

FLORIDA VICTIMS' RIGHTS LAWS¹

Constitution

Article I, § 16 – Rights of Accused and of Victims

(a) [Pertains to rights of the accused]

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

Statutes

960.001 – Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Parole Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in § 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and § 16(b), Art. I of the State Constitution and are designed to implement the provisions of § 16(b), Art. I of the State Constitution and to achieve the following objectives:

(a) Information concerning services available to victims of adult and juvenile crime -- As provided in § 27.0065, state attorneys and public defenders shall gather information regarding the following services in the geographic boundaries of their respective circuits and shall provide such information to each law enforcement agency with jurisdiction within such geographic boundaries. Law enforcement personnel shall ensure, through

¹Not meant to be exhaustive

distribution of a victim's rights information card or brochure at the crime scene, during the criminal investigation, and in any other appropriate manner, that victims are given, as a matter of course at the earliest possible time, information about:

1. The availability of crime victim compensation, when applicable;
2. Crisis intervention services, supportive or bereavement counseling, social service support referrals, and community-based victim treatment programs;
3. The role of the victim in the criminal or juvenile justice process, including what the victim may expect from the system as well as what the system expects from the victim;
4. The stages in the criminal or juvenile justice process which are of significance to the victim and the manner in which information about such stages can be obtained;
5. The right of a victim, who is not incarcerated, including the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, and the next of kin of a homicide victim, to be informed, to be present, and to be heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent that this right does not interfere with constitutional rights of the accused, as provided by § 16(b), Art. I of the State Constitution;
6. 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; and
7. The right of a victim 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 to the extent that this right does not interfere with the constitutional rights of the accused.

(b) Information for purposes of notifying victim or appropriate next of kin of victim or other designated contact of victim.--In the case of a homicide, pursuant to chapter 782; or a sexual offense, pursuant to chapter 794; or an attempted murder or sexual offense, pursuant to chapter 777; or stalking, pursuant to § 784.048; or domestic violence, pursuant to § 25.385:

1. The arresting law enforcement officer or personnel of an organization that provides assistance to a victim or to the appropriate next of kin of the victim or other designated contact must request that the victim or appropriate next of kin of the victim or other designated contact complete a victim notification card. However, the victim or appropriate next of kin of the victim or other designated contact may choose not to complete the victim notification card.
2. Unless the victim or the appropriate next of kin of the victim or other designated contact waives the option to complete the victim notification card, a copy of the victim notification card must be filed with the incident report or warrant in the sheriff's office of

the jurisdiction in which the incident report or warrant originated. The notification card shall, at a minimum, consist of:

- a. The name, address, and phone number of the victim; or
- b. The name, address, and phone number of the appropriate next of kin of the victim; or
- c. The name, address, and phone number of a designated contact other than the victim or appropriate next of kin of the victim; and

3. The chief administrator, or a person designated by the chief administrator, of a county jail, municipal jail, juvenile detention facility, or residential commitment facility shall make a reasonable attempt to notify the alleged victim or appropriate next of kin of the alleged victim or other designated contact within 4 hours following the release of the defendant on bail or, in the case of a juvenile offender, upon the release from residential detention or commitment. If the chief administrator, or designee, is unable to contact the alleged victim or appropriate next of kin of the alleged victim or other designated contact by telephone, the chief administrator, or designee, must send to the alleged victim or appropriate next of kin of the alleged victim or other designated contact a written notification of the defendant's release.

4. Unless otherwise requested by the victim or the appropriate next of kin of the victim or other designated contact, the information contained on the victim notification card must be sent by the chief administrator, or designee, of the appropriate facility to the subsequent correctional or residential commitment facility following the sentencing and incarceration of the defendant, and unless otherwise requested by the victim or the appropriate next of kin of the victim or other designated contact, he or she must be notified of the release of the defendant from incarceration as provided by law.

5. If the defendant was arrested pursuant to a warrant issued or taken into custody pursuant to § 985.207 in a jurisdiction other than the jurisdiction in which the defendant is being released, and the alleged victim or appropriate next of kin of the alleged victim or other designated contact does not waive the option for notification of release, the chief correctional officer or chief administrator of the facility releasing the defendant shall make a reasonable attempt to immediately notify the chief correctional officer of the jurisdiction in which the warrant was issued or the juvenile was taken into custody pursuant to § 985.207, and the chief correctional officer of that jurisdiction shall make a reasonable attempt to notify the alleged victim or appropriate next of kin of the alleged victim or other designated contact, as provided in this paragraph, that the defendant has been or will be released.

(c) *Information concerning protection available to victim or witness.*--A victim or witness shall be furnished, as a matter of course, with information on steps that are available to law enforcement officers and state attorneys to protect victims and witnesses from intimidation. Victims of domestic violence shall also be given information about the address confidentiality program provided under § 741.403.

(d) *Notification of scheduling changes.*--Each victim or witness who has been scheduled to attend a criminal or juvenile justice proceeding shall be notified as soon as possible by the agency scheduling his or her appearance of any change in scheduling which will affect his or her appearance.

(e) *Advance notification to victim or relative of victim concerning judicial proceedings; right to be present.*--Any victim, parent, guardian, or lawful representative of a minor who is a victim, or relative of a homicide victim shall receive from the appropriate agency, at the address found in the police report or the victim notification card if such has been provided to the agency, prompt advance notification, unless the agency itself does not have advance notification, of judicial and postjudicial proceedings relating to his or her case, including all proceedings or hearings relating to:

1. The arrest of an accused;
2. The release of the accused pending judicial proceedings or any modification of release conditions; and
3. Proceedings in the prosecution or petition for delinquency of the accused, including the filing of the accusatory instrument, the arraignment, disposition of the accusatory instrument, trial or adjudicatory hearing, sentencing or disposition hearing, appellate review, subsequent modification of sentence, collateral attack of a judgment, and, when a term of imprisonment, detention, or residential commitment is imposed, the release of the defendant or juvenile offender from such imprisonment, detention, or residential commitment by expiration of sentence or parole and any meeting held to consider such release.

A victim, a victim's parent or guardian if the victim is a minor, a lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or a victim's next of kin may not be excluded from any portion of any hearing, trial, or proceeding pertaining to the offense based solely on the fact that such person is subpoenaed to testify, unless, upon motion, the court determines such person's presence to be prejudicial. The appropriate agency with respect to notification under subparagraph 1. is the arresting law enforcement agency, and the appropriate agency with respect to notification under subparagraphs 2. and 3. is the Attorney General or state attorney, unless the notification relates to a hearing concerning parole, in which case the appropriate agency is the Parole Commission. The Department of Corrections, the Department of Juvenile Justice, or the sheriff is the appropriate agency with respect to release by expiration of sentence or any other release program provided by law. Any victim may waive notification at any time, and such waiver shall be noted in the agency's files.

(f) *Information concerning release from incarceration from a county jail, municipal jail, juvenile detention facility, or residential commitment facility.*--The chief administrator, or a person designated by the chief administrator, of a county jail, municipal jail, juvenile detention facility, or residential commitment facility shall, upon the request of the victim or the appropriate next of kin of a victim or other designated contact of the victim of any of the crimes specified in paragraph (b), make a reasonable attempt to notify the victim or appropriate next of kin of the

victim or other designated contact prior to the defendant's or offender's release from incarceration, detention, or residential commitment if the victim notification card has been provided pursuant to paragraph (b). If prior notification is not successful, a reasonable attempt must be made to notify the victim or appropriate next of kin of the victim or other designated contact within 4 hours following the release of the defendant or offender from incarceration, detention, or residential commitment. If the defendant is released following sentencing, disposition, or furlough, the chief administrator or designee shall make a reasonable attempt to notify the victim or the appropriate next of kin of the victim or other designated contact within 4 hours following the release of the defendant. If the chief administrator or designee is unable to contact the victim or appropriate next of kin of the victim or other designated contact by telephone, the chief administrator or designee must send to the victim or appropriate next of kin of the victim or other designated contact a written notification of the defendant's or offender's release.

(g) Consultation with victim or guardian or family of victim.--

1. In addition to being notified of the provisions of § 921.143, the victim of a felony involving physical or emotional injury or trauma or, in a case in which the victim is a minor child or in a homicide, the guardian or family of the victim shall be consulted by the state attorney in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case brought as a result of such crime, including the views of the victim or family about:

- a. The release of the accused pending judicial proceedings;
- b. Plea agreements;
- c. Participation in pretrial diversion programs; and
- d. Sentencing of the accused.

2. Upon request, the state attorney shall permit the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the victim's next of kin in the case of a homicide to review a copy of the presentence investigation report prior to the sentencing hearing if one was completed. Any confidential information that pertains to medical history, mental health, or substance abuse and any information that pertains to any other victim shall be redacted from the copy of the report. Any person who reviews the report pursuant to this paragraph must maintain the confidentiality of the report and shall not disclose its contents to any person except statements made to the state attorney or the court.

3. When an inmate has been approved for community work release, the Department of Corrections shall, upon request and as provided in § 944.605, notify the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the victim's next of kin if the victim is a homicide victim.

960.0015. Victim's right to a speedy trial; speedy trial demand by the state attorney

(1) The state attorney may file a demand for a speedy trial if the state has met its obligations under the rules of discovery, the charge is a felony or misdemeanor, the court has granted at least three continuances upon the request of the defendant over the objection of the state attorney, and:

(a) If a felony case, it is not resolved within 125 days after the date that formal charges are filed and the defendant is arrested or the date that notice to appear in lieu of arrest is served upon the defendant; or

(b) If a misdemeanor case, it is not resolved within 45 days after the date that formal charges are filed and the defendant is arrested or the date that notice to appear in lieu of arrest is served upon the defendant.

(2) Upon the filing of a demand for a speedy trial, the trial court shall schedule a calendar call within 5 days, at which time the court shall schedule the trial to commence no sooner than 5 days or later than 45 days following the date of the calendar call. The court may, however, grant whatever further extension may be required to prevent deprivation of the defendant's right to due process.

(3)(a) The trial court may postpone the trial date for up to 30 additional days upon a showing by the defendant that a necessary witness who was properly served failed to attend the deposition and also failed to attend a subsequently scheduled deposition following a court order to appear. The court may, however, grant whatever further extension may be required to prevent deprivation of the defendant's right to due process.

(b) The trial court may also postpone the trial date for no fewer than 30 days but no more than 70 days if the court grants a motion by counsel to withdraw and the court appoints other counsel. The court may, however, grant whatever further extension may be required to prevent deprivation of the defendant's right to due process.