

# NATIONAL CRIME VICTIM LAW INSTITUTE

at Lewis & Clark Law School

PROTECTING, ENFORCING, and ADVANCING VICTIMS' RIGHTS

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## KANSAS VICTIMS' RIGHTS LAWS<sup>1</sup>

### Constitution

#### Article 15, § 15 – Victims' Rights

(a) Victims of crime as defined by law shall be entitled to certain basic rights, including the right to be informed of and to be present at, public hearings, as defined by law, of the criminal justice process, and to be heard at sentencing or at any other time deemed appropriate by the court, to the extent that these rights do not interfere with the constitutional rights of the accused.

(b) Nothing in this section shall be construed as creating a cause of action for money damages against the state, a county, a municipality, or any of the agencies, instrumentalities, or employees thereof. The legislature may provide for other remedies to insure adequate enforcement of this section.

(c) Nothing in this section shall be construed to authorize a court to set aside or to void a finding of guilt or innocence or an acceptance of a plea of guilty or to set aside any sentence imposed in any criminal case.

### Statutes

#### Chapter 74, State Boards, Commissions and Authorities; Article 73 – Crime Victims Compensation Board, Protection from Abuse Fund

#### § 74-7333 – Bill of rights for victims of crime

(a) In order to ensure the fair and compassionate treatment of victims of crime and to increase the effectiveness of the criminal justice system by affording victims of crime certain basic rights and considerations, victims of crime shall have the following rights:

(1) Victims should be treated with courtesy, compassion and with respect for their dignity and privacy and should suffer the minimum of necessary inconvenience from their involvement with the criminal justice system.

(2) Victims should receive, through formal and informal procedures, prompt and fair redress for the harm which they have suffered.

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<sup>1</sup> Not intended to be exhaustive.

- (3) Information regarding the availability of criminal restitution, recovery of damages in a civil cause of action, the crime victims compensation fund and other remedies and the mechanisms to obtain such remedies should be made available to victims.
  - (4) Information should be made available to victims about their participation in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings.
  - (5) The views and concerns of victims should be ascertained and the appropriate assistance provided throughout the criminal process.
  - (6) When the personal interests of victims are affected, the views or concerns of the victim should, when appropriate and consistent with criminal law and procedure, be brought to the attention of the court.
  - (7) Measures may be taken when necessary to provide for the safety of victims and their families and to protect them from intimidation and retaliation.
  - (8) Enhanced training should be made available to sensitize criminal justice personnel to the needs and concerns of victims and guidelines should be developed for this purpose.
  - (9) Victims should be informed of the availability of health and social services and other relevant assistance that they might continue to receive the necessary medical, psychological and social assistance through existing programs and services.
  - (10) Victims should report the crime and cooperate with law enforcement authorities.
- (b) As used in this act, "victim" means any person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime against such person.
  - (c) As used in this act and as used in article 15 of section 15 of the Kansas constitution, the term "crime" shall not include violations of ordinances of cities except for violations of ordinances of cities which prohibit acts or omissions which are prohibited by articles 33, 34, 35 and 36 of chapter 21 of the Kansas Statutes Annotated and as provided in subsection (d).
  - (d) The governing body of any city which has established a municipal court shall adopt policies which afford the rights granted to victims of crime pursuant to this act and pursuant to article 15 of section 15 of the Kansas constitution to victims of ordinance violations specified in such policies.
  - (e) Nothing in this act shall be construed as creating a cause of action on behalf of any person against the state, a county, a municipality or any of their agencies, instrumentalities or employees responsible for the enforcement of rights as provided in this act.
  - (f) This section shall be known and may be cited as the bill of rights for victims of crime act.

**§ 74-7335 – Victim of crime; notification of public hearing**

- (a) The victim of a crime or the victim's family shall be notified of the right to be present at any public hearing or any juvenile offender proceeding concerning the accused or the convicted person or the respondent or the juvenile offender.
- (b) The victim of a crime or the victim's family shall be notified of the right to be present at any proceeding or hearing where probation or parole is considered or granted by a judge whether or not a public hearing is conducted or required.
- (c) As used in this section:
  - (1) "Public hearing" means any court proceeding or administrative hearing which is open to the public and shall include but not be limited to the:
    - (A) Preliminary hearing;
    - (B) trial;
    - (C) sentencing;
    - (D) sentencing modification;
    - (E) public comment sessions, pursuant to K.S.A. 22-3717, and amendments thereto;
    - (F) expungement hearing; and
    - (G) granting of probation or parole by a judge.
  - (2) "Victim's family" means a spouse, surviving spouse, children, parents, legal guardian, siblings, stepparent or grandparents.
  - (3) "Juvenile offender proceedings" means any hearing concerning a juvenile pursuant to the Kansas juvenile justice code.
- (d) The city, county or district attorney or municipal court clerk shall notify any victim of the crime who is alive and whose address is known to the city, county or district attorney or municipal court clerk or, if the victim is deceased, to the victim's family if the family's address is known to such attorney or clerk.
- (e) Costs of transportation for the victim to appear shall be borne by the victim unless the appearance is required pursuant to a subpoena or other order of the court.

**§ 77-7338 – Victim of crime; public comment sessions; notice**

- (a) Notwithstanding the provisions of K.S.A. 74-7335 and amendments thereto, in the case of any inmate convicted of an off-grid felony or a class A felony, the secretary of corrections shall give written notice of the time and place of the public comment session pursuant to

K.S.A. 22-3717 and amendments thereto for such inmate, at least one month preceding the public comment session, to any victim or the victim's family pursuant to subsection (b).

- (b) Any victim, or a member of the victim's family of a crime, if such victim requests notice of the public comment session, shall give the secretary of corrections such victim's name and current address or the name and current address of the victim's family. It shall be the duty of the victim or the victim's family to provide the secretary with any change in name or address or change in the person to be notified pursuant to this section.
- (c) The secretary of corrections shall keep a record of all victims and their current addresses or such victims' family and their current addresses, who give the secretary such victim or victims' family name pursuant to subsection (b), and shall update such record as notified by the victims or the victims' family. Such record shall be kept confidential and separate from all other records and shall not be available to the inmate or any other party other than the victim or the victim's family.