <http://www.state.nj.us/lps/dcj/victimwitness/home.htm>

Who Is a Victim? (§52-4B-37)

A victim is a person who suffers personal physical or psychological injury or death or incurs loss of or injury to personal or real property as a result. In the event of death, "victim" meant the surviving spouse or next of kin.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (N.J. Cons. art. I, par. 22)

New Jersey passed a state constitutional amendment for Victims' Rights in 1991. These rights generally include:

- Victims must be treated with fairness, compassion and respect by the criminal justice system.
- Victims shall not be denied the right to be present at public judicial proceedings except when properly sequestered in accordance with law.
- Victims are entitled to those rights and remedies as may be provided by the Legislature.

The statutory Crime Victim Bill of Rights entitles crime victims and witnesses to the following basic rights (§52-4B-36):

- To be treated with dignity and compassion by the criminal justice system.
- To be informed about the criminal justice process.
- To be free from intimidation.
- To have inconveniences associated with participation in the criminal justice process minimized to the fullest extent possible.
- To make at least one telephone call from the police station, provided the call is reasonable in both length and location called.

- To medical assistance if, in the judgment of the law enforcement agency, medical assistance appears necessary.
- To be notified if their presence in court is not needed.
- To be informed about available remedies, financial assistance and social services.
- To be compensated for their loss whenever possible.
- To be provided a secure, but not necessarily separate, waiting area during court proceedings.
- To be advised of case progress and final disposition.
- To the prompt return of property when it no longer is needed as evidence.
- To submit a written statement about the effects of the crime to a representative of the county prosecutor's office that is to be considered prior to the prosecutor's final decision concerning whether formal criminal charges will be filed.
- To make, prior to sentencing, an in-person statement directly to the sentencing court concerning the effects of the crime. This statement is to be made in addition to the statement permitted for inclusion in the pre-sentence report.

Victim Notice (§§52-4B-36(b), (g), (h), (k); -42, -44)

Victims must be notified of the following:

- The procedures in the criminal justice process.
- The judicial proceedings and the right to be present.
- If the victim's presence in court is not needed and any schedule modifications.
- To be informed about available remedies, financial assistance and social services.
- Case progress and final disposition.
- Decisions or action resulting in offender's provisional release from custody, upon written request.
- Their right to make an impact statement at the time of parole consideration.

Victim Participation (§§52-4B-36(m), (n))

Victims have the right to be present and heard in New Jersey during the criminal justice proceedings. They have the right to submit a written statement about the effects of the crime, which must be considered by the prosecutor prior to a decision about whether and what criminal charges will be filed. Victims also have the right to make a statement to the sentencing court and at the time of parole consideration. New Jersey law also allows a statement form victims and prosecutors to be included in review of an incarcerated inmate that may result in the inmate's transfer to a residential community-release program.

Victims of sexual assault have the opportunity to consult with the prosecutor on plea negotiations.

Victim Protection and Confidentiality (§§52-4B-36(c), (j))

Victims of crime have a right to be provided a secure, but not necessarily separate, waiting area during court proceedings.

Parole conditions may be imposed on an offender based on information provided by the victim or the deceased victim's family member. At the request of the victim, the board may impose, as part of conditions of parole, that the offender have no contact with the victim, including staying away from their residence, place of employment, business or school, and prohibition of any behavior to harass or stalk the victim or victim's relatives.

New Jersey established an address confidentiality program for victims of domestic violence. The Address Confidentiality Program offers two service components, a substitute address service and a protected record service. (N.J. Stat. Ann. §47:4-4)

Employment Rights

No such provisions are codified in New Jersey law at this time.

Property Rights (§52-4B-36(l))

Victims have the right to the prompt return of property when it no longer is needed as evidence.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Victims of Crime Compensation Board within the Department of Law and Public Safety handles claims of victims of violent crime for some expenses they suffer as a result of the crime. The maximum award is \$25,000, with a \$50,000 cap for victims with catastrophic injuries. Compensable costs, with limits noted, are:

- Medical expenses.
- Mental health counseling (limited at 100 sessions or \$10,000, whichever is greater).
- Lost wages or support, including payments to dependents of the victim (limited at \$500 per week).
- Funerals (\$3,500).
- Moving expenses (limited to \$1,000).
- Replacement and domestic services such as housekeeping and child care (limited at \$50 per day and up to \$6,500).
- Stolen cash (at up to \$200 for disabled and senior citizens with incomes below poverty level).
- Travel (at up to \$10 per day and 20 cents per mile).
- Rehabilitation.
- Attorney fees (to up to 15 percent of award or \$75 per hour, whichever is less).
- Emergency (up to 1,500).

Web address: <http://www.nacvcb.org/progdir/newjersey.html>

Restitution (§52:4B-42(b))

Victims in New Jersey have the right to court-ordered restitution from the offender. The county office of victim-witness advocacy helps victims complete an information/impact form that is used by the prosecutor, probation department and judge to make a determination on the amount of restitution.

Notoriety for Profit (§52:4B-63)

New Jersey law states a compelling interest in preventing any person who is convicted of a crime from directly or indirectly profiting from the crime or circumstances surrounding the crime.

Every person, firm, corporation, etc. that contracts with a criminal regarding profits from his or her crime where the value of the payment of such funds exceeds or will exceed \$10,000 must give written notice to the Victims of Crime Compensation Board of the payment as soon as practicable.

Upon receipt of notice of a contract, the board must notify all known crime victims of the convicted person of the existence of such profits or funds at their last known address.

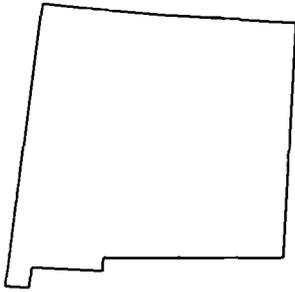
Any crime victim has the right to bring a civil action to recover money damages from a person convicted of a crime within three years of the discovery of any profits from a crime.

In addition, New Jersey requires that any party contracting to pay more than \$10,000 for criminal memorabilia deposit those funds into an escrow account for victims.

Legislation Passed in New Jersey in 2003-2004

SB 817 (2003) (NJS §2C:1-3)

Requires that any party contracting to pay more than \$10,000 for criminal memorabilia deposit those funds into an escrow account for victims.



NEW MEXICO

Key Statute Citations

- N.M. Stat. Ann. §§31-21-1 through 14 (2004)
- New Mexico Constitution, Article 2, §24

Organization/Administration (§31-22-4)

The New Mexico Crime Victims Reparation Commission (CVRC) is an independent executive branch agency that provides services to victims of crime. The commission's primary mission is to provide financial assistance to victims of violent crime for expenses incurred as a result of being victimized. CVRC publishes a quarterly newsletter mailed to individuals who work with victims of violent crime and also provides training and outreach services throughout the state.

In addition, in 1999, a victims' service advocate was added to the New Mexico Office of the Attorney General to provide services and assistance to victims of violent crime and their families. The victims' services advocate will provide notification and assistance to victims and their families during the often lengthy appellate process.

Web address: <http://www.newmexico.org/place/loc/directory/page/DB-place/category/10/place/1679.html>

Who Is a Victim? (§31-26-3(F))

Victim rights are provided to any victim against whom a specified criminal offense is committed. Victim also means a family member or a victim's representative when the individual against whom a criminal offense was committed is a minor, is incompetent or a homicide victim. A criminal offense in New Mexico includes specified crimes of negligent arson resulting in death or bodily injury, aggravated arson, aggravated assault, aggravated battery, dangerous use of explosives, negligent use of a deadly weapon, murder, voluntary and involuntary manslaughter, kidnapping, criminal sexual penetration, criminal contact with a minor, armed robbery, homicide by a vehicle, great bodily injury by vehicle, abandonment or abuse of a child, stalking or aggravated stalking, aggravated assault against a household member, assault against a household member with intent to commit a violent felony, battery against a household member, or aggravated battery against a household member.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (New Mexico Constitution, Article 2, §24)

New Mexico amended its constitution in 1992 to include rights for crime victims. These rights generally include:

- The right to be treated with fairness and respect for the victim's dignity and privacy throughout the criminal justice process.
- The right to timely disposition of the case.

- 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 all public 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 and at any post-sentencing hearings for the accused.
- The right to restitution from the person convicted of the criminal conduct that caused the victim's loss or injury.
- The right to information about the conviction, sentencing, imprisonment, escape or release of the accused.
- The right to have the prosecuting attorney notify the victim's employer, if requested by the victim, of the necessity of the victim's cooperation and testimony in a court proceeding that may necessitate the absence of the victim from work for good cause.
- The right to promptly receive any property belonging to the victim that is being held for evidentiary purposes by a law enforcement agency or the prosecuting attorney, unless there are compelling evidentiary reasons for retention of the victim's property.

New Mexico enacted the Victims of Crime Act to ensure that the full impact of a crime is brought to the attention of the court; that victims of violent crime are treated with dignity, respect and sensitivity at all stages of the criminal justice process; victims' rights are protected by law enforcement agencies, prosecutors and judges as vigorously as the rights of criminal defendants; and that the provisions of article 2, section 24 of the constitution of New Mexico are implemented in statute. (§31-26-2)

The state's statutory victims' rights provisions follow.

Victim Notice (§§31-26-4(D), (I), (L), -8 through -12)

Victims must be notified of:

- Available medical and crisis intervention services.
- The police report number for the offense and a copy of the following statement: "If within thirty days you are not notified of an arrest in your case, you may call (phone number for law police) to obtain information on the status."
- The name, address and phone number of the district attorney and a staff contact person.
- A copy of the article of the New Mexico Constitution regarding victims' rights and a copy of the statutory Victims of Crime Act.
- A copy of the charges filed.
- An explanation of the procedural steps involved in prosecuting an offense.
- Notice of proceedings in the case, including dates, times and information about the victim's right to attend and be heard.
- Any modifications to the proceedings and, if requested, a copy of the scheduled court proceeding.
- Escapes, transfer or pre-parole release of the offender from a correctional facility.
- Parole consideration of the offender and the parole board decision following hearing.

Victim Participation (§§31-26-4(E) through (G), -7)

In New Mexico, victims are able to play an active role in the criminal justice process with the following rights:

- To attend all public court proceedings that the accused has the right to attend.
- To confer with the prosecution.
- To make a statement to the court at sentencing and at any post-sentencing hearings concerning the accused.
- The right for the victim or the victim's family to be present and have an opportunity to speak at the defendant's parole hearing.

The victim may designate a victim representative to exercise all rights provided to the victim.

Victim Protection and Confidentiality (§31-26-4(C))

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

Employment Rights (§31-26-4(J))

Victims have the right to request that the prosecuting attorney notify their employer of the necessity of the victim's cooperation and testimony in a court proceeding that may necessitate the absence of the victim from work.

Victims or parents or guardians of minor victims may recover lost wages for time taken off from their employment for visiting a physician, dentist, counselor or therapist or for investigative interviews and all criminal justice proceedings.

Property Rights (§31-26-4(K))

Victims have the right to promptly receive any property belonging to them that is being held for evidentiary purposes by a law enforcement agency or the prosecuting attorney, unless there are compelling evidentiary reasons for retention of the victim's property.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

New Mexico created the New Mexico Crime Victims' Reparation Commission. The maximum award is \$20,000, with up to \$50,000 in catastrophic physical injury cases. The commission may award compensation to a victim for the following costs, with limits noted:

- Medical expenses, including traditional Native American healing.
- Mental health counseling (with preauthorization required for more than 30 sessions).
- Lost wages or support.
- Funerals (up to \$3,500).

- Travel to obtain medical care.
- Rehabilitation.

Web address: <http://www.nacvcb.org/progdir/newmexico.html>

Restitution (§31-17-1)

In New Mexico, a victim has the constitutional and statutory right to court-ordered restitution.

The court must require as a condition of probation or parole that the defendant promptly prepare a plan of restitution, including a specific amount of restitution to each victim and a schedule of restitution payments. Defendants have the right to challenge the damages for which restitution is awarded and to assert if there are reasons he or she is unable to pay restitution.

Notoriety for Profit (§31-22-22)

New Mexico's notoriety for profit law prohibits individuals convicted of murder or any other first or second-degree felony from receiving any profits that would result from contracting with an individual or corporation about the reenactment of the crime through the offender's thoughts or feelings about the crime.

"Every firm, person, corporation, association or other legal entity contracting with a person or the representative or assignee of any person charged or convicted of a violent crime in this state, with respect to the reenactment of the crime in a movie, book, magazine article, tape recording, phonograph record, radio or television presentation or live entertainment or with respect to the expression of the accused or convicted person's thoughts, feelings, opinions or emotions regarding the crime shall submit a copy of the contract to the crime victims reparation commission and pay to the commission any money that would otherwise by terms of such contract be owing to the accused or convicted person or his representatives. The commission shall deposit the money in an escrow account."

Legislation Passed in New Mexico in 2003-2004

SB 31 (2003) (§30-20-16)

Allows a court to order an offender convicted of making a bomb scare to reimburse the victim for economic harm.



NEW YORK

Key Statute Citations

- N.Y. Exec. Law art. 23, §§640-649 (McKinney, 2004)

Organization/Administration

The executive branch Crime Victims' Board is responsible for providing compensation to victims; for funding community-based, direct service programs for crime victims; and for serving an advocacy role for the rights and benefits of all innocent victims of crime.

The commissioner of the Division of Criminal Justice Services, in consultation with the chairman of the Crime Victims' Board and other appropriate officials, must promulgate standards for the treatment of innocent victims of crime by agencies that comprise the criminal justice system of the state.

Web address: <http://www.cvb.state.ny.us/>

Who Is a Victim?

New York's fair treatment standards do not define "victim" for most rights.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (N.Y. Exec. Law art. 23, §§640-649)

New York has a statutory victim bill of rights. These rights are explained in the subsequent sections of this summary.

Victim Notice (article 23 §§641(1)(a) through (d); §646(a))

Victims must be notified of:

- Arrest of an accused in their case.
- All judicial proceedings relating to their case, including arraignment, pre-trial release, entry of a guilty plea, trial, sentencing, final disposition, terms of imprisonment, parole, release, and escape of the accused or convicted offender.
- Availability of emergency social and medical services and of programs that provide counseling, treatment or support for crime victims. This may include, but is not limited to, rape crisis centers, victim/witness assistance programs, elderly victim services, victim assistance hotlines, and domestic violence shelters.
- Availability of crime victim compensation.
- The role of the victims in the criminal justice process, including what they can expect from the system and what the system expects from them. Also explanation of stages in the criminal justice process.

- Steps that may be taken by law enforcement officers or district attorneys to protect victims and witnesses from intimidation.
- The right to seek restitution and reparation.
- The expected maximum and minimum terms of imprisonment, in cases where a term of imprisonment is imposed.
- Any reversal or modification of the judgment by an appellate court.

All victims of crime are entitled to a copy of the police report of the crime, without charge. The district attorney must provide the victim, at the earliest time possible, with an informational pamphlet detailing the rights of crime victims under executive and penal law.

The state board of parole also provides toll-free telephone access for crime victims to obtain information.

Victim Participation (article 23 §642(1))

Victims in New York have the following rights of participation:

- To consult with the district attorney and express views on dispositions, including dismissal, plea acceptance or, if the case is going to trial, sentencing alternatives such as community supervision and restitution from the defendant. Courts are required to consider these views as part of discretionary decision making in the case.
- In felony sentencing, victims or their families have the right to address the court on any matter relevant to sentencing, with notice provided to the court.
- A victim, relative or other representative of the victim may submit a statement to the Parole Board regarding any threatening or intimidating conduct toward the victim that has been initiated by the offender.
- Victims have the same rights to a personal interview with the Parole Board or board members as does the inmate offender.

Victim Protection and Confidentiality (article 23 §641(2); §642(2), (2a); §380.50)

Victims have the right to be provided with a secure waiting area at court proceedings that is separate from all other witnesses.

All police departments, district attorneys' offices and agencies involved in pre-sentence investigation must provide a private setting for interviewing victims of a crime.

The Parole Board must hold confidential the name and address of a victim or victim's representative who submits a written statement concerning the release of an inmate.

Employment Rights (article 23 §642(4))

Law enforcement agencies and district attorneys must, upon request of a victim or witness, assist in advising employers of the need for a person's cooperation in prosecution of the case and that their involvement may necessitate the victim's or witness' absence from work.

Any victim who misses work to attend a criminal proceeding must not, on account of his or her absence, be subject to discharge or penalty.

Law enforcement agencies and district attorneys are compelled to provide information to assist a victim or witness who, as a direct result of a crime or of his or her cooperation with law enforcement agencies or the district attorney in the investigation or prosecution of a crime, is unable to meet obligations to creditors. This should include explanation of circumstances of the crime, including the nature of any loss or injury suffered by the victim, or about the victim's or witness' cooperation.

Property Rights (article 23 §642(3))

Victims in New York have the right to the prompt return of property being held for evidentiary purposes by law enforcement agencies and district attorneys, unless there is a compelling reason for retaining it relating to proof at trial.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Victims may be compensated for the following, with limits noted:

- Medical expenses (for which there is no maximum; the workers compensation fee schedule is used as a guideline).
- Mental health counseling (also uses worker's compensation fee schedule as a guideline).
- Lost wages or support (limited to \$600 per week and up to a total maximum of \$30,000).
- Funerals (up to \$6,000).
- Crime-scene cleanup (limited to \$2,500).
- Property loss or security needs (up to \$500 for essential personal property, a maximum \$100 cash loss, and including costs for replacement of locks and doors for security).
- Travel to medical providers and for necessary court appearances.
- Vocational rehabilitation.
- Attorney fees (limited at \$1,000).
- Emergency (up to \$1,500).
- Cost of residing at or utilizing the services of a domestic violence shelter.
- For a victim of crime who has acted as a good Samaritan, the cost of lost, damaged or destroyed property is reimbursable (up to \$5000).

New York also authorizes the Crime Victims' Board to process and pay claims after the filing deadline, where the victim demonstrates that he or she was unaware of the existence of benefits.

Web address: <http://www.nacvcb.org/progdir/newyork.html>

Restitution (article 23 §646-a.(f))

The New York Crime Victims' Board has a lien on restitution when the board makes a monetary award to the claimant and the claimant receives restitution for the same loss. Also, when a person accepts a monetary award from the New York Crime Victims' Board, the board has a lien on any civil recovery obtained by the victim against the defendant or any other responsible third party.

Subrogation (article 33 §634)

The state maintains subrogation authority, which means the state is authorized to commence a civil action against a victim's assailant to any liable third party if the victim declines to commence such action. In the event that the victim's cause of action is in an amount greater than the board's award, only that portion of the cause of action equal to the amount of the award is assigned to the board.

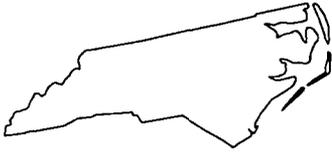
Notoriety for Profit (Executive Law §623-a(2))

If any individual or corporation contracts for any profits from a crime or any funds of a convicted person (for specified crime), written notice must be given to the Crime Victims' Board as soon as practicable, of the payment or obligation to pay. Upon receipt of such notice, the board is to notify all known crime victims of the existence of such profits or funds at their last known address.

New York's "Son of Sam" law states that any crime victim or victim representative has the right to bring a civil action to recover money damages from a person convicted of the crime within three years of the discovery of any profits from a crime of a convicted person. A crime victim can bring a civil action for any injury or loss within 10 years of the date the defendant was convicted of the crime. The law expands the categories of money from which a crime victim can recover to include funds or property received by a convicted person from any source.

Legislation Passed in New York in 2003-2004

No relevant legislation was passed in New York in 2003 or 2004.



NORTH CAROLINA

Key Statute Citations

- N.C. Gen., Stat. §§15A-824 to 842 (2003)
- N.C. Cons. art. 1, §37

Organization/Administration

The Office of Victim Services in the North Carolina Department of Corrections is responsible for providing information and assistance to victims, which gives them the opportunity to be involved in the criminal justice system. The office is dedicated to advancing the rights of victims through advocacy, information and resources.

Web address: <http://www.doc.state.nc.us/victimservices/>

Who Is a Victim? (§5A-824(3))

A victim is defined as a person against whom there is probable cause to believe a crime has been committed.

A crime for purposes of victims' rights is one determined by the district attorney to be a felony or serious misdemeanor. A crime also includes any act committed by a juvenile that, if committed by a competent adult, would constitute a felony or serious misdemeanor.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (N.C. Cons. art. 1, §37)

North Carolina amended its constitution in 1996 to add rights for victims. These rights generally include:

- The right to be informed of and to be present at court proceedings of the accused.
- The right to be heard at sentencing of the accused in a manner prescribed by law, and at other times as prescribed by law or deemed appropriate by the court.
- The right to receive restitution.
- The right to be given information about the crime, how the criminal justice system works, the rights of victims, and the availability of services for victims.
- The right to receive information about the conviction or final disposition and sentence of the accused.
- The right to receive notification of escape, release, proposed parole or pardon of the accused, or notice of a reprieve or sentence commutation.
- The right to present their views and concerns to the governor or agency considering any action that could result in the release of the accused, prior to such action becoming effective.
- The right to confer with the prosecution.

The state's statutory victims' rights provisions follow.

Victim Notice (§§15A-825(1), (2), (2a), (6), (6a), (8), (10) through (12); §15A-831 through 15A-832.1; §15A-835 through 838)

Victims must receive a pamphlet from the district attorney's office that explains in a clear and concise manner their rights under state law. This includes the responsibilities of each agency and steps in the criminal justice process. It also must identify and provide phone numbers of agencies that can assist in this process.

The Governor's Crime Commission established the Statewide Automated Victim Assistance and Notification System to assist victims of crime.

Victims must be notified of:

- The address and phone number of the investigating law enforcement agency and of the district attorney who will be handling the case.
- Available and, when needed, immediate medical assistance.
- Available protection from harm and threats of harm arising out of cooperation with law enforcement agencies.
- Circumstances in which victims may request that their home address is not disclosed in court proceedings.
- Any plea bargaining that occurs prior to trial.
- Written information about final disposition of the case, including the crimes of which the defendant was convicted and the defendant's right to appeal.
- Procedures a victim may follow to apply for and receive any appropriate witness fee or victim compensation;
- The right to be present throughout the entire trial of the defendant, subject to the right of the court to sequester witnesses.
- The opportunity for a victim to request and be present during the final disposition of the case.
- The dates, times and places of all case proceedings and any scheduling changes.
- Conditions of probation that have been imposed on the defendant. Also, the date and location of any probation hearings and the final disposition.
- Available civil remedies and the statutes of limitations that apply.
- In Class G or more serious felonies, scheduling of a proceeding in which release of the offender is considered, upon request of the victim. Also in those serious felonies and upon request, of any escape, capture or release from custody of the offender.
- Any modification to a restitution order and who to contact, including office telephone numbers to use, if the defendant does not pay restitution.
- How the appellate process works, court hearings and the final disposition of the appeal.
- Projected date that the defendant will be released from custody;
- An inmate's assignment to a minimum custody unit, the address of the unit, and the victim's right to submit concerns.
- The defendant's death.
- Notice that the Governor's Clemency Office is considering commutation and the victim's right to be present a written statement to the office.

Victim Participation (§§15A-825(7), (9), (9a); §5A-833)

Victims have the right to be present throughout the entire trial of the defendant, subject to the right of the court to sequester witnesses. Victims must be given the opportunity to be present during the final disposition of the case, upon their request. Victims have the right to consult with the prosecuting attorney to express views about disposition of the case, dismissals, plea or negotiations, sentencing and pre-trial diversion options. They also have the right to submit a victim impact statement to be considered by the court or jury in sentencing.

Victim Protection and Confidentiality (§15A-825(4))

Victims and witnesses have the right to be provided with, when feasible, a secure waiting area that does not put them in close proximity to the defendant.

North Carolina has established an address confidentiality program in the Attorney General's Office to enable the requests for public records to be fulfilled without disclosing the location of a victim of domestic violence, sexual offense or stalking. In addition, victims of such crimes may request to have a substitute address designated to them in order to protect their confidentiality. (N.C. Gen. Stat. §15C-1)

Employment Rights (§15A-825(4))

Victims and witnesses have the right to be provided with appropriate intercession services to seek the employer's cooperation with the criminal justice system and to minimize the employee's loss of pay.

Property Rights (§15A-825(3))

Victims have the right to have any stolen or other personal property expeditiously returned by law enforcement agencies when it no longer is needed as evidence and its return would not impede an investigation or prosecution of the case. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property whose ownership is disputed, should be photographed and returned to the owner within a reasonable period of time of being recovered by law enforcement officials.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Crime Victims' Compensation Commission is operated by the Department of Crime Control and Public Safety. The maximum award is \$30,000, plus an additional \$3,500 available in homicide cases. Victims may be compensated for the following, with limits noted:

- Medical expenses.
- Mental health counseling (limited to one year of treatment for adults and two years for children age 10 and younger).
- Lost wages or support (limited to \$300 per week for 26 weeks, with other special provisions in domestic violence cases).

- Funerals (\$3,500).
- Replacement services.
- Crime-scene cleanup.
- Travel to obtain medical assistance.
- Emergency (up to \$5,000).

Web address: <http://www.nacvcb.org/progdir/northcarolina.html>

Restitution (§15A-834)

Victims in North Carolina have the right to receive court-ordered restitution from the offender. A court may require a defendant to pay restitution to a victim regardless of whether the victim receives compensation from the Crime Victims' Compensation Fund.

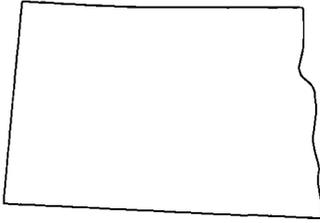
Notoriety for Profit (§§15B-30, -32)

Any money, property or interest in property acquired from profit, gain, remuneration or compensation from the crime by the offender must be forfeited to the state.

Legislation Passed in North Carolina in 2003-2004

HB 1518 (2004) (§15A-145)

Requires an offender to pay any outstanding restitution order proper to the expungement of the person's criminal record.



NORTH DAKOTA

Key Statute Citations

- N.D. Cent. Code §12.1-34 et seq. (2003)

Organization/Administration

The North Dakota Victim Assistance Association (NDVAA) provides direct services within the criminal justice system in the state to victims of and witnesses to crimes.

Web address: <http://www.ndcrimevictims.org/>

Who Is a Victim? (§12.1-34-01(8))

A victim is defined as a person who has suffered direct or threatened physical, emotional or financial harm where there is probable cause to believe that the harm has been caused by the commission of a criminal act. A victim includes the family members of a minor, incompetent, incapacitated or deceased person.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (N.D. Cent. Code §12.1-34-01)

Victims' rights are statutory in North Dakota and can be found in Chapter 12.1-34-01 of the state's Century Code.

The state's statutory victims' rights provisions follow.

Victim Notice (§§12.1-34-02(1) through (5), (13), (15))

Victims must be afforded the following notice:

- Status of the investigation, upon request.
- The pretrial status of each person arrested, including bail and any pretrial release conditions. Includes prompt notice of any hearing in which the arrested person's pretrial release status will be determined.
- Available methods for enforcing any pretrial release conditions, including information about the level of protection available if acts of harm, threats or intimidation against the victim are present.
- Criminal charges filed against the offender and what procedural steps would be expected in processing a criminal case. Victims also must be notified of their right to prompt disposition of the case.
- Explanation of and consultation with the prosecuting attorney regarding any details of any potential plea agreement or verdict.
- Their right to be present throughout the trial of the defendant.

- Schedule of all court proceedings in a reasonable amount of time prior to the proceedings and any cancellations.
- Available, appropriate public or private programs that provide counseling, treatment or support for victims.
- Date, time and place of hearing at which a plea of guilty or not guilty will be entered and of a sentencing hearing. Victims must be informed prior to sentencing of their right to submit or make a written impact statement to the court in any criminal case.
- Informed that the pre-sentence report is subject to review by the defendant and that the report will include the victim's impact statement.
- Informed by the prosecuting attorney of the final disposition of the case.
- Explanation of parole and pardon processes.
- The temporary, provisional, or final release from custody or escape of the offender. This includes notice of transfer the defendant to a work-release program, a community residential program, or a mental health facility.
- Any decision of the Parole Board or governor regarding the prisoner's release on parole or pardon, within a reasonable time.

Victim Participation (§§12.1-34-02(11), (12), (14), (17))

Victims have a right to be present throughout the trial of the defendant and to prompt disposition of their case. Victims have the right to submit or make a written impact statement to the court in any criminal case. Victims also may submit a written statement for consideration by the Parole Board, the governor or the Pardon Advisory Board before any action is taken on a defendant's request for parole or pardon. Victims of violent crime may make such statement in person, upon request.

Victim Protection and Confidentiality (§§12.1-34-02(9), (10))

Victims must be provided with a waiting area separate from the defendant, defendant's relatives and friends, and defense witnesses, if such an area is available and practical. If not, the court must provide other safeguards to minimize the victim's potential contact with the defendant and during court proceedings.

Victims may not be compelled to provide in any pretrial or trial testimony their address, phone number, place of employment or other personal information, unless the court has shown good cause as to the necessity of the information.

Employment Rights (§12.1-34-02(6))

Upon request, victims must be provided with appropriate employment intercession services to ensure that employers cooperate with the criminal justice process and minimize a victim-employee's loss of pay and other benefits as a result of court appearances.

Property Rights (§12.1-34-02(8))

Victims in North Dakota have the right to the return of any property that was held for evidentiary purposes within 10 days after taken if it is no longer needed.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Crime Victims' Compensation Program operates within the Division of Parole and Probation. The maximum award is \$25,000, and victims may be compensated for the following, with limits noted:

- Medical expenses (limited to 80 percent of billed charges).
- Mental health counseling (also limited to 80 percent of charges).
- Lost wages and support (limited at \$300 per week).
- Funerals (\$3,000).
- Replacement services such as housekeeping and child care.
- Travel to obtain treatment.
- Rehabilitation.
- Attorney fees (which may not exceed the lesser of 20 percent of compensation awarded or \$1,000).
- Emergency costs.

Web address: <http://www.nacvcb.org/progdir/northdakota.html>

Restitution (§12.1-34-04)

Victims in North Dakota have a right to court-ordered restitution from the offender. The court must state on the record if it determines that restitution is not required.

Notoriety for Profit (§32-07.1)

All profits from a convicted felon's crime must go to a trust for the benefit of the victim-beneficiary, with such trust in place for six years after the date of conviction.

Any victim may bring action against a convicted felon or to recover those funds, with his or her interest in the profits from the crime reduced by any reparation, restitution or civil judgment money received by the victim.

Any contract between a convicted felon or representative of the felon and another person that provides for the payment of profits from a crime, other than as provided under North Dakota law, is void.

Legislation Passed in North Dakota in 2003-2004

No relevant legislation was passed in North Dakota in 2003 and 2004.

OHIO



Key Statute Citations

- Ohio Rev. Code Ann. §2930 et seq. (Page, 2004)
- Ohio Cons. art. I, §10a

Organization/Administration

A Crime Victims' Assistance Office in the Office of the Attorney General administers the state Victims' Assistance Advisory Board. The board's purpose is to advise the attorney general concerning funds provided by the attorney general to victim service providers.

Web address: http://www.ag.state.oh.us/sections/crime_victims_services/Directory/cvstate.asp

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights

(Ohio Cons. art. I, §10a)

Ohio amended its constitution in 1994 to include rights for crime victims. The victims' rights include generally:

- Being treated with fairness, dignity and respect in the criminal justice process.
- Reasonable and appropriate notice, information and access.
- Protection.
- A meaningful role in the criminal justice process.

The state's statutory victims' rights provisions follow.

Who Is a Victim? (§2930.01(H))

A victim is a person identified as the victim of a crime or delinquent act in a police report or in a complaint, indictment or information charging the commission of a crime.

Crime is defined as any felony or a violation of Ohio law regarding assault, menacing or aggravated menacing or domestic violence.

Victim Notice (§§2930.03 through .05; §2930.08; §2930.12, and-.15; §109.42)

Victims must be notified of:

- The right to receive a printed pamphlet prepared by the attorney general that contains a compilation of all statutes relevant to victims' rights and an explanation of each.
- Their right to compensation and the procedure to receive compensation. This notice is to be provided via an information card provided by law enforcement or prosecution personnel at the first opportunity.

- Bail release of the defendant.
- Any motion to delay the prosecution.
- Acquittal or conviction of the defendant, upon request, to include charges on which a judgment was rendered; the address and phone number of the probation officer; notice that the victim may give a victim impact statement to the probation officer; the expected date, time and place of the sentencing hearing; the victim's right to make a statement there, and notice of the sentence imposed and any modifications to that sentence.
- Filing of an appeal by the offender, upon request, along with a brief explanation of the appellate process and the time and location of appellate proceeding.
- Information about the offender's incarceration and release date, upon request.
- Any hearing for judicial release, upon request, including any hearing to determine whether to modify the requirement that the offender serve the entire prison term.
- The victim's right to submit a victim impact statement to the Parole Authority, with such notice provided upon request and at least three weeks prior to hearing, transfer or recommendation of pardon or commutation.

Victim Participation (§§2930.06, - and .09; §2930.13 through .14; .17)

The victim has the right to be present throughout all criminal proceedings in which the defendant has the right to be present. Victim participation also includes the right to:

- Confer with the prosecutor before he or she accepts a plea or amends or dismisses a criminal charge against an offender.
- Be accompanied by an individual to provide support at any stage where the victim is present.
- Object to any motion to delay the prosecution; and the court must consider the victim's view in determining whether to grant the motion.
- Make a victim impact statement, written or orally, to the person preparing the pre-sentence report. The statement may include the victim's explanation of the nature of harm experienced, property loss, restitution needs, opinion as to whether the victim needs restitution, and victim's recommendation for sanction.
- Make a victim impact statement that must be considered by the court before granting judicial or early release to the offender.

Victim Protection and Confidentiality (§§2930.07, -.10)

It is against the law to attempt to intimidate, hinder or threaten the victim of a crime with regard to his or her filing or assisting with the prosecution of criminal charges.

The court must make reasonable efforts to minimize any contact between the victim and victim's family and the offender. If practical, the court must provide a separate waiting area for the victim and victim's family at court proceedings.

The court has discretion to conceal the victim's address, phone number, place of employment and other identifying facts about a victim who is apprehensive of threats of violence or intimidation by the offender.

Employment Rights (§2930.18)

No employer of a victim is allowed to discharge, discipline or retaliate in any way against the victim or a member of the victim's family for participating, at the prosecutor's request, in preparation for a criminal proceeding or for attendance at a case proceeding.

Property Rights (§2930.11)

Victims have the right to the prompt return of property from the law enforcement agency responsible for investigating the crime.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Victim compensation claims are handled in Ohio by the Victims of Crime Compensation Program, which is administered by the Ohio Court of Claims under the guidance of the Ohio Supreme Court.

In addition, the Crime Victim Services Division within the Attorney General's Office is charged with investigating all applications and submitting a finding of fact and recommendation to the court.

The maximum award is \$50,000 per victim, per incident, and claims may be paid for the following costs, with limited noted:

- Medical expenses.
- Mental health counseling.
- Lost wages or support, including lost wages to attend trial.
- Funerals (\$7,500).
- Moving expenses.
- Replacement services such as housekeeping and child care.
- Travel for medical treatment and to meet with police and prosecutors.
- Rehabilitation.
- Attorney fees (paid separately from award and limited to \$60 per hour with maximum of \$720 through initial determination, \$1,020 for determination of first appeal, and \$1,320 for final appeal). Other fees may be paid if incurred as result of crime and in furtherance of protecting the victim.
- Emergency.

Web address: <http://www.nacvcb.org/progdir/ohio.html>

Restitution (§2969.27; §2929.18)

Victims have the right to court-ordered restitution in an amount based on the victim's economic loss. The restitution must be made to the adult probation department that serves the county on behalf of the victim, to the clerk of courts, or to another agency designated by the court.

At sentencing, the court is to determine the amount of restitution to be made by the offender.

All restitution payments are to be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender.

Notoriety for Profit (§§1969.01 through 2929.06)

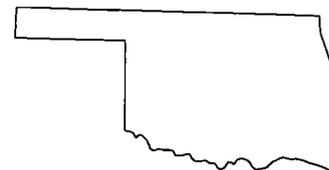
Any person who enters into a contract with an offender regarding his or her expression or description of his or her thoughts, feelings or opinions by way of a movie, article, book, etc. about the crime must pay any money due under the contract to the clerk of the court of claims. Such money will subsequently be deposited in the Recovery of Offender's Profits Fund.

Any person who fails to pay such to the clerk of the court of claims for deposit as required is liable to the state for the money or the monetary value of the property.

Legislation Passed in Ohio in 2003-2004

No relevant legislation was passed in Ohio in 2003 or 2004.

OKLAHOMA



Key Statute Citations

- Okla. Stat., tit. 19, §215.33 (2004)
- Okla. Cons. art. II, §34

Organization/Administration

The Victim Services Division of the Oklahoma District Attorney's Council is responsible for administering the Crime Victims' Compensation Fund; the separate Murrah Crime Victims' Compensation Fund (which handles claims from victims injured and families of those killed in the federal building bombing of April 19, 1995); the Sexual Assault Examination Fund; and federal VOCA grants. This division plans training for victim-witness coordinators in district attorneys' offices; works with victims' groups in the state; and carries out public relations activities to make citizens aware of the compensation program. The division also is responsible for restitution.

In addition, Oklahoma established the Victim Services Unit within the attorney general's office. Here, the victim witness coordinator is responsible for helping victims understand, participate and know of their right in the criminal justice process.

Web address: <http://www.dac.state.ok.us/victim/default.asp?A=5&B=1>

Who Is a Victim? (§21-142.3(14))

A victim is a person who is a victim of crime and members of the immediate families of homicide victims. The definition of crime is not defined for most rights.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights

(Okla. Cons. art. II, §34)

Oklahoma voters passed a state constitutional amendment for victim's rights in 1996. These rights include:

- To be treated with fairness, respect and dignity and be free from intimidation, harassment or abuse throughout the criminal justice process.
- To know the status of the investigation and prosecution of the criminal case.
- To know of all proceedings in which disposition of a case is likely to occur.
- To know where plea negotiations may occur.
- To know the location of the defendant following an arrest, during a prosecution of the criminal case, during a sentence to probation or confinement, and when there is any release or escape of the defendant from confinement.
- To be present at any proceeding where the defendant has a right to be present.
- To be heard at any sentencing or parole hearing.
- To receive restitution.
- To be informed by the state of these constitutional rights.

The Legislature has the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims, including the authority to extend any of these rights to juvenile proceedings and, if enacted by the Legislature, to youthful offender proceedings.

The state's statutory victims' rights provisions follow.

Victim Notice (§§19-215.33(A)(1), (3) through (5), (10), and (12) through (15))

Victims must be notified of all rights provided in the Oklahoma Constitution and in statute. In addition to notice of any court proceeding, they also must be notified when a scheduled court proceeding will not occur as scheduled. Victims also must be notified of:

- Plea bargain negotiations.
- Circumstances under which a sentence is overturned, remanded for a new trial or otherwise modified by the Oklahoma Court of Criminal Appeals.
- Any information concerning felony cases involving a violent crime or a sex offense. The victim has a right to know the progress of pretrial proceedings, which could substantially delay the prosecution of the case.
- The commutation of an offender's sentence including the commutation of a sentence of life without parole.

Victim Participation (§19-215.33(A)(11))

Victims have the right to have victim impact statements filed with the judgment and sentence; to be present at any proceeding where the defendant has a right to be present; and to be heard at any sentencing or parole hearing. Family members of homicide victims have all these rights, as well, whether or not they are to be a witness in any criminal proceedings.

Victim Protection and Confidentiality (§19-215.33(A) (2) and (6))

Victims have the right to receive protection from harm and threats of harm arising from the person's cooperation with law enforcement and prosecution efforts, and to be provided with information about the level of protection available and how to access protection.

Victims have the right to be provided, whenever possible, a secure waiting area during court proceedings that does not require close proximity to defendants and families and friends of defendants.

Oklahoma also established an address confidentiality program for victims of domestic violence, sexual offenses and stalking. (22 Okla. Stat. Ann. §60.14)

Employment Rights (§19-215.33(A)(2))

Victims in Oklahoma have the right to be provided with appropriate services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances.

Property Rights (§§19-215.33(A)(2), (8))

All crime victims also are entitled to have any stolen or other personal property expeditiously returned by law enforcement agencies when it no longer is needed as evidence.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Oklahoma Crime Victims' Compensation Board within the District Attorney's Council handles victim compensation claims.

The maximum award \$20,000. Compensable costs, with limits noted, are:

- Medical expenses.
- Mental health counseling (\$3,000 limit for primary victims, which may be waived in extreme cases. For families of homicide victims, limit of \$500 per person and \$3,000 per family). Peer-review panel reviews complex or lengthy therapy. Hourly limits for professional services also are in statute.
- Lost wages or support. Although no separate cap exists for a victim's lost wages and support, work loss for caregivers is up to \$2,000.
- Funerals (up to \$5,000).
- Moving expenses are provided for in extreme circumstances.
- Replacement services include housekeeping, child care and crime-scene cleanup of up to \$500 in homicides. Also includes travel to obtain medical assistance, provided victim had to pay another party for transportation.

Victims also must be apprised of financial assistance and other social services available as a result of being a crime victim and of witness fees to which the victim or witness is entitled.

Web address: <http://www.nacvcb.org/progdir/oklahoma.html>

Restitution (§22-991a-18)

Victims in Oklahoma are entitled to court-ordered restitution. Courts are allowed to order restitution, including interest payments, of defendant who is granted a suspended sentence.

Restitution ordered, along with fines, fees or assessments, remains a continuing obligation of the offender until fully satisfied. Victims must be informed of the procedure to be followed to apply for and receive restitution.

Civil actions other than for the recovery of real property can be brought only within certain periods, depending on the severity and type of crime committed.

Notoriety for Profit (§22-17)

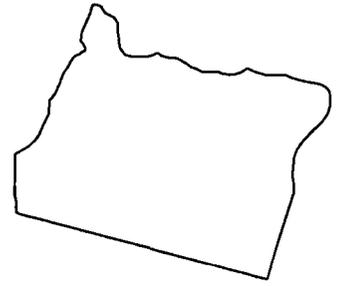
A defendant must forfeit any proceeds received as a result of any contract directly or indirectly related to the crime or the sentence. The district court is to receive any such proceeds. However, proceeds or profits from a contract relating to the depiction of the defendant's crime are not subject to forfeiture unless an integral part of the work is a depiction or discussion of the defendant's crime or an impression of the defendant's thoughts, opinions or emotions regarding the crime.

Legislation Passed in Oklahoma in 2003-2004

SB 616 (2003) (§19-215.33)

Authorizes a victim to be notified on the commutation of the offender's sentence—including the commutation of a sentence of life without parole.

OREGON



Key Statute Citations

- Or. Rev. Stat. §147.405 (2004)
- Or. Cons. art. I, §42

Organization/Administration

The Crime Victims' Assistance Section (CVAS) in the Criminal Justice Division of the Oregon Department of Justice is responsible for administering six major statewide programs on behalf of innocent victims of crime. The programs are:

- The Crime Victims' Compensation Program (CVCP);
- Prosecutor-based Victim/Witness Assistance Programs (V/WAP);
- Federal Victims of Crime Act (VOCA) grant program;
- State Crime Victims Grant Program;
- Child Abuse Multidisciplinary Intervention (CAMI) Account; and
- Oregon Domestic and Sexual Violence Services ODSVS Fund (ODSVS).

Web address: <http://www.doj.state.or.us/CrimeV/welcome1.htm>

Who Is a Victim? (§147.005(13))

A victim is person who is killed or injured in Oregon as a result of a compensable crime committed against them.

A "compensable crime" means an intentional, knowing or reckless act by a person that results in the serious bodily injury or death of another person and that would be punishable as a crime in Oregon.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Or. Cons. art. I, §42)

Oregon passed a state constitutional amendment for victims' rights in 1999. Victims' rights apply in all prosecution and juvenile court proceedings. These rights generally include:

- The right to be present at and, upon specific request, to be informed in advance of any critical stage of the proceedings held in open court when the defendant will be present.
- The right to be heard at the pretrial release hearing and the sentencing or juvenile court delinquency disposition.
- The right, upon request, to obtain information about the conviction, sentence, imprisonment, criminal history and future release from physical custody of the criminal defendant or convicted criminal and equivalent information regarding the alleged youth offender or youth offender.
- The right to refuse an interview, deposition or other discovery request by the criminal defendant or other person acting on behalf of the criminal defendant.

- The right to receive prompt restitution from the convicted criminal who caused the victim's loss or injury.
- The right to have a copy of a transcript of any court proceeding in open court, if one is otherwise prepared.
- The right to be consulted, upon request, regarding plea negotiations involving any violent felony.
- The right to be informed of these rights as soon as practicable.
- The right to be reasonably protected from the criminal defendant or the convicted criminal throughout the criminal justice process and from the alleged youth offender or youth offender throughout the juvenile delinquency proceedings.
- The right to have decisions by the court regarding the pretrial release of a criminal defendant based upon the principle of reasonable protection of the victim and the public, as well as the likelihood that the criminal defendant will appear for trial.

In addition, the legislature established the Crime Victims' Bill of Rights, which declares that victims of crime are entitled to fair and impartial treatment in the criminal justice system and that victims' rights shall be protected at each stage of the criminal justice system.

The state's statutory victims' rights provisions follow.

Victim Notification (§147.417, and -.421)

Victims must be notified of:

- Rights of victims under the Oregon Constitution, either verbally or in writing.
- Information about victims' compensation and procedure for making application, via a printed card from law enforcement agency.
- Critical stages of the criminal proceedings that will include presence of the defendant.
- Criminal proceedings in which a transcript, audiotape or videotape of the proceedings held in open court is prepared.
- Conviction, sentence and imprisonment decisions or status affecting the offender and criminal history of the defendant.
- Prison status, release information, parole status and the area of residence of offenders who are required to register as sex offenders.
- Impending release of the convicted criminal on parole or post-prison supervision, with such notice provided upon request.
- Also upon request, notice of parole hearings concerning the convicted criminal and the right to appear and be heard there or to submit a written statement to the Parole Board.
- Scheduling of a hearing that may result in revocation of probation, post-prison supervision, or parole or hearing on a petition to set aside the conviction.

Victim Participation (§135.406)

Victims have the to be present at all stages and hearings and heard on case-relevant issues. This includes the right to:

- Be consulted by the district attorney regarding plea negotiations involving any violent felony, upon request.
- Appear and submit a written statement to the Parole Board during parole hearings.
- Appear and be heard at a hearing on a petition to set aside the conviction.

Victims have the right to refuse an interview, deposition or other discovery request by the defense.

Victim Protection and Confidentiality (§135.970)

Victims have the right to be reasonably protected from the defendant throughout the criminal justice process. Pretrial release decisions must include consideration of reasonable protection of the victim. Any pretrial release order must prohibit the defendant from having any contact with the victim. The order may be revoked if the defendant threatens or intimidates the victim during release.

Upon request, victims have the right to have the court order that the victim's address and phone number not be given to the defendant unless good cause is shown to the court.

Employment Rights (§215.33)

Oregon law requires employers to allow crime victims to take a leave from employment to attend criminal or juvenile proceedings.

Property Rights (§147.227(2)(G))

Victims have the right to receive assistance in obtaining the return of property held as evidence.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Crime Victims' Assistance Section within the Department of Justice is responsible for handling Oregon's crime victim compensation claims. The Crime Victims' Assistance Section has responsibility for compensation. The maximum award is \$44,000 and victims may be compensated for the following, with limits noted:

- Medical expenses or counseling from a licensed professional (up to \$20,000).
- Grief counseling from a licensed provider for survivors of a deceased victim (up to \$20,000).
- Counseling expenses from a licensed professional for children who witness domestic violence (up to \$10,000).
- Counseling expenses for family members of an Oregon resident being held hostage in a foreign country.
- Counseling expenses for friends or acquaintances of a deceased victim who are the first to discover the deceased body (up to \$5,000).

- Documented loss of earnings/support (up to \$4,000 per week to a maximum of \$20,000).
- Funeral expenses (up to \$5,000).
- Rehabilitation (up to \$4,000).
- Mileage costs for medical or mental health treatment that is more than 60 miles round trip and such services are not available locally (at 15 cents per mile and up to a maximum of \$3,000).

Web address: <http://www.nacvcb.org/progdir/oregon.html>

Restitution (§§137.106 through .107)

Victims in Oregon have the right to receive prompt restitution from the convicted criminal offender. Restitution is required in all cases in which the victim suffers injury, loss or damage.

Notoriety for Profit (§147.275)

Oregon enacted a notoriety for profit law that authorizes seizure of money from criminals who profit from selling the story of their crimes.

Legislation Passed in Oregon in 2003-2004

SB 610 (2003) (§215.33)

Requires employers to allow crime victims to take a leave from employment to attend criminal or juvenile proceedings.

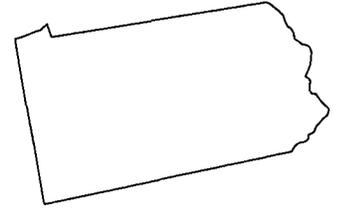
SB 617 (2003) (§659A.855)

Requires restitution in all cases in which a victim suffers injury, loss or damage. Changes the offender's ability to pay from a "required consideration" to a factor in determining the payment schedule. Deletes the requirement that the court consider the rehabilitative effect of the payment of restitution in criminal cases. Allows a person required to pay restitution as a result of a juvenile adjudication to seek relief from paying the full amount.

SB 106 (2003) (§137.106)

Expands the definition of "survivor" for purposes of crime victims' compensation to include any "household member" in addition to spouse, parent, guardian, sibling, child or other immediate family member.

PENNSYLVANIA



Key Statute Citations

- Penn. Stat., Title 18, Chapter 2, §11.101 et seq.

Organization/Administration

Pennsylvania established the Office of Victim Advocate within the Pennsylvania Board of Probation and Parole. The victim advocate must be an individual whose training and experience qualify them to represent the interests of individual crime victims before the board. The victim advocate is appointed by the governor, by and with the consent of a majority of the Senate.

Web address: <http://www.pbpp.state.pa.us/ova/site/default.asp>

Who Is a Victim? (§11.103(4))

Victim means a person against whom crime is being or has been perpetrated. It includes a parent or legal guardian of a child who is a victim or a family member of a homicide victim. Family members may include stepbrothers or stepsisters, stepchildren, stepparents or a fiancé, one of whom is to be identified to receive communication as provided for in victim rights law. In all the above definitions of people who may be considered, parents or family are not afforded rights if they are the alleged offender.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (§11.201)

Pennsylvania has a statutory bill of rights for crime victims. It includes the right to:

- Receive basic information concerning the services available for victims of crime.
- Be notified of certain significant actions and proceedings within the criminal justice system pertaining to their case.
- Be accompanied at all public criminal proceedings by a family member, a victim advocate or another person.
- In cases involving personal injury crimes, burglary or violations that involve bodily injury (relating to driving under influence of alcohol or controlled substance), submit prior comment to the prosecutor's office about the potential reduction or dropping of any charge or changing of a plea.
- Have opportunity to offer prior comment on the sentencing of a defendant, to include the submission of a written victim impact statement and to have such comment considered by the judge when determining the defendant's sentence.
- Restitution and compensation.
- In personal injury crimes where the offender is sentenced to a state correctional facility, be given the opportunity to provide prior comment on and to receive information about post-sentencing decisions and release dates, including work release, furlough, parole, pardon or community treatment center placement and to be provided immediate notice of an escape of the offender.

- In personal injury crimes where the offender is sentenced to a local correctional facility, receive notice of the date of the release of the offender and be provided with immediate notice of an escape of the offender.
- Receive *immediate* notice of the release of the offender on bail; notice if an offender is committed to a mental health facility; and notice of the discharge, transfer or escape of the offender from the mental health facility.
- Have assistance in the preparation of, submission of and follow-up on financial assistance claims to the bureau.

Other state statutory victims' rights provisions follow.

Victim Notice (§11.212, - 213, -214)

Law enforcement agencies in Pennsylvania are responsible for providing victims with basic information about services available to them. This information is to be provided in writing and within 24 hours of the law enforcement agency's first contact with the victim. Victims also must be notified of:

- The availability of crime victims' compensation in the form of a written paragraph detailing the process.
- The arrest of the offender.
- The inmate's escape from custody of law enforcement.
- In a personal injury crime, burglary or driving under influence of alcohol or controlled substance, notice must be provided to the victim of his or her right to submit prior comment on the potential reduction or dropping of any charge or changing of a plea.
- The opportunity to offer prior comment on the sentencing of a defendant in the form of a victim impact statement, with a requirement on the prosecutor's office to provide assistance to a victim who requests it.
- The opportunity to submit input regarding decision to release from a correctional facility and notice of any release of an offender from a state or local correctional facility or of commitment to a mental health institution.
- The time and place of dispositional proceedings, sentencing and any modifications, upon request.
- The scheduling of a parole hearing and the opportunity for the victim to express his or her concerns.
- The criminal history of the offender.

Victim Participation ((42 Pa.C.S. §9711, §11.201(3) through (7))

Victims have the following rights of participation in the criminal justice process:

- To submit a victim impact statement at sentencing, to state correctional release decisions and to the Parole Board. The victim may appear in person before the board to testify, or the victim's testimony may be presented via conference call.
- To consult with the prosecutor about plea negotiations.
- To be present at, to be heard at, and, upon specific request, to be informed in advance of any critical stage of the proceedings where the defendant is present.
- To be accompanied to all criminal justice proceedings by an advocate or family member.

- To be present at executions, providing the victim has registered with and been selected by the victim advocate.

Victim Protection and Confidentiality (§11.709)

Victims have the right to protection. These services include protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts. They also must be afforded a secure waiting area during court proceedings that does not require the victim to be in close proximity to defendants and family and friends of the defendant.

Upon request, a victim's address and phone number can be kept from the defendant.

Victims have the right to refuse an interview or other discovery request by the defendant or the defendant's lawyer.

In criminal cases, child victims' or child material witnesses' depositions or testimony may be videotaped or presented by closed-circuit television.

Employment Rights

No such provisions are codified in Pennsylvania state law at this time.

Property Rights (§11.201(2)(6))

Victims in Pennsylvania have the right to the expeditious return of their property.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Pennsylvania established the Victims' Compensation Division, Bureau of Victims Services, within the Pennsylvania Commission on Crime and Delinquency to administer victim compensation claims in the state. A Crime Victim's Compensation Fund is used by the bureau for payment to victims. The maximum award is \$35,000, and victims may be compensated for the following, with limits noted:

- Medical expenses.
- Mental health counseling.
- Lost wages or support (up to \$15,000 in lost wages and \$20,000 in lost support, with a weekly allowance limit based on average weekly wage determinations of the state's Department of Labor and Industry).
- Funerals (up to \$3,750 plus transportation expenses).
- Replacement services, which includes payment of a family member for loss of earnings while providing services to victim or payment for services formerly rendered by the victim (up to \$6 per hour, not to exceed average weekly wage as noted above).
- Travel to obtain medical treatment.
- Rehabilitation.
- Replacement of stolen Social Security, pension, retirement, disability, or court-ordered child or spousal support cash proceeds (up to one month's entitlement).

- Attorney fees (limited to 15 percent of award and an hourly maximum of \$75 per hour).
- Emergency (up to \$1,500).

Law enforcement agencies must ensure that all their officers and employees are familiar with crime victims' compensation. Instruction concerning crime victims' compensation must be made part of training curriculum for all officers.

Web address: <http://www.nacvcb.org/progdir/pennsylvania.html>

Restitution (18 Pa.C.S. § 1106(1) and 42 Pa.C.S. §9721(c))

Victims in Pennsylvania have the right to court-ordered restitution from the offender. The court may not reduce a restitution award by any amount as a result of the victim's receipt of funds from the Crime Victim's Compensation Board.

Notoriety for Profit (42 Pa.C.S. §8312)

If a person has been convicted of a crime, every person who knowingly contracts for, pays or agrees to pay any profit from a crime to that person must give written notice to the Crime Victim's Compensation Board of the payment or obligation to pay as soon as practicable after discovering that the payment is a profit from a crime. The board, upon receipt of notice of a contract, an agreement to pay or payment of profits from a crime, must notify all known victims of the existence of the profits.

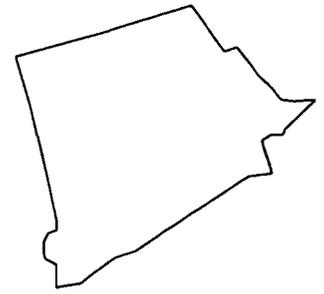
Victims have the right to bring a civil action to recover money damages from a person convicted of a crime within three years of the discovery of any profits from a crime. The Crime Victim's Compensation Board also has the right to seek remedies on behalf of eligible victims.

Legislation Passed in Pennsylvania in 2003-2004

HB 1262 (2004) (Chapter 167)

Requires the Office of Victim Advocate to establish an address confidentiality program for victims of domestic violence, stalking and sexual assault. The program will provide eligible victims or other individuals who live in the victim's household with a confidential substitute address that can be used when applying for marriage licenses, driver's licenses or other identification cards, certificates of title of a motor vehicle, and motor vehicle registration.

RHODE ISLAND



Key Statute Citations

- R.I. Gen. Laws §§12-28-1 through 12-28-13 (2004)
- R.I. Cons. art. I, §23

Organization/Administration (§12-28-9)

A victims' services unit within the state court system is responsible for assisting victims in the exercise of their rights. The victims' services unit is administered by the state court administrator through the administrative office of the state courts. Services provided to victims include outreach, counseling and support; assistance in seeking return of property; restitution; filing claims for compensation under the violent crimes indemnity fund or under the criminal royalties fund; assistance in preparing and making court appearances and victim impact statements; and notification about the status of their cases. The state court administrator must report annually on the services provided through the unit.

Web address: <http://www.riag.state.ri.us/criminal/victim.php>

Who Is a Victim? (§11-32-4(2))

A victim is one against whom a criminal offense has been committed and includes immediate family members of homicide victims or immediate family members of a victim who is physically incapacitated due to the crime. Rights apply to victims of all criminal offenses, both felonies and misdemeanors.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (R.I. Cons. art. I, §23)

Rhode Island amended its Constitution in 1986 to include rights for crime victims. These rights generally include the following:

- A victim of crime shall be treated 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 provided.
- Before sentencing, a victim shall have the right to address the court regarding the effects of the perpetrator's conduct had upon the victim.

The legislature also enacted a separate statutory section (§12-28-21) of Rhode Island code, incorporating the "Victim's Bill of Rights." The law provides rights of victims to:

- Be notified no less frequently than every three months of the status of the investigation and case.
- Be notified of the arraignment or release on bail of the offender.
- Receive protection from harms and threats by the offender.

- Be notified of all court proceedings, including cancellations or scheduling changes.
- Be provided with a secure waiting area during court proceedings to keep the victim separated from the offender.
- Be informed of the procedure to apply for and receive any witness fee.
- Be provided with employer intercession services to aid in securing the cooperation of a victim's employer with the criminal justice process.
- Have any stolen personal property returned swiftly when no longer needed as evidence.
- Be informed of financial assistance that may be available via the criminal injuries compensation fund, and of available social services, and how to apply for or gain access to any such services.
- Be afforded the right to address the court prior to sentencing.
- Be informed of the disposition of the case.
- Be notified of offender's released from custody.
- Be afforded the opportunity to write a victim impact statement.
- Receive restitution.

Other state statutory victims' rights provisions follow.

Victim Notice (§12-28-11)

Victims must be notified of:

- Status of the investigation and case, with such notice provided no less frequently than every three months of the alleged crime.
- The arraignment or release on bail of the offender.
- All court proceedings and any cancellations or scheduling changes.
- The procedure to apply for and receive any witness fee.
- Available financial assistance via the criminal injuries compensation fund and social services, and how to apply.
- The disposition of the case.
- A scheduled parole petition proceeding of the inmate and the victim's right to provide a victim impact statement.
- A crime committed by the inmate while inside prison.
- The offender's released from custody.
- The granting of probation, sentence expiration, furlough, transfer, escape or death of the offender.

Victim Participation (§§12-28-4, -4.1, -6)

The victim has the right to be present at any criminal proceedings in which the defendant has the right to be present. Participation rights also include:

- The right to address the court prior to sentencing or prior to acceptance of a plea negotiation regarding the effects of the offender's criminal conduct upon the victim.
- In all misdemeanor cases, the victim has the opportunity to address the district court during the pretrial conference.
- The right to address the parole board prior to the board acting on a petition of an inmate.
- To be afforded the right to address the court prior to sentencing.

Victim Protection and Confidentiality (§§12-28-3(3), (5))

Victims have the right to receive protection from harm and threats of harm arising from the victim's cooperation with law enforcement and prosecution efforts and to be provided with information about the means of protection available.

Victims also have the right to be provided, whenever feasible, with a secure waiting area during court proceedings that does not require the victim to be in close proximity to the defendant and the family and friends of the defendant.

Rhode Island established an address confidentiality program for victims of domestic violence. (§17-28-3)

Employment Rights (§§12-28-10, -13)

Victims at the workplace must be provided with employer intercession services to ensure the victim's employer cooperates with the criminal justice process. Employers may not discriminate against employees who are victims of domestic abuse. Employers cannot refuse to hire or discharge a victim who seeks a protective order.

Property Rights (§12-28-3(8))

Victims have the right to have any stolen or other personal property expeditiously returned by law enforcement agencies when it no longer is needed as evidence.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Financial assistance is available to victims in Rhode Island through the Criminal Injuries Compensation Fund. The maximum award is \$25,000. The Office of General Treasurer has administrative responsibility for the victim compensation program. Compensable costs, with limits noted, are:

- Medical expenses (paid according to standards of workers' compensation).
- Mental health counseling.
- Lost wages or support.
- Funerals, including emergency (up to \$5,000 for burial expenses of a victim who dies as a direct result of a violent crime).
- Rehabilitation.
- Attorney fees (limited to 15 percent of award or \$1,500, whichever is less, paid only for successful appeals).
- Emergency: up to \$5,000 for burial expenses.

Web address: <http://www.nacvcb.org/progdir/rhodeisland.html>

Restitution (§12-28-5.1)

In Rhode Island, a victim has the right to court-ordered restitution. A victim may bring a civil cause of action for payment of restitution as a resulting judgment against the offender. It may be enforced by any and all means presently available in law for the collection of a civil judgment.

Notoriety for Profit (§12-25.1-3)

Pursuant to the Criminal Royalties Distribution Act, the state will confiscate any criminal royalties received from a contract with a criminal regarding the commercial exploitation of the events and circumstances of the crime. Such funds will be turned over the general treasurer and placed in the Criminal Royalties Fund.

Legislation Passed in Rhode Island in 2003-2004

HB 8037 (2004) (§12-28-13)

Prohibits an employer from discriminating against, or firing an employee who is a crime victim and takes leave to attend a criminal proceeding.

SOUTH CAROLINA



Key Statute Citations

- S.C. Code Ann. §§16-3-1505 through 16-3-1670 (Law. Co-op 2004)
- S.C. Cons. art. 1, §24

Organization/Administration (§§16-3-1620 through -1670)

The Crime Victim's Ombudsman within the South Carolina Governor's Office ensures that all crime victims are served justly, equitably and fairly by the state's criminal justice organizations. The ombudsman has three main functions: to refer crime victims to appropriate agencies; to act as a liaison between elements of the criminal and juvenile justice systems, victim assistance programs, and victims; and to review and resolve victim complaints regarding criminal or juvenile justice system agencies or assistance.

Web address: <http://www.govoepp.state.sc.us/cvo.htm>

In addition, the Victim Compensation Fund is authorized to provide the following victim assistance services (§16-3-1410):

- 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.
- Make recommendations to the governor and General Assembly on needed legislation and services for victims.
- Serve as a clearinghouse of victim/witness information.
- Develop guidelines for the implementation of victim/witness assistance programs.
- Develop ongoing public awareness and programs—such as newsletters, brochures, television and radio spots and programs, and news articles—to assist victims.
- 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 of efforts.
- Coordinate the development and implementation of policy and guidelines for the treatment of victims/witnesses with appropriate agencies.

South Carolina also established the State Victim/Witness Program. The program must work with the solicitors of South Carolina, the attorney general's office, and relevant professional organizations to develop guidelines for solicitors to follow in serving victims. These include, but are not limited to, guidelines for:

- Informing victims of the status of their cases.
- Providing information to the court on the views of victims of violent crime on bail decisions, continuances, plea bargains, dismissals, sentencing and restitution; and on considering the views of victims and witnesses concerning the use of case continuances.
- Pursuing charges against defendants who harass, threaten, injure, or otherwise attempt to intimidate or retaliate against victims or witnesses.
- Using a victim and witness on-call system.

- Developing procedures for the prompt return of victims' property.
- Informing the solicitors' offices about victim assistance units and their effectiveness.
- Informing victims of the availability of civil and criminal redress.

Who Is a Victim? (§16-3-1510)

A victim is one who suffers direct or threatened physical, emotional or financial harm as a result of a crime. Victim includes family member of a minor, an incompetent person, someone incapacitated as result of a crime, or a homicide victim.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (S.C. Cons. art. 1, §24)

South Carolina passed a victims' rights constitutional amendment in 1996. These rights generally include:

- The right to be treated with fairness, respect and dignity.
- The right to be free from intimidation, harassment or abuse throughout the criminal and juvenile justice process.
- The right to be informed of victim's constitutional rights provided by statute.
- The right to be reasonably informed when the accused or convicted person is arrested, released from custody or has escaped.
- The right to be informed of and present at any criminal dispositional proceedings where the defendant has the right to be present.
- The right to be informed of and be allowed to submit either a written oral statement at all hearings affecting bond or bail.
- The right to be heard at any proceeding involving a post-arrest release decision, a plea or sentencing.
- The right to be reasonably protected from the accused or anyone acting on his or her behalf throughout the criminal justice process.
- The right to confer with prosecution, after the crime against the victim has been charged, before the trial, or before any disposition and to be informed of the disposition.
- The right to have reasonable access after the conclusion of the criminal investigation to all documents relating to the crime against the victim before trial.
- The right to receive prompt and full restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury, including both adult and juvenile offenders.
- The right to be informed of any proceeding when any post-conviction action is being considered and to be present at any post-conviction hearing involving a post-conviction release decision.
- The right to a reasonable disposition and prompt and final conclusion of the case.

The General Assembly has the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.

The state's statutory victims' rights provisions follow.

Victim Notice (§§16-3-1515, -1520, -1525, -1530, -1535,-1560)

Victims have the right to be informed of:

- The arrest or detention of the accused, and of a bond or other pretrial release hearing or procedure. Victims also must receive advance notice of the right to attend bond hearings and to make recommendations to the presiding judge. If such notice is not given sufficiently in advance to allow the victim to exercise his rights, the hearing must be reasonably delayed to accommodate the victim.
- Any release from custody or escape of the accused or convicted person.
- Any criminal dispositional proceedings at which the defendant has the right to be present and participate.
- The right to be represented by counsel.
- The right to submit either a written or oral statement at all hearings affecting bond or bail.
- Any proceeding in which a post-conviction action is being considered, upon request and including proceedings that affect probation, parole or release of the offender.
- Any disposition in the case, including placement of the offender in any community penalty program.
- The right to pursue civil remedies.
- Notice of appeal and the status and progress of the appeal or other post-conviction proceedings, until their resolution.

A law enforcement agency must provide victims, free of charge, with a copy of the initial incident report of his case, and a document that describes or lists:

- The constitutional rights the state grants victims in criminal cases.
- The responsibilities of victims in exercising these rights.
- Local victim assistance and social service providers.
- Victim's compensation benefits, eligibility and application procedure.
- Rights of victims and witnesses who are harassed or threatened.

Victim Participation (§16-3-1540)

Victims have the following rights of participation:

- To be present at any criminal dispositional proceedings in which the defendant has the right to be present.
- To submit either a written or oral statement at all hearings affecting bond or bail.
- To submit a victim impact statement for consideration by the court before sentencing.
- To be heard at any proceeding involving a post-arrest release decision, a plea or sentencing.
- To confer with prosecution regarding changes in charges, before trial or before any disposition.
- To reasonable access to all documents relating to the crime and the criminal investigation once concluded and before the trial.
- To be present at any post-conviction hearing involving a release decision.

Victims have the right to a reasonable disposition and prompt and final conclusion of the case.

Victim Protection and Confidentiality (§§16-3-1550(B) through (E))

Victims in South Carolina have the right to be reasonably protected from the accused or anyone acting on his or her behalf throughout the criminal justice process.

For proceedings in the circuit or family court, law enforcement and prosecuting agencies must make reasonable efforts to provide victims and prosecution witnesses with waiting areas separate from those used by the defendant and defense witnesses.

Upon request, victim advocates may intervene and seek special consideration from creditors of a victim who is temporarily unable to continue payments as a result of an offense. Advocates also may intervene on a victim's behalf with an employer, landlord, school and other parties as considered appropriate.

Law enforcement agencies must provide victims and witnesses with protective measures needed, which may include transportation to and from court and physical protection in the courthouse.

Courts must impose bond conditions that are sufficient to protect a victim from harassment or intimidation by the defendant or anyone acting on the defendant's behalf.

Courts must treat sensitively witnesses who are very young, elderly, handicapped, or who have special needs by use of closed or taped sessions, when appropriate. The prosecuting agency or defense attorney must notify the court when a victim or witness deserves special consideration.

Employment Rights (§16-3-1550(A))

Employers of victims and witnesses must not retaliate against, suspend or reduce the wages and benefits of a victim or witness who lawfully responds to a subpoena.

Property Rights (§16-3-1535(E))

Victims have the right to the prompt return of their property.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The South Carolina Division of Victim Assistance, under the governor's office, handles victim compensation claims. The maximum award is \$15,000, with a maximum of up to \$25,000 in advisory board-approved catastrophic cases. Compensable costs, with limits noted, are:

- Medical expenses.
- Mental health counseling (limited to 20 sessions or 180 days of treatment, whichever is greater).
- Lost wages or support (with amounts based on state worker's compensation rates).
- Funerals (\$4,000).
- Travel to obtain medical assistance.
- Rehabilitation.

- Attorney fees (limited to 10 percent of award in addition to award and only for appealed cases).
- Emergency (up to \$500).

Web address: <http://www.nacvcb.org/progdir/southcarolina.html>

Restitution (§16-3-1110(12)(a); §17-25-322)

Victims in South Carolina have the right to receive prompt and full restitution from the offender, both adult and juvenile. The court must hold a hearing to determine the amount of restitution due to the victim unless the defendant in open court agrees to an amount due.

The restitution order shall specify a monthly payment schedule that will result in full payment for both restitution and collection fees by the end of 80 percent of the offender's supervision period.

Restitution may be enforced as a civil judgment.

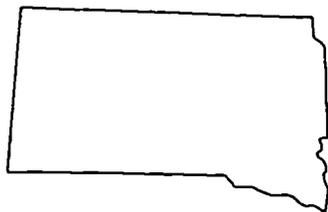
Restitution is limited to what is not covered by insurance and victim compensation.

Notoriety for Profit (§§17-25-500 through -570)

If an offender contracts for or agrees to be paid any profit related to a crime, he or she must give written notice to the state Office of Victim Assistance of the payment and a copy of the contract. The office must notify the crime victim upon receipt of such notice. A victim has the right to bring a civil action to recover money damages from an offender within three years of discovering the existence of profits from the crime. An offender who fails to submit a copy of the contract or information on payments received is subject to a civil penalty of not less than \$10,000 but not more than an amount equal to three times the contract amount for each offense.

Legislation Passed in South Carolina in 2003-2004

No relevant legislation was passed in South Carolina in 2003 or 2004.



SOUTH DAKOTA

Key Statute Citations

- S.D. Codified Laws Ann. §§23A-23C-1 to 6 (2004)

Organization/Administration

The Division of Criminal Investigation within the Office of the Attorney General provides crime victim and witness services in South Dakota.

In addition, the Crime Victims' Compensation Program within the Department of Social Services handles victim compensation claims.

Web address: <http://dci.sd.gov/>

Who Is a Victim? (§23A-28C-4)

A victim means any person who is the direct subject of an alleged act that would constitute a crime of violence, simple assault between family or household members, stalking, or a driving under the influence vehicle accident under the laws of South Dakota or the laws of the United States. If the victim does not survive such act or is unable to comment, "victim" means the members of the immediate family of the primary victim.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (S.D. Codified Law, §23A-28C)

The statutorily created Crime Victim's Act provides the following rights to victims in South Dakota:

- To be notified of scheduled bail hearings and the offender's release from custody.
- To be notified by the prosecutor's office when the case is received and to whom the case is assigned.
- To be notified in advance of the date of preliminary hearing and trial.
- To be informed of what the charges mean and the elements necessary for conviction.
- To testify at scheduled bail or bond hearings regarding any evidence indicating whether the offender represents a danger to the victim or the community if released.
- To be protected from intimidation by the defendant, including enforcement of orders of protection.
- To offer written input into whether plea bargaining or sentencing bargaining agreements should be entered into.
- To be present during all scheduled phases of the trial or hearings.
- To be prepared as a witness, including information about basic rules of evidence, cross-examination, objections and hearsay.
- To provide to the court a written or oral victim impact statement prior to sentencing.

- To receive restitution and to appear at any hearing during which a change in the plan of restitution is to be considered.
- To provide written input at parole hearings or with respect to commutations of sentences by the governor.
- In a case in which the death penalty may be authorized, the right to provide to the court or to the jury, as appropriate, testimony about the victim and the effects of the crime on the victim's family.
- To be notified of the defendant's release from custody.
- To notice of parole and notice of pending release of an inmate due to expiration of sentence.
- To be provided a copy of any law enforcement agency report that is related to the crime.

The state's statutory victims' rights provisions follow.

Victim Notice (§§23A-28C-2, -5,-6)

Victims must be notified of:

- Rights provided to victim under the Crime Victims' Act.
- A scheduled bail hearing and an accused's release from custody.
- Receipt of the case by the prosecutor's office and to whom the case has been assigned.
- The date of preliminary hearing and trial.
- Explanation of the charges and the elements necessary for conviction.
- Any release from custody of the defendant, including placement in an intensive supervision program or other alternative disposition, including the associated conditions of the release.
- Scheduling of a parole hearing.
- Granting of parole or revocation of parole.
- Release from custody due to expiration of sentence.
- Removal of the offender from an intensive supervision program or other alternative disposition.
- The right to have copies of law enforcement agency reports that are related to the crime, at the discretion of the state's attorney, or upon motion and order of the court.

Victim Participation (§23A-27-1.1)

Victims have the right to present throughout the criminal proceedings if they advise the prosecutor of the desire to participate and exercise certain specified rights. This includes the right:

- To testify at scheduled bail or bond hearings regarding any evidence indicating whether the offender represents a danger to the victim or the community if released.
- To offer written input regarding plea bargaining or sentence bargaining agreements.
- To be prepared as a witness, including information about basic rules of evidence, cross examination, objections and hearsay.
- To provide to the court a written or oral victim impact statement prior to sentencing that includes the financial and emotional effects of the crime on the victim and his or her family as well as recommendations for restitution and sentencing.

- To provide written input at parole hearings.
- In a case in which the death penalty may be authorized, to provide to the court or to the jury, as appropriate, testimony about the victim and the effect of the crime on the victim's family.

Victim Protection and Confidentiality (§23A-28C-20)

Victims have the right to be provided a copy of any law enforcement agency reports related to the crime, at the discretion of the state's attorney or upon motion and order of the court.

Victims have the right to be protected from intimidation by the defendant, including enforcement of orders of protection.

Employment Rights

No such provisions are codified in South Dakota law at this time.

Property Rights (§23A-37-14)

Any property, which is not contraband, seized or confiscated by law enforcement personnel, ostensibly for use as evidence in a criminal prosecution, shall be preserved, maintained, or stored at the expense of the county where the criminal offense occurred. If the property is not contraband and is owned by a victim of the crime being investigated, the property shall be photographed by the appropriate law enforcement personnel and returned to the victim of the crime within thirty days of completion of forensic analysis unless the prosecuting attorney deems it essential to the prosecution of the case to retain the evidence.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The South Dakota Crime Victims' Compensation Program within the Department of Social Services handles victim compensation claims. The commission is responsible for hearing and determining claims for compensation; promulgating rules and governing conduct of hearings before the commission; assisting the department in publicizing the availability of and procedures for obtaining compensation; and for such assistance that evaluates the effectiveness of crime victim compensation policies and procedures.

The crime victims' compensation fund within the state treasury is used for compensation awards and administrative costs of the program. The maximum award is \$15,000, and victims may be compensated for the following costs, with limits noted:

- Medical expenses.
- Mental health counseling (limited to 24 sessions for primary victims, 18 sessions for family members in homicides, and six sessions for parents of juvenile victims and spouses of rape victims).
- Lost wages or support (including up to 40 hours for parents caring for children).
- Funerals (\$5,000).

- Eyeglasses or corrective lenses.
- Replacement services, including housekeeping and child care.
- Crime-scene cleanup or evidence related (limited to \$ 1,000 for homicide-scene cleanup and up to \$200 for clothing or other personal items used for evidence).
- Travel to receive treatment (up to mileage reimbursement of \$720).
- Rehabilitation.
- Emergency (up to \$1,000).

Web address: <http://www.nacvcb.org/progdir/southdakota.html>

Restitution (§23A-28-1)

Victims are entitled to court-ordered restitution from the criminal. 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 any judgment in a civil action.

The court may require as part of the defendant's sentence that the defendant, in cooperation with the court services officer assigned to the defendant, promptly prepare a plan of restitution, including the name and address of each victim, a specific amount of restitution to each victim, and a schedule of restitution payments.

If the victim is not satisfied with the approved or modified plan of restitution, the victim's exclusive remedy is a civil action against the defendant that, if successful, may include attorney's fees.

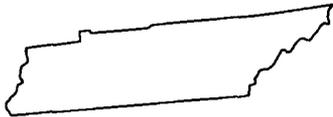
Notoriety for Profit (§§23A-28A-1 through -14)

Any individual or corporation that contracts with an accused or convicted individual for publication regarding the offender's reenactment of the crime must submit a copy of the contract to the attorney general. In addition, the individual or corporation must pay to the attorney general any money or other personal property, that otherwise would be owed to the offender by the terms of the contract.

Legislation Passed in South Dakota in 2003-2004

HB 1057 (2003) (§23A-27-1.1)

Provides victims of crimes the right to copies of law enforcement reports that are related to the crime at the discretion of the state's attorney or upon motion and order of the court.



TENNESSEE

Key Statute Citations

- Tenn. Code Ann. ch. 38, §40-38-101 et seq. (2003)
- Tenn. Cons. art. 1, §35

Organization/Administration (§§40-38-301 through -406)

The Tennessee Victims of Crime Coordinating Council, which is attached for administrative purposes to the Tennessee Coalition Against Domestic Violence, promotes awareness of the needs of victims of crimes and their families, provides information and resources to victims, and coordinates and assists the efforts of victims' rights organizations in the state. The council refers victims and their families to the appropriate people and organizations in the state that are qualified to assist and advise victims.

Web address: <http://www.tcadsv.org/vcsccl/>

In each judicial district there is a victim-witness coordinator who is appointed by the attorney general. The duties of the coordinator include:

- Advising victims of their rights after the return of an indictment.
- Keeping victims and witnesses informed of court dates and actions affecting their case.
- Explaining to victims how the criminal justice system works and encouraging them to be more involved in the system.
- Assisting victims in obtaining restitution and benefits from the criminal injuries compensation fund.

Who Is a Victim? (§40-38-302(4)(A))

A victim is defined as a person against whom a crime was committed. If the victim is a minor, the parent or legal guardian of the minor is a victim for purposes of victim rights. If the victim is deceased or is physically or emotionally unable to exercise his or her rights, then a family member or a person, who resided with the victim, in that order of preference, is the victim. A victim does not include any person charged with or alleged to have committed the crime or who is charged with some form of criminal responsibility for commission of the crime

A crime is any offense for which the punishment is a class A, B, C, D or E felony; first degree murder; or assault.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Tenn. Cons. art. 1, §35)

Tennessee voters amended the state constitution in 1998 to include rights for crime victims that include:

- The right to confer with the prosecution.

- The right to be free from intimidation, harassment and abuse throughout the criminal justice system.
- The right to be present at all proceedings where the defendant has the right to be present.
- The right to be heard at all critical stages of the criminal justice process.
- The right to be informed of all proceedings, and of the release, transfer or escape of the accused or convicted person.
- The right to a speedy trial or disposition and a prompt and final conclusion of the case after the conviction or sentence.
- The right to restitution from the offender.
- The right to be informed of each of the rights established for victims.

The state's statutory victims' rights provisions follow.

Victim Notice (§ 40-38-103; §40-38-107; §§40-38-109 through -110; §§40-38-112 through -113)

Victims must be notified of:

- The various steps and procedures involved in the criminal justice system.
- All rights afforded to them under the Tennessee Constitution. Victims must be notified of their right to receive a general booklet prepared by the attorney general that sets forth all rights of victims and lists local services.
- Their right to be free from intimidation, harassment and abuse throughout the criminal justice system.
- Release of offender from custody before trial, upon request.
- The procedure for and basis of continuances in the proceedings.
- The procedure involved in the plea-bargaining process and how to request input into the process.
- Plea bargain discussions and the right to give input.
- Times, dates and locations of all pertinent stages in the proceedings, including any cancelled or rescheduled hearings, dismissal of a case, pardon, escape or recapture of the offender.
- Methods by which the victim may have input into the sentence, including the presentence report and the sentence hearing.
- The stages in the appellate process.
- How to obtain information regarding the release of an inmate or any parole or probation board hearings scheduled.
- The defendant's release from a mental institution or any transfer between correctional facilities.
- Methods by which the victim may obtain restitution and assistance.
- The name of the law enforcement agency and phone number;
- The availability of crisis intervention services and emergency medical services.
- Methods to obtain compensation from the criminal injuries compensation fund. Victims of violent crime must be notified in writing of their eligibility.
- The date an inmate with a sentence of two or more years is scheduled to be released, with such notice required by Tennessee law to be at least 90 days in advance of release.
- Upcoming parole hearings, with such notice provided by the Parole Board and including the proposed residence of the offender being considered.

Victim Participation (§§40-38-114 through -117; §40-38-201 through -208)

The victim has the right to a speedy trial, and all efforts must be made to conclude the case within 180 days of an indictment. If not, the court must state in writing the reasons. The law states that criminal cases involving crimes against the person take priority over property crime cases. Victims have the right to be present throughout all criminal proceedings in which the defendant has the right to be present. This includes the right:

- To confer with the prosecuting attorney prior to the final disposition and before trial, if there is one. The district attorney must take the views of the victim into consideration regarding a decision not to proceed with the prosecution or a decision to dismiss the charges, or enter into a plea before making a final decision.
- To be accompanied by a crime victim advocate for emotional support at any prosecutorial or defense interview.
- To refuse a request for an interview by the defendant or defendant's attorney.
- To submit a victim impact statement regarding the physical, emotional or financial harm to victim prior to sentencing, with a requirement that the judge consider the victim's input.
- To employ private legal counsel to act as co-counsel with the district attorney in trying their cases, with the understanding that the district attorney will make the final and concluding argument.

Victim Protection and Confidentiality (§40-38-102(a)(2); §40-38-102(b)(1-2))

Victims in Tennessee have the right to be free from intimidation, harassment and abuse throughout the criminal justice system. They must be protected and supported with prompt action if there is evidence of intimidation or retaliation from the defendant or anyone acting on behalf of the defendant. Victims also must be provided with waiting areas that are separate and secure from the defendant during all stages of the judicial process.

Employment Rights

No such provisions are codified in Tennessee law at this time.

Property Rights (§40-38-106)

Victims have the right to the return of their property as soon as legally permissible.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

A criminal injuries compensation fund in the state treasury is available to compensate victims. The Division of Claims Administration administers the state's victim compensation program. The maximum award is \$30,000, and compensable costs, with limits noted, are:

- Medical expenses.
- Mental health counseling.

- Lost wages or support (up to 85 percent of average weekly wage with worker's compensation limits).
- Funerals (\$6,000).
- Crime-scene cleanup (up to \$3,000).
- Moving expenses, including storage and utility expenses for a victim of a crime that occurred in their principal residence.
- Travel for a victim or relative to attend trial, provided that person is not serving as a witness (limited to \$1,250 per crime).
- Rehabilitation.
- Attorney fees (limited to \$375 for death claims and \$500 for non-death).
- Emergency (up to \$500).

Web address: <http://www.nacvcb.org/progdir/tennessee.html>

Restitution (§§40-35-304; §40-38-102)

A victim has the right to court-ordered restitution and to collect in the same manner as a civil judgment.

Tennessee also has in code the Metro Sheriff Restitution Act, which authorizes the sheriff of any county to establish a residential restitution program, under which inmates work and turn wages and salaries over to the sheriff, who deposits the money in trust accounts used to reimburse the victim for the value of property stolen or for damage caused by such offenses. Offenders convicted of a felony and sentenced to a term of more than five years are not eligible for the county workhouse programs.

A sentencing court may direct a defendant to make restitution to the victim of the offense as a condition of probation.

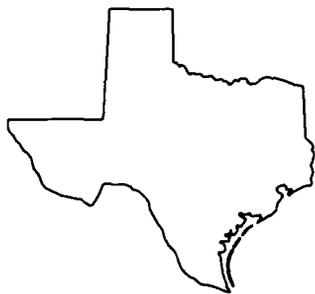
Notoriety for Profit (§29-13-403)

Under Tennessee law, the attorney general is to collect all funds owed to a defendant from a contract with an individual or organization, after the date of the crime, and to deposit the money in an interest-bearing escrow account. The money will be paid to the victim of the crime if the victim brings a civil action against the defendant within three years from the date of the crime.

Legislation Passed in Tennessee in 2003-2004

HB 3453 (2004) (§63-12-104)

Directs that criminal injury compensation fund payments be made to family members of victims for unreimbursed mental health counseling or treatment up to \$3,500.



TEXAS

Key Statute Citations

- Tex. Crim. Procedure Code Ann. §56.01 et seq. (Vernon 2004)
- Texas Cons. art. 1, §30.

Organization/Administration (§56.03(a))

The designated planning body for providing victims' rights services in the state, operates within the Texas Department of Criminal Justice. The clearinghouse must develop crime victim assistance standards and distribute them to law enforcement agencies and attorneys in the state. The clearinghouse may conduct an annual conference to provide training for criminal justice system personnel on crime victims' rights.

Web address: <http://www.tdcj.state.tx.us/victim/victim-clearings.htm>

The district attorney, criminal district attorney or county attorney who prosecutes criminal cases must designate a person to serve as a victim assistance coordinator in that jurisdiction with the duty of ensuring that victims are afforded the rights granted to them under law. The coordinator works closely with law enforcement agencies, prosecuting attorneys, the Board of Pardons and Paroles, and the judiciary in carrying out his or her duties.

In addition, each local law enforcement agency must designate one person to serve as the agency's crime victim liaison, whose duty is the same as the victim assistance coordinators.

Finally, the Crime Victims' Institute, which operates out of Sam Houston State University, serves the functions of conducting professional education, research on crime victim issues, and educating the next generation of victim services advocates.

Who Is a Victim? (§56.01(3))

Victim is a person who is the victim of sexual assault, kidnapping or aggravated robbery or who otherwise has suffered bodily injury or death as a result of the criminal conduct of another. A victim, guardian of a victim, or close relative of a deceased victim is entitled to the victims' rights prescribed by the constitutional Victim Bill of Rights and Texas law within the criminal justice system.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Tex. Cons. art. 1, §30)

Texas passed a state constitutional amendment for victims' rights in 1989. These rights include:

- The right to be treated with fairness and with respect for the victim's dignity and privacy throughout the criminal justice process.

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

The crime victim also has the following rights, upon request:

- Notification of court proceedings.
- Be present at all public court proceedings related to the offense, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.
- Confer with a representative of the prosecutor's office.
- Restitution.
- Information about the conviction, sentence, imprisonment and release of the accused.

The state's statutory victims' rights provisions follow.

Victim Notice (§§56.07 through 56.08; §§56.11 through .12)

Victims must be notified of:

- The right to receive a written notice containing all the rights afforded to victims in the state of Texas.
- The name, address and phone number of the law enforcement agency's victim assistance liaison and the local victim assistance coordinator.
- Available social, medical and emergency services.
- Nature of plea bargaining and its effect on criminal trial.
- All relevant court proceedings and any cancellations or rescheduling, upon request.
- Information regarding the plea bargaining stage on a criminal trial.
- Decisions rendered by an appellate court before they are made public, if so requested.
- The defendant's right to bail and the general procedures in the criminal justice system, if so requested.
- Availability of victim compensation, including eligibility and procedures for application, if requested.
- Parole procedure and the right to participate in the process, if requested.
- Purpose and use of a victim impact statement in the criminal justice system.
- Notice of release, escape or transfer of the offender.

Victim Participation (§§56.03 through .04; §56.02(13(b)))

Victims have the following rights of participation in the criminal justice process:

- A victim, guardian or close relative of a deceased victim is entitled to be present at all public court proceedings related to the offense.
- The right to provide testimony, a written statement, or statement by some other means, to a probation department conducting a pre-sentence investigation regarding the effects of the crime on the victim and his or her family.
- To provide information to the Board of Pardons and paroles for inclusion in the defendant's files to be considered by the board.

- The right to provide a victim impact statement and have it considered by the attorney representing the state and the judge before sentencing or before a plea agreement is accepted and by the Board of Pardons and paroles before an inmate is released on parole.

Victim Protection and Confidentiality (§56.09; §56.02(8), (9))

Victims have the right to receive adequate protection from harm and threats of harm arising from cooperation with prosecution efforts.

Victims have the right to be provided with a separate or secure waiting area away from other witnesses, including the offender and his or her relatives. If not available, safeguards should be taken to minimize contact between the victim and offender.

Victims have the right to have the court take into consideration the safety of the victim and his or her family as an element in fixing the amount of bail for the accused.

The address of the victim may not be a part of the court file except as necessary to identify the place of the crime. The victim's phone number may not be a part of the court file.

Victims are allowed to use a pseudonym for public files and records of any offense that occurs during the criminal episode as a sexual offense.

Employment Rights (§56.02(10))

Victims in Texas have the right to have the attorney for the state notify their employer of the necessity of the victim's cooperation and testimony in the proceedings that may necessitate the victim's absence from work.

Property Rights (§56.02(9))

Victims have the right to the prompt return of any property that is held by a law enforcement agency or the attorney for the state as evidence when the property no longer is required.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

In Texas, the Crime Victims' Compensation Division in the Office of the Attorney General has responsibility for determining compensation claims. The maximum award is \$75,000 and compensable costs, with limits noted, are:

- Medical expenses (with a fee schedule placing limits on individual procedures).
- Mental health counseling (up to \$3,000 or for inpatient psychiatric care up to \$400 per day for up to 30 days.)

- Lost wages or support (limited to \$500 per week) and a bereavement period is provided for immediate family members of deceased victims in which they will be reimbursed for lost wages for up to 10 work days, or a maximum of \$1,000.
- Funerals (up to \$5,500 for funeral and additional \$1,500 miscellaneous burial costs).
- Moving or relocation (for domestic violence victims only, limited to one-time costs of up to \$2,000 for relocation and \$1,800 for rent).
- Replacement services for child/dependent care (limited at \$100 per child or dependent per week).
- Crime-scene cleanup and evidence, including replacement of clothing or bedding seized as evidence or other property rendered unusable by crime investigation and forensics.
- Travel to obtain treatment, to help in investigation and attend criminal proceedings. Limited compensation for immediate family members of deceased crime victims is provided for out-of-pocket travel expenses associated with attending the funeral.
- Physical rehabilitation.
- Attorney fees (limited to 25 percent of the amount obtained).
- Emergency (up to \$1,500 for lost support and lost earnings, emergency medical and funeral charges).

Web address: <http://www.nacvcb.org/progdir/texas.html>

Restitution (§42.037)

Victims of crime in Texas have the right to court-ordered restitution from the offender. Victims also have the right to a restitution lien in order to secure the money to which they are entitled under the order of the court.

Notoriety for Profit (§59.06(k))

In Texas, the prosecutor of the jurisdiction can seize income that a person accused or convicted of a crime or the person's representative or assignee receives from a movie, book, magazine article, tape recording, phonographic record, radio or television presentation, or live entertainment in which the crime was reenacted.

Texas added the sale of tangible property of an offender to the list of property from which forfeiture of profits is required. Victims now may bring legal action to claim any profits from such sale of property.

Legislation Passed in Texas in 2003-2004

HB 670 (2003) (§57.01(4))

Allows a victim to use a pseudonym for public files and records of any offenses that occur during the same criminal episode as a sexual offense.

HB 1027 (2003) (§552.132)

Protects the right to privacy of public employees who have been victims of violent crime by requiring that where there is no prevailing public interest in releasing identifying information regarding a victim of a violent crime, workplace privacy and security should prevail.

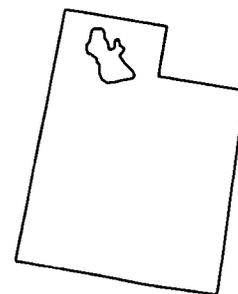
HB 1895 (2003) (§56.32(a)(2),(9))

Provides limited compensation for immediate family members of deceased crime victims for out-of-pocket travel expenses associated with attending the funeral and provides a bereavement period to reimburse lost wages for up to 10 work days, or a maximum of \$1,000.

UTAH

Key Statute Citations

- Utah Code Ann. §77-37-3 (2005)
- Utah Cons. art. 1, §28



Organization/Administration (§77-37-5)

The Office of Crime Victim Reparations within the Commission on Criminal and Juvenile Justice in the governor's office handles both compensation and administration of federal funds.

In each judicial district, the presiding court judge must appoint a person who will establish and chair a victim's right committee. Victims and other interested parties may submit matters of concern to the committee, and the committee may hold hearings open to the public.

Web address: <http://www.crimevictim.utah.gov/>

Who Is a Victim? (§77-37-2(3))

A victim of a crime in Utah is any person who has had a crime or attempted crime committed against them. A victim also includes a victim of crime committed by a minor, unless the person is the accused or appears to be accountable for the crime.

For purposes of the right to be present, victim specifically excludes any person who is in custody as a pretrial detainee, a prisoner following conviction for an offense, or a juvenile who has committed an act that would be an offense if committed by an adult, or who is in custody for mental or psychological treatment.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Utah Cons. art. 1, §28)

Utah amended its constitution in 1994 to preserve and protect victims' rights to justice and due process; victims of crimes have these rights, as defined by law: (article 1, section 28):

- To be treated with fairness, respect, and dignity, and to be free from harassment and abuse throughout the criminal justice process;
- Upon request, to be informed of, be present at, and to be heard at important criminal justice hearings related to the victim, either in person or through a lawful representative, once a criminal information or indictment charging a crime has been publicly filed in court; and
- To have a sentencing judge, for the purpose of imposing an appropriate sentence, receive and consider, without evidentiary limitation, reliable information concerning the background, character and conduct of a person convicted of an offense except that this subsection does not apply to capital cases or situations involving privileges.

The state's statutory victims' rights provisions follow.

Victim Notice (§77-38-3)

Victims must be notified of the following:

- The prosecuting agency must provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, within seven days of the filing of felony criminal charges against a defendant.
- Important criminal justice hearings, if so requested. The court must take reasonable measures to ensure that its scheduling practices permit an opportunity for victims to be notified.
- Scheduled pardon or parole hearings, upon victim's request.
- Any modifications in schedule of proceedings.
- Any release of the offender from incarceration, halfway house, or any other outside prison program.
- Notice of judicial proceedings that victims have a right to attend.
- Notice of any cancellation of proceedings.
- Notice of the victim's right to receive HIV testing.

Victim Participation (§77-37-3(h))

Like defendants, victims have the right to a speedy resolution of the case, free from unnecessary delay. In granting a continuance, courts must enter into the record the specific reason for the continuance and the procedures taken to avoid any further delays.

The victim has the right, at his or her discretion, to be present throughout all criminal proceedings in which the defendant has the right to be present. This includes:

- To be present and heard at the important criminal justice hearings. Upon request, the victim also has the right to be present and heard at the initial appearance where issues are heard relating to the conditions of release, if any;
- To file a Victim Impact Statement;
- To attend parole hearings and present his or her views concerning the decisions to be made regarding the defendant.

A victim may designate a representative who may exercise all the rights the victim is entitled to, with court approval.

Victim Protection and Confidentiality (§§77-37-3(a), (d); §76-8-509)

Victims have the right to be free from harassment and abuse throughout criminal justice proceedings.

The victim's address and personal information must be kept confidential within the law enforcement agencies involved in the case.

Victims have a right to a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants, whenever possible.

Victims have the right, at any court proceeding, not to testify regarding the victim's address, telephone number, place of employment, or other locating information.

Victims have the right not to be compelled to testify regarding the victim's address or telephone number. A victim's impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice Services, Department of Corrections, and Board of Pardons and Parole, for purposes of providing notice, is also classified as protected.

Employment Rights (§77-37-3(g))

Victims have the right to reasonable employer intercession services, including pursuing employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process.

Property Rights (§§77-24-1 through -5)

Victims in Utah have a right to the return of property that has been taken as evidence when it no longer is needed as evidence.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Office of Crime Victim Reparation in the Commission on Criminal and Juvenile Justice handles compensation claims. The maximum award is \$25,000, with a maximum \$50,000 allowed for medical expenses in homicide, attempted homicide, aggregated assault or drunk-driving. Victims may receive compensation for the following costs, with limits noted:

- Medical expenses.
- Mental health counseling (limited to \$2,500 for primary victims and \$1,000 for immediate family members in homicide and child abuse cases, and for children in domestic violence). Limits may be extended after peer review. Inpatient treatment (capped at \$600 per day), residential treatment (up to \$300 daily) and day treatment (up to \$200 per day). (Per-hour limits apply to psychiatrists, \$125 for individual family therapy and \$62.50 for groups; for psychologists, \$85 for individual and family, \$42.50 for groups; for Licensed Clinical Social Worker, Master of Social Work, marriage/family therapist, \$65 for individual/family, \$32.50 for group therapy).
- Lost wages or support (limited to \$509 per week for 12 weeks, which may be extended by board) includes lost wages to attend trial and funeral.
- Funerals (\$4,000).
- Relocation (\$2,000 in moving expenses; rent for domestic violence and child abuse up to \$1,800 or three months).
- Replacement services, includes housekeeping and child care.
- Crime-scene cleanup, property damage, security locks (up to \$1,500, which may be increased to meet health and safety needs).
- Travel to obtain treatment or attend criminal proceedings (up to \$500, although this also may be increased for need shown).
- Rehabilitation.

- Attorney fees in circumstance of an appeal overturning a decision or when minors require assistance in establishing trust or determining guardianship (limited to 15 percent of award).
- Emergency awards available.

Web address: <http://www.nacvcb.org/progdir/utah.html>

Restitution (§77-37-3(h))

In Utah, when a defendant is convicted of criminal activity that has resulted in pecuniary damages the court will, in addition to imposing sentence, order that the defendant make restitution to the victim.

Victims have the right to enforce the restitution order as a civil judgment.

Notoriety for Profit (§77-18.8.5)

At the time of sentence, the court may order the defendant to be prohibited from engaging in any profit- or benefit-generating activity relating to the publication of facts or circumstances pertaining to his or her involvement in the crime. The court's order may prohibit the defendant from contracting with anyone with respect to the commission and reenactment of the criminal conduct.

Legislation Passed in Utah in 2003-2004

HB 364 (2004) (§78-61-101)

Requires that any profits gained from the sale of criminal memorabilia must be deposited in the Crime Victim Reparation Fund. Also requires that a person selling or transferring memorabilia give any profit to the fund or be subject to civil penalty.

SB 167 (2004) (§78-67-102)

Allows a prosecutor to ask the court to take action to preserve property that might be necessary later to satisfy an anticipated restitution order.

VERMONT



Key Statute Citations

- Vt. Stat. Ann., tit. 13, ch. 167, §§5351 through 5363

Organization/Administration (§5361)

Vermont's Center for Crime Victims' Services represents victims' issues on the Governor's Criminal Justice Cabinet. The center is responsible for:

- Strengthening and coordinating programs that serve victims.
- Promoting the rights and needs of crime victims statewide.
- Assisting in the development and administration of other programs and services for crime victims and witnesses.
- Administering the victims' compensation program and the victims' assistance program.
- Administering funds from the federal Victims of Crime Act.
- Serving as a clearinghouse for information regarding victims of crime

Web address: <http://www.ccvv.state.vt.us/>

Who Is a Victim? (§5351(7))

A victim is a person who sustains physical, emotional or financial injury or death as a direct result of the commission or attempted commission of a crime or act of delinquency. The definition also includes the family members of a minor, incompetent or a homicide victim.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Title 13, Chapter 167)

Victims' rights in Vermont are statutory and can be found in Title 13, Chapter 167 of its code. It includes provisions for victim assistance and notice and involvement, as described below.

Victim Notice (§§5305; §§5314 through 5315, -5317)

Victims must be notified of:

- Victim's rights under Vermont law (in writing).
- Information concerning the availability of: assistance to victims, including medical, housing, counseling and emergency services.
- Information about compensation for victims.
- The name, street address and telephone number of the center for crime victims' services.
- The protection available to a victim, including protective court orders.
- The file number of the case and the name, office street address and telephone number of the law enforcement officer currently assigned to investigate the case.

- Information about whether the accused has been taken into custody.
- The prosecutor's name, office street address and telephone number.
- An explanation that no individual is under an obligation to respond to questions that may be asked outside a courtroom or deposition.
- The procedures to be followed in order to receive applicable witness fees.
- The defendant's arraignment and, if the defendant is released on conditions at arraignment, the prosecutor's office is to inform the victim of the conditions of release.
- Issues concerning bail; the prosecutor must advise the court of the victim's position regarding bail.
- Any plea agreement negotiation, with the victim having the right to know about the process and be consulted.
- The right to seek restitution as an element of the final disposition of the case.
- The right to appear at sentencing hearings.
- Any pending motion that may substantially delay the prosecution; the prosecutor must inform the court of the victim's position on the motion.
- Scheduling of court proceedings in their case and when a court proceeding to which they have been summoned will not take place as scheduled.
- Explanation of the potential minimum and maximum sentence, by the prosecutor, and explanation of the function of parole and how it may affect the actual amount of time the defendant may be incarcerated.
- The final disposition of the case.
- Their right to request notification of the offender's release or escape.
- Scheduling of a parole board hearing and the victim's right to testify before the parole board or to submit a written statement for the parole board to consider with such notice provided upon request and at least 30 days before the parole board hearing.
- Upon request, prompt notice of the decision of the parole board, including what conditions have been attached to the defendant's release on parole.
- Information about public records of the case to which victims have access.
- Information about the accused's identity, unless this is inconsistent with law enforcement purposes.
- Notice of any appeals filed by the defendant; the date, time and place of any hearing; and the decision.

Victim Participation (§5306; §5321)

Victims have the right to participate in the following:

- To be present at the defendant's arraignment.
- To be present during all court proceedings.
- In all sentencing proceedings, victims have the right to appear and to personally and reasonably express his or her views concerning the crime, the person convicted, and the need for restitution.
- At the sentencing hearing, the court must consider any views offered at the hearing by the victim. If the victim is not present, the court still must ask whether the victim has expressed, either orally or in writing, views regarding sentencing and then must take those views into consideration in imposing sentence.

Victims also have the right to object to any delay in proceedings, and the court must consider the victim's objection. Victims have a right to receive short-term counseling and support from the victim advocate and referrals for further services. (§5306)

Victim Protection and Confidentiality (§5310; §5312)

Victims have a right to assistance in obtaining protection via local law enforcement agencies from harm and threats of harm arising out of their cooperation with the court system.

A witness testifying in a criminal proceeding will not be compelled to disclose the victim's residential address or place of employment on the record.

For sexual assault victims, Vermont established a sexual assault victims' program to provide emergency services, counseling and support for victims of sexual assault. Victims of stalking and sexual assault are permitted to use a "substitute address" for law enforcement purposes. (15 Vt. Stat. Ann. §1152)

Employment Rights (§5313)

An employer may not discharge or discipline a victim of a listed crime or a victim's family member or representative for honoring a subpoena to testify.

Property Rights (§5311)

A law enforcement agency holding property of any victim must take reasonable care of the property. Upon authorization of the prosecutor, the law enforcement agency holding the property, unless it is contraband or subject to forfeiture, must promptly notify the individual that the property no longer is needed for evidentiary purposes and may be picked up.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Victim compensation is handled by the Vermont Center for Crime Victim Services, Victims' Compensation Program. The board makes awards of compensation to victims of crimes and to their dependents. The program handles compensation awards and administers federal funds. The maximum award is \$10,000. Victims may be compensated for the following costs; the limits noted may be exceeded in special circumstances with board approval:

- Medical expenses.
- Mental health counseling (up to 20 sessions with treatment plan, with extensions considered in 20-session increments for crime-related symptoms still needing treatment). Counseling session capped at \$50 per individual session and \$35 per group session.
- Lost wages or support (limited at \$1,500 per month); may include payment for time lost to attend funeral and criminal proceedings.
- Funerals (\$7,000).
- Moving expenses.
- Replacement services.
- Crime-scene cleanup and security systems (up to \$1,500).

- Travel to obtain medical and counseling assistance (at mileage reimbursement of 30 cents per mile) and travel to attend court hearings, trial and funeral (up to \$1,500 per person).
- Rehabilitation, including physical therapy, chiropractic, self-defense classes and alternative therapies, if recommended by a physician or mental health professional.
- Emergency awards also are available.

Victims also have a right to receive assistance in obtaining financial assistance and minimizing loss of pay or other benefits resulting from involvement in the criminal justice process.

Web address: <http://www.nacvcb.org/progdir/vermont.html>

Restitution (§5362 and §5363)

Victims in Vermont have a right to receive court-ordered restitution from the offender. Restitution is considered due at the time of sentencing, and the offender may not be discharged from probation or parole until restitution is paid to the victim. In addition, Vermont allows the court to order garnishment of the defendant's wages for restitution payments. Victims also have a right to receive assistance in documenting and preparing requests for restitution and insurance reimbursement.

Notoriety for Profit

No such provisions are codified in Vermont law at this time.

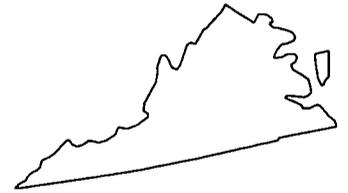
Legislation Passed in Vermont in 2003-2004

SB 255 (2004) (13 Vt. Stat. Ann. §5320)

Gives victims of crimes committed by juveniles increased access to juvenile proceedings and information.

In 2003, Vermont created a restitution unit within the Center for Crime Victims' Services. Its purpose is to manage the restitution special fund, collect restitution from offenders when it is ordered by the court, and make restitution payments to victims. (13 Vt. Stat. Ann. §5362)

VIRGINIA



Key Statute Citations

- Va. Code §19.2-11.01 (2004)
- Va. Cons. art. I, §8-A

Organization/Administration (§§19.2-11.1 and §9.1-104)

The Crime Victim-Witness Fund in Virginia is a special fund administered by the Department of Criminal Justice Services to support victim and witness services. The Department of Criminal Justice Services is charged with adopting guidelines to make funds available to local governments for establishing, operating and maintaining victim and witness assistance programs.

Web address: <http://www.co.hanover.va.us/comatty/vwap.htm>

Who Is a Victim? (§19.2-11.01(B))

A victim is a person who has suffered physical, psychological or economic harm as a direct result of the commission of a felony or of assault and battery, stalking, sexual battery, attempted sexual battery, maiming or driving while intoxicated (misdemeanors). The definition of victim also includes a spouse or child of such a person; a parent or legal guardian of such a person who is a minor; or a spouse, parent, sibling or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide. Victim does not include the parent, child, spouse, sibling or legal guardian who commits a felony or other enumerated criminal offense against a victim.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Va. Cons. art. I, §8-A)

In 1996, Virginia amended its constitution to include rights for crime victims. These rights include:

- The right to protection from further harm or reprisal through the imposition of appropriate bail and conditions of release.
- The right to be treated with respect, dignity and fairness at all stages of the criminal justice system.
- The right to address the circuit court at the time sentence is imposed.
- The right to receive timely notification of judicial proceedings.
- The right to restitution.
- The right to be advised of release from custody or escape of the offender, whether before or after disposition.
- The right to confer with the prosecution.

The state's statutory victims' rights provisions follow.

Victim Notice (§19.2-11.01(B); §19.2-11.01(2), (a), (c); §19.2-11.01(3)(b) through (d); §19.2-11.01(6))

Victim notice must include:

- A standardized form that lists the specific rights afforded to victims and includes a telephone number for the victim to call for further information and assistance.
- Financial assistance and social services available, including information about their possible right to file a claim for compensation from the Crime Victims' Compensation Fund and other available assistance and services.
- Availability of restitution that may be payable for losses or damage resulting from the offense and assistance available in seeking restitution.
- Information that it is unlawful for an employer to penalize an employee for appearing in court pursuant to a summons or subpoena.
- Information relating to status of their case and of any change in court dates.
- Filing and disposition of any appeal or habeas corpus proceedings involving their case, upon request.
- Notice of any escape, name change, transfer, release or discharge of prisoner.
- Advice that, in order to protect their rights, all agencies must have current victim addresses and phone numbers in writing.
- Notice that a plea agreement is accepted by the court.

Victim Participation (§19.2-11.01(4))

Victims have the following participation rights:

- To have an opportunity to prepare a written victim impact statement prior to the sentencing of the defendant. Also to have an opportunity to testify regarding the effect of the offense prior to sentencing of a defendant
- To remain in the courtroom during a criminal trial or proceeding.
- In felony cases, upon written request, the right to confer with the attorney for the Commonwealth regarding the contents of a plea agreement.

Victim Protection and Confidentiality (§19.2-11.01(1)(a), (b); §19.2-11.2; §19.2-11.01(5))

Victims and witnesses are to be provided with information about the level of protection available or to any other federal, state or local program that provides protection. Victims also have the right to assistance from the appropriate authorities to obtain such protection.

Victims and witnesses will be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation.

During any criminal proceeding, a judge may prohibit testimony about the current residential or business address or telephone number of a victim or witness.

Employment Rights (§19.2-305.1(3)(a))

Victims and witnesses are to be provided with appropriate employer intercession services to ensure that employers will cooperate with the criminal justice process to minimize any employee's loss of pay and other benefits resulting from court appearances.

Property Rights (§19.2-11.01(2)(c))

Victims must be assisted in having any property held by law enforcement agencies for evidentiary purposes returned promptly.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Division of Crime Victim's Compensation administers the Criminal Injuries Compensation Fund. The maximum award is \$15,000, and victims may be compensated for the following costs, with limits noted:

- Medical expenses.
- Mental health counseling (no separate maximum for direct victims and a \$2,500 limit for family members of homicide victims).
- Lost wages or support (limited to two-thirds of the average weekly wage, not to exceed \$200 per week); includes claims by the parent of a child victim for lost wages as a result of medical and legal appointments.
- Funerals (\$3,500).
- Crime-scene cleanup (up to \$1,000).
- Moving expenses (up to \$500).
- Replacement services, including housekeeping and child care while a victim is hospitalized and if other alternatives are not available.
- Travel to obtain medical assistance.
- Emergency (up to \$2,000).

Web address: <http://www.nacvcb.org/progdir/virginia.html>

Restitution (§19.2-305.1)

Crime victims in Virginia have the right to collect court-ordered restitution from the offender.

Notoriety for Profit (§19.2-368.20)

Any contractual income or proceeds an offender receives as a result of a contract concerning the depiction or discussion of the defendant's thoughts or feelings, about his or her crime in a movie or book, magazine are subject to forfeiture.

Legislation Passed in Virginia in 2003-2004

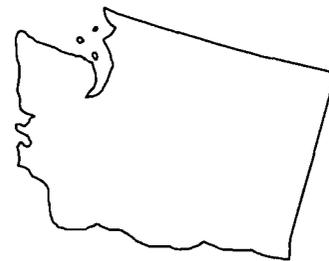
HB 1083 (2004) (§19.2-295.3)

Requires that victim impact testimony be heard by the trier of fact when the defendant is found guilty after trial or upon a guilty plea.

HB 1095 (2004) (§19.2-2965.1)

Provides that any victim who is called as a witness in a criminal trial will be exempt from the rule authorizing the exclusion of all witnesses, unless his or her exclusion is specifically required.

WASHINGTON



Key Statute Citations

- Wash. Rev. Code §§7.69.030(1) through (16) (2004)
- Wash. Cons. art. 1, §35

Organization/Administration

The Office of Crime Victims' Advocacy in the Department of Community, Trade and Economic Development is responsible for assisting communities to plan and implement services for crime victims; advocate on behalf of crime victims; and advise local and state governments on practices, policies and priorities that affect victims.

Washington also created a task force to evaluate the state-funded, community-based organizations in the state that provide services to the victim population.

Web address: http://www.co.washington.or.us/deptmts/comm_cor/cvs/vict_srv.htm

Who Is a Victim? (§7.69.020(3); §7.69.040)

A victim is defined as person against whom a crime has been committed or the representative of a person against whom a crime has been committed

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Article 1, Sec. 35)

Washington passed a state constitutional amendment for victims' rights in 1989. Under the victim's rights amendment, a victim, upon notice to the prosecuting attorney, is afforded the following rights:

- To be informed of and, subject to the discretion of the individual presiding over the trial or court proceedings, to attend trial and all other court proceedings the defendant has the right to attend.
- To make a statement at sentencing and at any proceeding where the defendant's release is considered.
- In the event the victim is deceased, incompetent, a minor, or otherwise unavailable, the prosecuting attorney may identify a representative to appear to exercise the victim's rights.

In addition to the bill of rights, the Legislature has stated in statute its intent that all victims and witnesses of crime be treated with dignity, respect, courtesy and sensitivity and that the rights protected by law be honored and protected by law enforcement agencies, prosecutors and judges, in a manner no less vigorous than the protections afforded a criminal defendant.

The state's statutory victims' rights provisions follow.

Victim Notice (§§7.69.030(2), (3), (5), (12))

Victim notice must include:

- A written statement of the rights of crime victims (in the case of victims of violent or sex crimes) as provided by law.
- To be notified by the party who issued the subpoena that a court proceeding to which they have been subpoenaed will not occur as scheduled, in order to save the person an unnecessary trip to court.
- Information or access to immediate medical assistance, if necessary.
- Information about the procedure to be followed to apply for and receive witness fees.
- Schedule of court proceedings and any cancellations or modifications to the schedule.
- Information about the final disposition of the case.
- Upon request, a statement of the date, time and place of trial and of the sentencing hearing for felony convictions.
- *Written notice of any release of the offender.*

Victim Participation (§§7.69.030(10), (11), (13), (14), (16))

Victims have the following rights of participation in the criminal justice process:

- Victims of violent and sex crimes have the right to have a crime victim advocate present at any prosecutorial or defense interviews with the victim and at any judicial proceedings.
- Victims and survivors of victims have the right to be physically present in court during trial.
- If subpoenaed to testify, victims and survivors of victims have the right to be scheduled as early as practical in the proceedings in order to be physically present during trial after testifying and not to be excluded solely because they have testified.
- If a plea agreement is reached by the prosecutor and the defendant, at the time of the plea hearing, the prosecutor must state on the record whether the victim or victims of all crimes against persons covered by the plea agreement have expressed any objections to or comments on the nature of and reasons for the plea agreement.
- The right to submit victim impact statements or report to the court. Such statement will be included in all pre-sentence reports and permanently included in the files and records accompanying the offender committed to the custody of a state agency or institution.
- The right to present a written or oral statement at the sentencing hearing.
- The right to present a statement in person, via audio or videotape, in writing or by representation at any hearing conducted regarding an application by the offender for pardon or commutation of sentence.
- When defendants are charged with certain crimes and the victim is under age 18, neither the defendant or the prosecuting attorney may agree to extend the originally scheduled trial date unless the court, within its discretion, finds substantial and compelling reasons for a continuance of the trial date and that the benefit of the postponement

outweighs the detriment to the victim. The court may consider the testimony of lay witnesses and of expert witnesses, if available, regarding the effect of the continuance on the victim.

- A victim who is incapacitated or otherwise incompetent may be represented by a parent or present legal guardian or, if none exists, by a representative designated by the prosecuting attorney without court appointment or legal guardianship proceedings. Any victim may designate another person as the victim's representative for purposes of the rights enumerated.

Victim Protection and Confidentiality (§§7.69.030(4), (6))

Victims in Washington have the right to receive protection from harm or threats of harm arising from cooperation with law enforcement and prosecution efforts and to be provided with information about the level of protection available.

Victims also have the right to be provided with, whenever practical, a secure waiting area during court proceedings that does not require them to be in close proximity to the defendant and families or friends of the defendant.

Washington established an address confidentiality program for victims of domestic violence, stalking or sexual assault. The purpose is to enable state and local agencies to respond to requests for public records without disclosing the location of such victims and to enable the agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address. (RCW §40.24.030)

Employment Rights (§7.69.030(8))

Victims have the right to be provided with appropriate employer intercession services to ensure that employers of victims, survivors of victims, and witnesses of crime will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearance.

Property Rights (§7.69.030(7))

Victims have the right to have any stolen or other personal property expeditiously returned by law enforcement agencies or the superior court when it no longer is needed as evidence. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property of which ownership is disputed, must be photographed and returned to the owner within ten days of being taken.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Crime Victim Compensation Program in the Department of Labor and Industries handles crime victim compensation. The maximum award is \$150,000 for medical and mental health costs, which may be waived in special circumstances. Up to \$30,000 may be awarded for non-

medical expenses and up to \$40,000 for pension and death benefits, less other non-medical expenses paid. Victim compensation awards may cover the following, with limits noted:

- Medical expenses (under a fee schedule; limits on individual procedures and charges).
- Mental health counseling (limited to 30 sessions for adults and 40 sessions for children, with certain periodic reporting requirements).
- Inpatient mental health treatment (requiring preauthorization for hospitalization, day treatment and certain therapies).
- Lost wages or support (limited to \$15,000 for lost wages or \$40,000 pension if a victim who was employed is deceased or permanently and totally disabled or \$7,500 death benefit if victim was not employed).
- Funerals (up to \$5,477).
- Travel to obtain treatment if not available within 10 miles of victim's home.
- Rehabilitation (including vocational rehabilitation up to \$5,000).

Web address: <http://www.nacvcb.org/progdir/washington.html>

Restitution (§7.69.030(15))

Victims in Washington have the right to court-ordered restitution in all felony cases, even when the offender is sentenced to confinement. The court will determine the amount, terms and commission of the restitution order. Victims have the right to enforce the restitution order as a civil judgment.

Restitution may be enforced at any time during the 10 years following the offender's release from confinement or 10 years from the entry of judgment. The court may give a 10-year extension for payment.

Notoriety for Profit (§7.68.300, and .310)

It is the public policy of the state of Washington to prevent criminals from profiting from their crimes. Any profits rendered by the criminal for reenacting the crime through a book, movie or the like are subject to seizure and forfeiture by the state and no property right exists in them.

Any contract made with a criminal regarding the reenactment, description of a crime by movie, book, article, radio, television or Internet is void.

If any person does enter into such a contract, he or she must give any money made to the state for deposit in the crime victim account.

Legislation Passed in Washington in 2003-2004

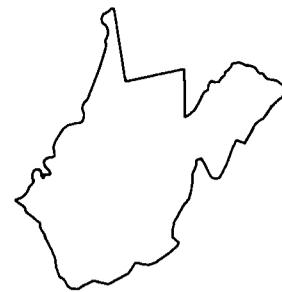
SB 1645 (2004) (§59.18)

Allows victims of sexual assault, stalking or domestic violence to terminate a tenancy and prohibits landlords from discriminating against them.

WEST VIRGINIA

Key Statute Citations

- W. Va. Code §61-11A-6 (2004)



Organization/Administration

The attorney general is responsible for establishing rules, regulations and guidelines with respect to victims' rights. The prosecutor's advisory council provides advice, assistance, training and leadership to the offices of county prosecuting attorneys throughout the state in criminal and civil cases that involve child abuse or neglect or sexual assault or sexual abuse of children. The council may seek funds and programs to provide each prosecuting attorney's office with a staff person to assist children who are crime victims to obtain services and assistance from other agencies and programs in the community.

Who Is a Victim? (§14-2A-3(k))

A victim for purposes of victims' rights is a direct victim of crime or one member of a victim's immediate family.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (§61-11A-6)

The West Virginia Code contains in §61-11A-6 an enacted state guidelines for fair treatment of crime victims and witnesses in the criminal justice system (see all sections below).

Victim Notice (§61-11A-6,(a), §61-11A-8)

Victims must be notified of:

- The arrest of the accused.
- Availability of a victims' compensation fund.
- Availability of emergency medical services and community-based victim treatment programs.
- The role of the victim in the criminal justice process, including what they can expect from the system and what the system expects from them.
- Information about steps that law enforcement agencies and prosecuting attorneys can take to protect victims and witnesses from intimidation.
- The date, time and place of the sentencing hearing; any changes in schedule; and the victim's right to submit a written or oral statement.
- The date of a parole hearing and the victim's right to submit a written statement to the Parole Board and to attend the hearing to be heard there.
- Release of the offender on parole.

- Written notice that the victim may be notified prior to and upon the release of the defendant from confinement. This notice also must include instructions about how to request such notification.
- Escape by the offender, with such notice provided via telephone.

West Virginia operates an automated victim notification system. Victims are able to call a toll-free number and receive basic information about their offender. The system also automatically contacts the victim if the offender is released or escapes.

Victim Participation (§61-11A-3; §61-11A-2)

The victim may be present in any court and seated at the counsel table with the prosecutor or other attorney who is prosecuting the case. In addition, victims must be provided the opportunity:

- To present oral or written testimony at the sentencing hearing.
- To consult with prosecutor about dismissal of charges, release of the accused, plea negotiations, and pre-trial diversion programs being considered.

All pre-sentence reports must incorporate a victim impact statement prepared by the probation officer that identifies the victim and all economic losses and physical or psychological damage suffered by victim.

Victim Protection and Confidentiality (§61-11A-6(2); §61-11A-6(6))

Victims have the right to information about steps that law enforcement agencies and prosecuting attorneys can take to protect them from intimidation.

Victims also have the right to a separate, secure waiting area during proceedings.

All state agencies must cooperate to plan and develop programs relating to the prevention of crime and the fear of crime against the elderly.

Employment Rights (§61-11A-6(8))

Upon request, a victim has the right to receive assistance from police and the prosecutor in informing employers that the need for victim cooperation in the case may require absence from work.

Victims also have the right to receive assistance from the appropriate agencies in dealing with creditors if, as a result of the crime, they are subjected serious financial strain.

Property Rights (§61-11A-6(7))

Law enforcement agencies should promptly return victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

West Virginia's crime victim compensation program is administered by the West Virginia Court of Claims, with the court's judges making final determinations on awards. The state treasury is in charge of collecting and depositing all money into the Crime Victims' Compensation Fund. The maximum award is \$25,000 in personal injury cases and \$35,000 in homicides. Compensable costs, with limits noted, are:

- Medical expenses.
- Mental health counseling.
- Lost wages or support.
- Funerals (\$4,000).
- Replacement services.
- Travel to obtain medical assistance.
- Rehabilitation.
- Attorney fees (paid at same as hourly rate as for a public defender).

Web address: <http://www.nacvcb.org/progdir/westvirginia.html>

Restitution (§61-11A-4)

Victims in West Virginia have the right to collect court-ordered restitution from a defendant convicted of a felony or misdemeanor that cause physical, psychological or economic injury or loss to a victim.

The victim may enforce an order of restitution in the same manner as any judgment in a civil action.

Notoriety for Profit (§§14-2B-4 through -5)

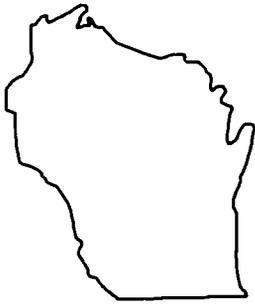
Every person, firm or other legal entity that contracts with a defendant must submit a copy of such contract to the prosecutor and pay over to the prosecutor any money that otherwise, by the terms of such contract, would be owed the defendant. The prosecutor must deposit such money in an interest-bearing escrow account.

Every defendant who contracts to receive any crime profits from any person, firm or other legal entity must submit a copy of such contract to the prosecutor and pay over to the prosecutor any money that otherwise, by the terms of such contract, would be owed to him or her. The prosecutor shall deposit such money in an interest-bearing escrow account.

Legislation Passed in West Virginia in 2003-2004

SB 406 (2004) (§61-11A-8)

Requires that victims of crime be notified by telephone when the defendant is released from custody.



WISCONSIN

Key Statute Citations

- Wis. Stat. §950.01 et seq. (2004)
- Wis. Cons. art. 1, §9m

Organization/Administration

The Office of Crime Victim Services (OCVS) within the Department of Justice is responsible for:

- Helping victims exercise their rights and gain access to services.
- Providing financial assistance to victims and to the programs that serve them.
- Advocating for public policy and resources to enhance and expand victims' rights and services.
- Informing the public, professionals and policymakers about crime victims' issues.
- Providing education, training and technical assistance to professionals who assist victims of crime.

Who Is a Victim? (§950.02(4)(a))

A victim is a person against whom a crime has been committed or, if the victim is a child, it is the parent, guardian or legal custodian of the child. If a victim is physically or emotionally unable to exercise rights, victim rights are provided to a person designated by the victim or a family member. If the victim is deceased, the victim is a family member or a person who resided with the deceased. If the victim has been determined to be incompetent, victim rights go to the appointed guardian. A victim does not include the person charged with or alleged to have committed the crime.

A crime for purposes of victims' rights is an act committed in Wisconsin that, if committed by a competent adult, would constitute a conduct prohibited by state law and punishable by fine or imprisonment or both. Conduct punishable only by a forfeiture is not a crime.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (Wis. Cons. art. 1, §9m)

Wisconsin voters passed a constitutional amendment for victims' rights in 1993. These rights include:

- The right to be treated with fairness, dignity and respect for privacy.
- The right to a timely disposition of the case.
- The opportunity to attend court proceedings.
- The right to reasonable protection from the accused throughout the criminal justice process.
- The right to notification of court proceedings.
- The opportunity to confer with the prosecution.
- The opportunity to make a statement to the court at disposition.
- The right to receive restitution from the offender.

- The right to receive victim compensation for losses.
- The right to receive information about the outcome of the case and the release of the accused.

In 1980, Wisconsin was the first state to pass a statutory "Crime Victims' Bill of Rights." These rights are listed and covered in the subsequent sections of this summary.

The state's statutory victims' rights provisions follow.

Victim Notice (§§950.04(1v), (f), (g), (gm), (l), (o), (p), (t), (u))

No later than 24 hours after a law enforcement agency has initial contact with a victim, the agency must provide the victim:

- A list of the rights of victims under law.
- Notice of the availability of compensation and the address and telephone number for more information.
- The address and telephone number of the intake worker, corporation counsel or district attorney who can provide information concerning the rights of victims and to request notice of court proceedings.
- A statement of the victim's right to request the opportunity to confer with the district attorney.
- The address and telephone number of the custodial agency that the victim may contact to obtain information concerning the taking into custody or arrest of a suspect.
- The suggested procedures for the victim to follow if he or she is subject to threats or intimidation arising out of his or her cooperation with law enforcement agencies and prosecution.
- The address and telephone number that the victim may contact for victim assistance or services, including medical services.

No later than 10 days after the initial appearance of the accused or less than 24 hours before a preliminary examination, the district attorney must provide to each crime victim written information that states:

- Procedure for prosecuting a crime.
- The rights of victims and how to exercise those rights.
- The person or agency to notify if the victim changes his or her address and wants to continue to receive notices and services.
- The availability of compensation, including eligibility and the procedure for applying for compensation.
- A person the victim is to contact for further information about a case.

Victims also have the right to be notified of:

- Scheduled hearings or court proceedings.
- Information about the pre-sentence report and investigation.
- Any petitions by offenders for sentence adjustment.
- The offender's application for parole, with such notice provided by the Parole Commission.

- Placement of the offender in community residential confinement, escape from prison, the release upon expiration of certain sentences, and extended supervision and parole releases, with such notice provided by the Department of Corrections.
- A pardon application of the offender, with such notice provided by the governor's office.

Victim Participation (§§950.04(1v), (a), (b), (c); (em); (i), (j), (k), (m), (n), (nn), (nt), (pm), (tm))

Victims have the following participation rights:

- To have their interests considered when the court is deciding whether to grant a continuance in the case or whether to exclude people from a preliminary hearing.
- To attend court proceedings in the case.
- Upon request, to have the opportunity to consult with intake workers, district attorneys and corporation counsel in cases.
- Upon request, to have the opportunity to consult with the prosecution in a case brought in a court of criminal jurisdiction.
- The right to have his or her interests considered by the court in determining whether to exclude people from a preliminary hearing.
- The right to a speedy disposition of the case to minimize the length of time victims must endure the stress of their responsibilities in connection with the matter.
- To provide statements concerning sentencing, disposition or parole.
- To have direct input in the parole decision-making process.
- To attend parole interviews or hearings and make statements.
- To attend a hearing on a petition for modification of a bifurcated sentence and provide a statement concerning modification of the bifurcated sentence.
- To provide the court with information pertaining to the economic, physical and psychological effect of the crime upon the victim and to have the information considered by the court.

Victim Protection and Confidentiality (§950.04(1v)(e))

Victims must receive information about the suggested procedures for the victim to follow if he or she is subject to threats or intimidation arising out of his or her cooperation with law enforcement agencies and prosecution.

At court proceedings, victims and witnesses must be provided with a waiting area that is separate from the defendant and defendant's family. If a separate waiting area is not available or its use is not practical, the county is to provide other means to minimize the contact between the victim or witness and defendant during proceedings.

Employment Rights (§950.04(1v)(bm))

Victims and witnesses have the right to be provided with appropriate intercession services to ensure that employers will cooperate with the criminal justice or juvenile justice process, in order to minimize an employee's loss of pay and other benefits resulting from court appearances.

Property Rights (§950.04(1v)(s))

Victims have the right to have any stolen or other personal property expeditiously returned by law enforcement agencies when it no longer is needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, must be returned to the person within 10 days of being taken.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

In Wisconsin, the Office of Crime Victims' Services within the Department of Justice handles victim compensation. The maximum award is \$40,000. Victims may be compensated for the following costs, with limits noted:

- Medical expenses.
- Mental health counseling.
- Lost wages or support.
- Funeral and burial (up to \$2,000).
- Replacement services, including homemaker and child care services.
- Crime-scene cleanup and evidence (limited to \$1,000 to secure and clean crime scene; \$300 to replace clothing or bedding held as evidence; and \$200 to replace property made unusable by crime-laboratory testing).
- Attorney fees (limited to 10 percent of award or \$100, whichever is less).
- Emergency (up to \$500).

Web address: <http://www.nacvcb.org/progdir/wisconsin.html>

Restitution (§§950.04(1v),(q),(r))

Victims in Wisconsin have a right to court-ordered restitution from the offender. If the court finds substantial reason not to order restitution, it must state on the record the reason for that decision.

A victim may enforce an order of restitution in the same manner as a judgment in any civil action.

Restitution ordered does not limit or impair the right of a victim to sue and recover damages from the defendant in a civil action. The fact that restitution was required or paid is not admissible as evidence in a civil action and has no legal effect on the merits of a civil action.

Notoriety for Profit (§949.165(2))

If a person or other legal entity contracts with any accused or convicted offender with respect to the reenactment of a crime, by a movie, book, magazine article, tape recording, or the like, or from the expression of the person's thoughts, feelings or opinions, a copy of the contract must be submitted to the Department of Justice. The Department of Justice must receive payment of any money that otherwise, by terms of the contract, would be owed to the accused. This law

subsection applies only if the reenactment of the serious crime constitutes a substantial portion of the movie, book, article, recording, record, presentation, entertainment or expression.

The Department of Justice must deposit the money in an interest-bearing escrow account for the payment of money judgments to any victim or the legal representative of any victim of serious crimes committed by the offender.

Legislation Passed in Wisconsin in 2003-2004

AB 652 (2004) (§968.265)

Prohibits law enforcement agencies and district attorneys from requiring, requesting or suggesting that a person who alleges that he or she is a victim of sexual assault submit to a lie detector test, regardless of whether the victim gives prior and informed consent to do so. Prohibits law enforcement agencies and district attorneys from providing the victim with any information regarding lie detector tests, unless the victim requests it.

WYOMING

Key Statute Citations

- Wyo. Stat. §§7-20-101 to -103 (2004)
- Wyo. Stat. §1-40-203

Organization/Administration

Wyoming has a Division of Victim Services within the Office of the Attorney General. The attorney general (with the approval of the governor) appoints a director, who is the chief administrative officer of the division. That person is responsible for:

- Supervising and directing all activities of the division.
- Reporting to the attorney general regarding all functions of the division.
- Serving as the state's representative to local, state and national organizations dealing with victim services.
- Serving as the state's liaison with local governmental entities and community service providers to facilitate cooperative efforts to provide victim services.
- Consulting and cooperating with other departments and agencies involved in victim services.
- Providing public information and education concerning issues relating to victims.

The division is responsible for:

- Administering a comprehensive, statewide plan that provides victim services, including, but not limited to, a state program of shelter services for victims of domestic abuse and sexual assault.
- Providing services for victims of crime.
- Coordinating and providing training, grant application assistance and other support for community-based programs and services for victims.
- Establishing minimum program standards and uniform reporting procedures for community-based services and programs for victims, supported by state funds and state-administered federal funds.
- Entering into contracts for victim services with public or private agencies.

Web address: <http://vssi.state.wy.us/>

Who Is a Victim? (§7-21-101(iii))

A victim is defined as an individual who has suffered direct or threatened harm as a result of a crime, and also includes a family member who is minor or incompetent or a surviving family member of a homicide victim.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (§1-40-203)

Wyoming has a statutory victim and witness bill of rights. The rights for both victims and witnesses include the right to be treated with compassion, respect and sensitivity. Courts are required to enforce crime victim and witness rights under this act to the extent that the recognition of those rights do not conflict with constitutional and statutory rights of the defendant.

The bill of rights provides crime victims, key witnesses and, upon request, other witnesses with rights, to notification and information concerning:

- Their rights, privileges and interests under law.
- Availability of compensation.
- Services and assistance available to victims and witnesses.
- Available legal recourse and other measures if subjected to threats or intimidation.
- The general status of the case and events affecting status of the case.
- Scheduled hearings, dispositions, and conviction and sentencing of the defendant.
- Imprisonment or release of the accused or convicted defendant.
- The right to receive judicially ordered restitution.
- Reasonable protection and safety services available immediately before, during and after criminal justice proceedings.
- Notice of the primary law enforcement officer and prosecutor assigned to the case.
- Attending and participating in criminal justice system proceedings and notice of the accused being brought to trial.
- Protection from discharge or discipline by an employer due to involvement with the criminal justice process.
- The victim's opportunity to make a victim impact statement for use in the preparation of a pre-sentence investigation report; any statement of the victim in the report will be made available to the defendant.
- The address and telephone number of each probation office that is to prepare the presentence investigation.
- The victim's opportunity to make an impact statement at sentencing and the time and place of the sentencing proceeding and any changes.
- The right to be informed without undue delay of the status of the case from police investigation to the final appellate review.
- Financial assistance or other social service options may be available to the victim.
- The right to have an interpreter or translator to inform the victim of these rights.
- The right to seek legal counsel and to employ an attorney.
- The right to be notified in advance, if reasonable, when a court proceeding has been rescheduled or canceled.
- The right to be advised of the potential for plea negotiations and, prior to sentencing, the right to be informed of the existence of a negotiated plea, the essentials of the agreement, and the reasons for the disposition.
- The right to know the accused has obtained a pretrial or presentence release.
- The right to discuss the case with the prosecutor, and the official address and official telephone number of the prosecutor.
- The availability of other remedies, including the right to proceed in civil litigation and the right to any profits attributable to the offender as a result of publication or media coverage resulting from the crime.

- The right to refuse to talk to attorneys, private investigators, law enforcement personnel, or anyone else unless on the witness stand or under subpoena.
- The right to provide an affidavit asserting acts or threats of physical violence by the accused.

In addition, victims must be informed in writing by the Department of Corrections of:

- The commencement of the offender's imprisonment to serve the sentence imposed and the name, official address and security classification of the place of confinement.
- The earliest date upon which the offender could be released.
- Any transfer of the offender to another facility, including the security classification of that facility; any work release and its site; and any escape, recapture or death of the offender.
- Any decision to grant or modify parole, any conditions imposed, and any reduction or extension of the offender's sentence.

The state's statutory victims' rights provisions follow.

Victim Notice (§7-21-102; §7-20-104)

Victims must be notified of:

- The defendant's conviction and the offenses for which the defendant was convicted with the possible sentences for each offense.
- The victim's opportunity to make a written or oral impact statement for use in the preparation of the pre-sentence investigation report, that statements made for such a report are seen by the defendant, and the address and telephone number of the probation office that is to prepare the pre-sentence investigation report.
- The victim's opportunity to make an impact statement at sentencing or at any subsequent hearing for correction or reduction of sentence.
- The time and place of the sentencing proceeding and the time and place of any subsequent hearing for correction or reduction of sentence.

Victim Participation (§7-21-103)

Victims have the following rights of participation:

- The court must consider the victim's rights, interests and circumstances when setting any date for trial or in granting or denying continuances.
- Victims may submit a written or oral victim impact statement to the court prior to imposition of sentence or any correction or reduction of sentence in a felony case. This may be done with or without counsel, and an impact statement must be among the factors considered by the court in determining the sentence to be imposed.

Victim Protection and Confidentiality (§14-6-502(D)(vi))

A victim or witness has the right to be free from any form of harassment, intimidation or retribution. Law enforcement officers and prosecuting attorneys must provide information regarding law enforcement measures available to protect victims and key witnesses.

A victim or witness has the right to be provided with reasonable protection and safety immediately before, during and after criminal justice proceedings. When the threat of harassment, intimidation or retribution cannot be avoided, the court must take appropriate measures to protect the victim or key witness.

When waiting to testify in any proceeding regarding a criminal act, a victim or key witness has the right to be provided, upon request, with a waiting area separate from other witnesses.

Employment Rights (§14-6-508)

A victim or witness who responds to a subpoena in a criminal case during working hours must not suffer any change in terms of employment solely because of the act of responding to a subpoena.

Upon request, a victim or witness must be assisted by law enforcement agencies, the prosecuting attorney or defense attorney in informing an employer that the need for victim or witness cooperation may necessitate the absence of the victim or witness from work.

A victim or witness who, as a direct result of a criminal act or of cooperation with law enforcement agencies, experiences financial hardship must be assisted in explaining to employers and creditors the reasons for that financial hardship.

Property Rights (§14-6-507)

Victims have the right to have any personal property, which is not contraband, promptly returned provided it does not interfere with prosecution or appellate review of the case.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

In Wyoming, victim compensation is handled by the Division of Victim Services within the Office of the Attorney General. The maximum award is \$15,000, with an additional \$10,000 available for catastrophic injuries. Compensable costs, with limits noted, are:

- Medical expenses.
- Mental health counseling (limited to \$1,500 for an associated victim).
- Lost wages or support.
- Funerals (up to \$3,000).
- Crime-scene cleanup (up to \$500).
- Relocation expenses (that may include \$100 in shelter costs).
- Replacement services (limited to \$500 per month for housekeeping and child care).
- Travel to medical providers for emergency services or those of medical necessity.
- Evidence (up to \$100 in personal belongings).
- Emergency (up to \$1,000).

Web address: <http://www.nacvcb.org/progdir/wyoming.html>

Restitution (§7-21-103; §7-9-101)

Victims in Wyoming have a right to court-ordered restitution from the offender.

The court must order restitution unless it specifically finds that the defendant has no ability to pay and that no reasonable probability exists that the defendant will have an ability to pay. However, if restitution is not ordered, the court must state on the record specific reasons why an order for restitution was not entered.

Notoriety for Profit (§§1-40-301 through -308)

The Wyoming Legislature has stated a compelling interest of the state in preventing any person who is convicted of a criminal act from profiting from the criminal act and in compensating the victims of the criminal act. A person who contracts with a convicted defendant related to a crime must pay to the Division of Victim Services the money that, by terms of the contract, would otherwise would be paid to the defendant. The division is directed to deposit such money in an escrow account for the benefit of the victim.

Legislation Passed in Wyoming in 2003-2004

No relevant legislation was passed in Wyoming in 2003 or 2004.

AMERICAN SAMOA

Key Statute Citations

- American Samoa Code §46.2001-2003 (2005)

Restitution (Chapter 46, §§2001-2003)

In 1978, American Samoa found that:

- The number of victims of crime increases daily.
- Victims suffer undue hardship by virtue of physical injury or loss of property.
- Offenders found guilty of causing this suffering should be under a moral and legal obligation to make adequate restitution to those injured by their conduct.
- Restitution or reparation, or both, should be provided by criminal offenders to their victims, in money or service, may be an instrument of rehabilitation for offenders.
- Encouraged the establishment of programs to provide restitution to victims of crime by offenders who are sentenced, or who have been released on parole, or who are being held in the correctional and detention facility. Restitution should be utilized wherever feasible to restore losses to the victims of crime and to aid the offender in reintegration as a productive member of society.

In American Samoa, the Department of Public Safety may, as a means of assisting in the rehabilitation of people committed to its care, establish programs and procedures where the offender may contribute toward restitution, in money or service to victims of crime.

In connection with the prosecution of any misdemeanor or felony of domestic violence or sexual assault offense, the victim must not bear the costs associated with filing criminal charges or the costs associated with the issuance or service of a warrant protection order or witness subpoena.

DISTRICT OF COLUMBIA

Key Statute Citations

- D.C. Code Ann. §23-1901 et seq. (2004)

Organization/Administration

The Victim Witness Assistance Unit within the U.S. Attorney's Office for the District of Columbia provides services to victims of crime when they are involved in the criminal justice system. Their overarching function is to help victims understand how the criminal justice system works and to assist with restitution and access to needed services. The unit provides assistance to victims in the following areas:

- Crisis intervention;
- Referrals to human service, medical and other helping agencies;
- Court accompaniment;
- Language interpretation services;
- Help with victim impact statements;
- Assistance with travel and lodging for out-of-town witnesses;
- Special services for child victims, the elderly and handicapped victims;
- Assistance with crime victim compensation claims; and
- Information about court proceedings and case status.

Who Is a Victim? (§23-1905(2)(A))

The term victim means a person who or entity that has suffered direct physical, emotional or pecuniary harm as the result of the commission of any felony or violent misdemeanor in violation of any criminal statute in the District of Columbia. This includes victims who have suffered harm while reasonably and lawfully assisting in apprehension of a criminal, in rendering assistance to a victim or while attempting to prevent the commission of a crime. A victim also includes an authorized representative of one who is under age 18, incompetent, incapacitated or deceased; or a representative appointed by the court who may exercise the rights and receive the services on behalf of the victim. The term victim does not include any person who committed or aided or abetted in the commission of the crime.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights (D.C. Code Ann. §23-1901)

The District of Columbia enacted a statutory victims' bill of rights. Codified rights include that the victim:

- Be treated with fairness and with respect for the victim's dignity and privacy.
- Be reasonably protected from the accused.
- Be notified of court proceedings.
- Be present at all court proceedings related to the offense, including the sentencing and release or parole hearings, unless the court determines that testimony by the victim

would be materially affected if the victim heard other testimony or where the needs of justice otherwise require.

- Confer with an attorney for the prosecution in the case, which does not include the authority to direct the prosecution of the case.
- Receive an order of restitution from the person convicted of the criminal conduct that caused the victim's loss or injury.
- Receive information about the conviction, sentencing, imprisonment, detention and release of the offender.
- Receive notice of the rights provided under the laws of the District of Columbia.

The District's statutory victims' rights provisions follow.

Victim Notice (§23-1902)

Victims in the District of Columbia have the right to receive notice of the following:

- Their right to receive the services established in the bill of rights.
- The name, title, business address and telephone number of the responsible official to whom the victim should address a request for assistance to obtain the services described under law.
- The place where the victim may receive emergency medical and social services.
- Any restitution, crime victim's compensation, crime victim's assistance or other relief for which the victim may be eligible and the manner in which such relief may be obtained.
- The names and phone numbers of public and private victim assistance programs that are available to provide counseling, treatment and other support to the victim.
- The procedure and resources available for reasonable protection of the victim.
- The police report number, if available, and other identifying case information.
- Status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation.
- Any arrest of a suspected offender.
- The filing of criminal charges or the dismissal of all charges against a suspected offender.
- Date of each scheduled court proceeding and any scheduling changes.
- Release or detention status of an offender or suspected offender.
- Acceptance of a plea of guilty or the rendering of a verdict after trial.
- Sentence or disposition imposed on an offender, including the date on which the offender will be eligible for parole or release.
- Scheduling of a release or parole hearing for the offender.
- Escape, work release, furlough or any other form of release from custody of the offender.
- Death of the offender, if the offender dies while in custody or under supervision.

Victim Participation (§23-1904)

Victims have the right to confer with an attorney for the prosecution in the case. Crime victims have the right to be present at the defendant's sentencing and at any release or parole hearings. Victims have the right to submit, prior to the imposition of sentence, a written victim impact

statement containing information concerning any emotional, psychological, financial or physical harm done to or loss suffered by the victim. Crime victims have the right to make a statement at the defendant's sentencing. In determining the appropriate sentence to be imposed on the defendant, the court must consider any victim impact statement submitted in accordance with this chapter and such statement will be made a part of the pre-sentence report filed by the Court Services and Offender Supervision Agency. Crime victims have the right to offer at the defendant's release or parole hearing a written statement of the victim's opinion whether the defendant should be granted release or parole.

Victim Protection and Confidentiality (§§23-1903(a), (b))

Victims in the District of Columbia have the right to receive appropriate safeguards from the court to minimize the contact that may occur between the victim and the victim's family with the accused or the accused's or respondent's family, and defense witnesses before, during and after court proceedings.

In any contact with the victim, the defendant or defendant's attorney must clearly identify himself or herself as being, representing or acting on behalf of the defendant.

In a proceeding in which a child is called to give testimony, the court may designate the case as being of special public importance. In cases so designated, the court must expedite the proceeding and ensure that it takes precedence over any other. The court must ensure a speedy trial in order to minimize the length of time the child must be involved with the criminal justice system. When deciding whether to grant a continuance, the court must take into consideration the age of the child and the potential adverse effect the delay may have on the child's well-being. The court must make written findings of fact and conclusions of law when granting a continuance in cases involving a child witness.

Employment Rights

No such provisions are codified in District of Columbia law at this time.

Property Rights (§23-1903(b))

A responsible official must arrange for any crime victim's property being held for evidentiary purposes to be maintained in good condition and returned to the victim as soon as it no longer is needed for evidentiary purposes.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

The Crime Victim's Compensation Program, under the auspices of the Superior Court of the District of Columbia, handles compensation requests. A five-person appeals board, appointed by the chief judge of the court, considers contested cases. The chief judge may review appeals board decisions. The maximum award is \$25,000, and victims may be compensated for the following, with limits noted:

- Medical expenses, mental health counseling, lost wages or support; and funerals (\$3,000).
- Crime-scene cleanup or evidence (\$1,000 for crime-scene cleanup; \$100 for replacement value of victim's clothing held as evidence).
- Attorney fees (applies only for appeals proceedings and not to exceed \$500 or 10 percent of award, whichever is less).
- Temporary emergency housing for victims of domestic violence (up to 90 days).
- Emergency (\$1,000).

Web address: <http://www.nacvcb.org/progdir/district.html>

Restitution (§23-1901(6))

Victims in the District have the right receive an order of restitution from the person convicted of the criminal conduct that caused the victim's loss or injury.

Notoriety for Profit

No such provisions currently are codified in District of Columbia law.

Legislation Passed in the District of Columbia in 2003-2004

None available.

GUAM

Key Statute Citations

- Guam Code Ann. §§160.10 through 100, 2004; and Chapter 87 (2005)

Organization/Administration

The Guam Department of Law provides victim services to victims of crime.

Who Is a Victim? (§160.30)

A person who is a victim of any criminal offense.

Victims' Rights Constitutional Amendment/Statutory Victim Bill of Rights

(Guam Code Ann. §160.50)

The Guam Legislature enacted a statutory *Bill of Rights for Victims and Witnesses of Crimes* to ensure that all victims and witnesses are treated with dignity, respect, courtesy and sensitivity. The rights extended by law to victims and witnesses of crime must be honored and protected by law enforcement agencies, prosecutors and judges in a manner no less vigorous than the protections afforded criminal defendants.

These rights generally include (upon written request):

- The right to be informed by the police and the prosecuting attorney of the final disposition of the case.
- If the crime charged is a felony, the victim, a surviving immediate family member or witness must be notified of major developments in the case, whenever appropriate, in order to avoid jeopardizing an investigation.
- The right to notice whenever the defendant or perpetrator is released from custody.
- The victim, surviving immediate family member or witness also must be consulted and advised about plea bargaining by the prosecuting attorney.
- The right to be notified by the prosecuting attorney if a court proceeding to which they have been subpoenaed will not proceed as scheduled.
- The right to receive protection from threats or harm in accordance with local witness and victim protection program guidelines.
- The right to be informed by the police, victim witness counselor, or other criminal justice personnel, of financial assistance and other social services available as a result of being a witness or a victim of crime, including information on how to apply for the assistance and services.
- The right to a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants.
- The right to be informed of changes planned in the custodial status of the offenders that result in the release of the offender into the community. This includes furlough, work release, placement on supervised release, release on parole, release on bail bond, release on appeal bond, and final discharge at the end of the prison term.

- The right to be informed (in cases charged and pled to as a felony) of all trials, changes of pleas, sentencing and other major developments at least three working days in advance.
- The right to be heard by the court as to the actions of the defendant and their effect on the victim and the victim's family.
- The absolute right to testify, to be represented by retained counsel, and to call witnesses at sentencing, reduction of sentence, or parole hearing subject; and, at the discretion of the court, to testify at any change of plea or hearing to consider acceptance of a plea agreement.
- The right to be informed by the governor prior to the pardon of the defendant or the perpetrator.

The codified bill of rights also requires that the office of the prosecutor, the police, local social service agencies, the courts, and all other agencies involved in the criminal justice system cooperate with each other to ensure that victims and witnesses of crime receive the rights and services to which they are entitled under law.

Guam's statutory victims' rights provisions follow.

Victim Notice (§§160.50(a), (b), (d), (e), (h), (i), (j), (m); §87.10-87.13)

Victims of crime in Guam must be notified of the following:

- Financial assistance and other social services available as a result of being a witness or a victim of crime, including information about how to apply for the assistance and services.
- Release of the defendant from custody.
- Plea bargaining by the prosecuting attorney.
- Any scheduling changes in court proceedings.
- Major developments in the case, whenever appropriate.
- All trials, changes of pleas, sentencing and other major developments at least three working days in advance.
- Written notice of the offender's suspended sentence or probation without any term of imprisonment.
- The final disposition of the case.
- Changes planned in the custodial status of the offenders that result in the release of the offender into the community. This includes furlough, work release, placement on supervised release, release on parole, release on bail bond, release on appeal bond, and final discharge at the end of the prison term.
- The right to be informed by the governor prior to the pardon of the defendant or the perpetrator.

Victim Participation (§160.50(l))

Victims have the right to be heard by the court as to the effects of the actions of the defendant on the victim and the victim's family. Victims have the absolute right to testify, to be represented by retained counsel, and to make recommendations to the court. This includes victim testimony at sentencing and parole hearings. Victims may call witnesses at sentencing, reduction

of sentence hearings, or parole hearings. At the discretion of the court, victims may testify at any change of plea or hearing to consider acceptance of a plea agreement.

Victim Protection and Confidentiality (§§160.50(c), (f))

Victims in Guam have the right to receive protection from threats or harm in accordance with local witness and victim protection program guidelines.

Victims also have the right to a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants.

Employment Rights

No such provisions are codified in Guam law at this time.

Property Rights (§160.50(g))

Victims in Guam have the right to have stolen or other personal property expeditiously returned by law enforcement agencies when the property no longer is needed for evidence or when the attorney general has approved its release.

Victim Compensation (§86.10-86.130)

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Guam established the Criminal Injuries Compensation Commission, composed of five members appointed by the governor, to handle victim compensation claims. A Criminal Injuries Compensation Fund is available for payments to victims. The attorney general is the certifying officer of the fund, and all payments must be paid by the attorney general at order of the commission. The maximum award is \$10,000.

The commission may order only from available balances in the Criminal Injuries Compensation Fund the payment of compensation under this chapter for the following:

- Expenses actually and reasonably incurred as a result of the injury or death of the victim.
- Loss to the victim of earning power as a result of total or partial incapacity.
- Pecuniary loss to the dependents of the deceased victim.
- Pain and suffering to the victim.
- Any other pecuniary loss directly resulting from the injury or death of the victim that the commission determines to be reasonable and proper.

The commission may order the payment of compensation under this chapter for the following:

- Expenses actually and reasonably incurred as a result of the injury of the private citizen;
- Pain and suffering to the private citizen;
- Loss to the private citizen of earning power as a result of total or partial incapacity; and

- Pecuniary loss to the private citizen directly resulting from damage to his or her property.

Applications for compensation must be within 18 months after the date of injury, death or property damage.

Restitution (9 GCA §§80-50 through -58)

Victims in Guam have the right to court-ordered restitution from the offender. The restitution ordered paid to the victim shall not exceed his or her loss.

Notoriety for Profit

No such provisions are codified in Guam law at this time.

Legislation Passed in Guam in 2003-2004

No relevant legislation.

PUERTO RICO

Key Statute Citations

- 4 L.P.R.A. §1503a (2005)
- 25 L.P.R.A. §973a (2005)

Organization/Administration

In coordination with the secretary of justice, the general prosecutor in Puerto Rico is responsible for supervising the operations and implementation of crime victim programs. Through the coordination and collaboration of all resources made available by the secretary of justice or any other private or government entity or agency, the general prosecutor must ensure that the safety and the rights of crime victims are protected and guaranteed.

Web address: http://www.justicia.gobierno.pr/rs_template/v2/CompVic/

Who Is a Victim?

No definition is available.

Victim Bill of Rights (25 L.P.R.A. §973a)

Any person who qualifies for protection under the provisions of §§972-972j in the Commonwealth of Puerto Rico will be entitled to:

- Receive compassionate and dignified treatment from the public officials and employees who represent the agencies that compose the criminal justice system, during the phases of investigation, proceedings, sentencing and subsequent disposition of the criminal case filed against the person responsible for the crime.
- Have access to a telephone, free of charge, so that the person can communicate with his family or next of kin or with his or her legal counsel, as soon as he or she is in contact with the criminal justice system.
- Demand that the information concerning their addresses and telephone numbers remain confidential when deemed necessary to ensure their personal safety and that of their relatives, as well as the privileged communications between the victim and his or her counsel.
- Have the District Attorney's Office promote the speedy handling of the criminal cases against the person responsible for the crime and especially cases of sexual crimes, abuse and domestic violence.

Puerto Rico's statutory victims' rights provisions follow.

Victim Notice (§973a, §1503b)

Victims have the following notification rights:

- To be notified of the development of the investigation, proceedings and sentencing of the person responsible for the crime.
- To be consulted prior to settling a complaint or accusation of or against an offender.
- Upon request, to be informed of the procedures after the sentencing from the Puerto Rico police, the Special Investigation Bureau and the Department of Justice.

The Puerto Rico police department is responsible for furnishing all the necessary information so that the Corrections Administration may be able to comply with the provisions of law and notify the victims and witnesses of a crime.

The Corrections Administration must notify victims when:

- The offender is released on probation;
- The offender is on parole or under electronic supervision;
- The offender is residing in a halfway house; or
- The offender has been granted a suspended sentence.

The Parole Board in Puerto Rico is responsible for notifying the victim in writing within a term of not less than 15 working days before criminal hearings are to be held. Such notice must be sent to the last known mailing address of the victim and include:

- The date, time and place of the hearing;
- A brief explanation of the reasons for holding the hearing, including a mention of the crime or crimes for which the applicant was convicted;
- A list of the legal provisions or the regulations applicable to the participation of the victim in the proceedings, and
- The address and phone number of any office or official the victim may contact to obtain more complete information regarding his or her participation in the hearing.

Victim Participation (§973a ,§1503a)

Victims in Puerto Rico have the following participatory rights:

- To be present at all stages of the procedures against the person responsible for the crime when the laws and rules of procedure allow it, except in those cases prohibited by the court because the victim is a witness in the criminal procedure.
- When giving testimony in court or before a quasi-judicial body, to receive respectful and dignified treatment from the lawyers, prosecutors, judges and pertinent officials and employees.
- The right to receive the protection of the judge or presiding official in cases of harassment, insults, attacks and abuses to the dignity and the honor of the witness or of his family and relatives.
- To submit to the sentencing court a report on the financial and emotional effect the commission of the crime has caused.

Victim Protection and Confidentiality (§973a)

Victims have the following protection and confidentiality rights:

- To receive all the protection services guaranteed by law for victims and their family against all possible threats and damages that they may suffer from the offender and his family or friends.
- Victims also have the right to a separate area in court away from offender.
- To have the offender relieved from personally appearing at the hearing to determine probable cause for arrest, when such testimony conveys a risk to the victim's personal safety or that of his family.
- The home and business addresses, as well as the telephone numbers of victims or witnesses of a crime must be kept confidential. No report, paper, drawing, photograph or document filed in court or any other document related to a crime containing said information, which is under the custody or in possession of any public official or employee, including the prosecutor, the police or court employees, should be available for public inspection, unless the victim's personal contact information has been omitted.

No public official or employee may divulge the information concerning the addresses and telephone numbers of the victims except:

- To discharge their duties and require such information as part of the process.
- To provide compensation or services to victims and witnesses or to investigate or adjudicate claims for such compensation or services.
- To any organization or group whose purpose is to provide advisory or any other services or aid to the victims of crimes and therefore needs the addresses and telephone numbers of the victims to provide these services. However, such information will not be available to entities that request the information in question for business purposes.
- Any person or agency having the written consent of the victim or the witness or of the parents, spouse or other person legally responsible for the care of the victim or witness.
- Any person who, before or after the trial concerning the case to which the victim or the witness are related petitions the court for such information. The court will then issue an order only after: 1) the person making the petition proves to the satisfaction of the court that there is good cause for the information; 2) the court has been sufficiently assured by the prosecutor that the victim or the witness is not at risk of any personal danger; and 3) the victim, parents, spouse or any person legally responsible for caring for the victim, as well as the prosecutor, have been notified in writing concerning the order at least 120 hours before such order is signed.

Employment Rights

No such provisions are codified in Puerto Rico law.

Property Rights (§973a)

Victims have the right to have all property returned as soon as possible that has been retained by pertinent authorities to be used as evidence.

Victim Compensation

(Source: Crime Victim Compensation Program Directory prepared by the National Association of Crime Victims Compensation Boards.)

Victim compensation in Puerto Rico is handled by the Office of Crime Victims Compensation in the Puerto Rico Department of Justice.

Benefits

The maximum awards are \$4,000 per person and \$6,000 per family.

Compensable Costs (with limits)

- Medical expenses.
- Mental health counseling: including up to \$500 for relatives of murdered victims.
- Lost wages/support.
- Funerals: \$1,500.
- Emergency: \$500.

Web address: <http://www.nacvcb.org/progdir/puertorico.html>

Restitution(\$973a)

Victims in Puerto Rico have the right to receive restitution from the person liable for the crime.

Notoriety for Profit

No such provisions are codified in Puerto Rico law at this time.

Legislation Passed in Puerto Rico in 2003-2004

No relevant legislation was passed in 2003 or 2004.

VIRGIN ISLANDS

Key Statute Citations

- 34 V.I.C. §§202; §203; §205 (2004)

Organization/Administration

Victim services in the Virgin Islands are handled by the Criminal Investigation Bureau.

Web address: <http://www.vipd.gov.vi/cib.htm>

Who Is a Victim? (§202)

A victim is defined as a person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime against him or her. The term "victim" also includes the immediate family members of a crime victim who is a minor or who is physically or emotionally incapacitated as a result of the crime.

Victim Bill of Rights (§203)

To the extent reasonably possible and subject to available resources, victims of crime are afforded the following rights where applicable.

- To be treated with dignity and compassion:
 - To receive basic human services to meet emergency and long-term needs caused by financial, physical or psychological injury;
 - To be treated with dignity by human service professionals who provide basic assistance; and
 - To receive courteous assistance as he or she cooperates with criminal justice personnel.
- To protection from intimidation and harm.
- To be informed concerning the criminal justice process.
- To reparations.
- To preservation of property and employment.
- To due process in criminal court proceedings;
- Victims who are very young, elderly, who are handicapped, or who have special needs, have a right to special recognition and attention by all criminal justice, medical, and social service agencies. The prosecutor or defense shall notify the court when a victim deserves special consideration.

The Virgin Island's statutory victims' rights provisions follow.

Victim Notice (§203)

In addition to notice rights provided in the Victims Rights Amendment, victims must be notified of the following rights:

- To be informed about the procedures and practices of the criminal justice system.
- To be informed of financial assistance and other social services available to victims and witnesses.
- To be informed of any compensation or fees to which victim is entitled.
- To know the status and progress of his or her case from the police investigation to final disposition.
- To be informed of a defendant's release on bail.
- To be informed of post-sentence hearings affecting the probation or parole of the offender.
- To be informed when the convicted offender receives a temporary, provisional or final release from custody or the offender escapes from custody.
- To attend all hearings and procedures involving the case, unless there is a judicial determination to restrict attendance. A victim has the right to be informed of all hearings and procedures in time to exercise his or her right to attend.
- To be informed of whatever rights to legal counsel are available.
- To discuss the case with the prosecutor.
- To be informed of all available civil remedies respecting the case and to proceed in civil suits for recovery of damages, if possible, including placing a lien on any profits received by the offender as a result of publication or media coverage resulting from the crime.
- To discuss the case with the prosecutor and to be informed of any offers to plea bargain with the defendant.
- To be notified in advance when a court proceeding has been rescheduled or cancelled.
- To be informed of financial assistance, compensation or fees to which the victim is entitled.

Victim Participation (§203 and §205)

Victims have the following participatory rights:

- To participate in the criminal justice process directly or through representation.
- To retain counsel with standing in court to represent the victim in cases involving the victim's reputation.
- To a speedy disposition of the case so as to minimize the stress, cost and inconvenience resulting from the victim's involvement in a prosecution.
- To submit to the court, orally or in writing, at the victim's option, a victim impact statement to be considered by the judge at the sentencing or disposition hearing in Territorial Court and at a parole hearing.

Victim Protection and Confidentiality (§203)

Victims in the Virgin Islands have the right:

- To be free from intimidation when involved in the criminal justice system.
- To be protected by law enforcement agencies, including, but not limited to, transportation to and from court and physical protection in the courtroom and adjoining facilities when the threat of damaging intimidation cannot be avoided.
- To be provided waiting areas that are separate from those that will be used by the defendant, his family, or friends.

Employment Rights (§203)

A victim has the right to respond to a subpoena without fear of retaliation or loss of wages from his or her employer. Victims must be provided, where appropriate, with employer and creditor intercession services by the prosecutor who must:

- Seek employer cooperation in minimizing an employee's loss of pay and other benefits resulting from his participation in the criminal justice process, and
- Seek consideration from creditors if the victim is unable, temporarily, to continue payments.

Property Rights (§203)

A victim has the right to have recovered or taken personal property returned as expeditiously as possible unless the property is contraband, property subject to evidentiary analysis, property the ownership of which is disputed, or the property is needed for law enforcement or prosecution purposes. The property must be returned by the court, the prosecutor, or law enforcement agencies using photographs of property as evidence whenever possible.

Victim Compensation

(Source: *Crime Victim Compensation Program Directory* prepared by the National Association of Crime Victims Compensation Boards.)

Victim compensation in the Virgin Islands is handled by the Virgin Islands Criminal Victims Compensation Commission.

- A victim has the right to receive a reasonable fee plus reimbursement for necessary out-of-pocket expenses associated with lawfully observing a subpoena. The court must determine the rate of reimbursement and reimburse all eligible people in a timely manner.
- A victim, or his surviving dependents, has the right to receive financial compensation for physical or emotional injuries suffered as a result of being a victim of a violent bodily crime.

Benefits

Maximum award: \$25,000

Compensable Costs (with limits)

- Medical expenses.
- Mental health counseling: 10 sessions at \$75 per session.
- Lost wages or support: two-thirds of net wages for disabled victims; in homicides, a scale determines benefits, which are not to exceed \$20,000 for spouse and \$5,000 for dependents.
- Funerals: (\$2,500); may include travel to funeral for closest relatives.
- Replacement services.
- Travel: in extraordinary circumstances (off-island medical care), transportation can be paid (requires medical referral).
- Pain and suffering: award scale based on seriousness of crime and injury.
- Attorney fees: 2 percent of awards of \$1,000 or less; 5 percent of awards over \$1,000.
- Emergency: \$500.

Web address: <http://www.nacvcb.org/progdir/virginislands.html>

Restitution (§203)

A victim has the right to receive restitution for expenses or property loss incurred as a result of the crime. The judge must order restitution at every sentencing for a crime against person or property, or as a condition of probation or parole, unless the court finds a substantial and compelling reason not to order restitution. The court must diligently, fairly, and in a timely manner enforce all orders of restitution.

Notoriety for Profit

No such provisions are codified in Virgin Islands law at this time.

Legislation Passed in the U.S. Virgin Islands in 2003-2004

No relevant legislation was passed in 2003 or 2004.

RESOURCES

National Conference of State Legislatures

<http://www.ncsl.org/>

Sarah Brown Hammond

sarah.hammond@ncsl.org

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

<http://www.ojp.usdoj.gov/ovcl/>

The National Center for Victims of Crime (NCVC)

<http://www.ncvc.org/ncvc/Main.aspx>

The National Crime Victim Law Institute (NCVLI)

<http://www.ncvli.org>

Victims' Rights Laws in the States

During the past 30 years, an important shift in criminal justice systems has occurred to recognize the needs and support the rights of crime victims. As a result of state legislative actions, crime victims now have more rights than ever before, and these laws are constantly being expanded and improved. The information contained in the tables, charts and individual state summaries in this document demonstrates the diligent efforts of state legislatures and illustrates the possibilities under state law to address victims' needs.

Victims' Rights Laws in the States contains an inventory and description of laws in the 50 states, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands and American Samoa through 2004 related to administration and organization of victims' services in state government; how statutes define a victim; victims' bill of rights provisions in statutory law and state constitutions; victim rights to notice, participation and protection, including employment, confidentiality, restitution and compensation; and provisions on notoriety for profit. Also included are summaries of statutory rights of individuals who are victims of crimes committed by juveniles and state services and protections extended to victims.



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