

NATIONAL CRIME VICTIM LAW INSTITUTE

at Lewis & Clark Law School

PROTECTING, ENFORCING, and ADVANCING VICTIMS' RIGHTS

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MISSOURI VICTIMS' RIGHTS LAWS¹

CONSTITUTION

Article I, § 32. Crime victims' rights

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

- (1) 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;
- (2) 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;
- (3) The right to be informed of trials and preliminary hearings;
- (4) The right to restitution, which shall be enforceable in the same manner as any other civil cause of action, or as otherwise provided by law;
- (5) 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 defense;
- (6) The right to reasonable protection from the defendant or any person acting on behalf of the defendant;
- (7) 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
- (8) 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.

2. Notwithstanding section 20 of article I of this Constitution, upon a showing that the defendant poses a danger to a crime victim, the community, or any other person, the court may deny bail or may impose special conditions which the defendant and surety must guarantee.

3. 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 provided that the General Assembly may, by statutory enactment, reverse, modify, or supercede any judicial decision or rule arising from any cause of action brought pursuant to this section.

¹ Not intended to be exhaustive.

4. Nothing in this section shall be construed to authorize a court to set aside or to void a finding of guilt, or an acceptance of a plea of guilty in any criminal case.
5. The general assembly shall have power to enforce this section by appropriate legislation.

Statutes:

Title XXXVIII, Crimes and Punishment; Peace Officers and Public Defenders Chapter 595, Victims of Crimes, Compensation and Services; Victims and Witnesses Rights

§ 595.200 – Definitions

The following words as used in sections 595.200 to 595.215 shall have the following meanings, unless the context otherwise requires:

- (1) "Crime", an act which would constitute a violation of any criminal statute including any act which may result in an adjudication of delinquency;
- (2) "Custodial authority", the chief administrative officer or official in charge of a municipal detention facility, a county jail, a correctional facility operated by the department of corrections, a mental health facility or the division of youth services or any agency thereof;
- (3) "Disposition", the sentencing or determination of penalty or punishment to be imposed upon a person convicted of a crime or found delinquent or against whom a finding of sufficient facts for conviction or finding of delinquency is made;
- (4) "Family member", a spouse, child, sibling, parent, grandparent or legal guardian of a victim;
- (5) "Restitution", money or services which a court orders a defendant to pay or render to a victim as part of the disposition;
- (6) "Victim", a natural person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime. The term "victim" also includes the family members of a minor, incompetent or a homicide victim;
- (7) "Witness", any person who has been or is expected to be summoned to testify for the prosecution whether or not any action or proceeding has yet been commenced. The term "witness" shall include persons employed in the administration of criminal justice who are testifying in the course of their employment, except that such persons shall not be entitled to any witness fees.

§ 595.206 – Victims eligible for services

A victim has the rights and is eligible for the services set forth in sections 595.200 to 595.215 only if such victim reported the crime to law enforcement authorities within five days of its occurrence or discovery, unless the prosecuting attorney finds that a good cause existed for not having done so.

§ 595.209 – Rights of victims and witnesses

1. The following rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061, RSMo, victims of murder in the first degree, as defined in section 565.020,

RSMo, victims of voluntary manslaughter, as defined in section 565.023, RSMo, and victims of an attempt to commit one of the preceding crimes, as defined in section 564.011, RSMo; and, upon written request, the following rights shall be afforded to victims of all other crimes and witnesses of crimes:

- (1) For victims, 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, even if the victim is called to testify or may be called to testify as a witness in the case;
- (2) For victims, the right to information about the crime, as provided for in subdivision (5) of this subsection;
- (3) For victims and witnesses, to be informed, in a timely manner, by the prosecutor's office of the filing of charges, preliminary hearing dates, trial dates, continuances and the final disposition of the case. Final disposition information shall be provided within five days;
- (4) For victims, the right to confer with and to be informed by the prosecutor regarding bail hearings, guilty pleas, pleas under chapter 552, RSMo, or its successors, hearings, sentencing and probation revocation hearings and the right to be heard at such hearings, including juvenile proceedings, unless in the determination of the court the interests of justice require otherwise;
- (5) The right to be informed by local law enforcement agencies, the appropriate juvenile authorities or the custodial authority of the following:
 - (a) The status of any case concerning a crime against the victim, including juvenile offenses;
 - (b) The right to be informed by local law enforcement agencies or the appropriate juvenile authorities, of the availability of victim compensation assistance, assistance in obtaining documentation of the victim's losses, including, but not limited to and subject to existing law concerning protected information or closed records, access to copies of complete, unaltered, unedited investigation reports of motor vehicle, pedestrian, and other similar accidents upon request to the appropriate law enforcement agency by the victim or the victim's representative, and emergency crisis intervention services available in the community;
 - (c) Any release of such person on bond or for any other reason;
 - (d) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;
- (6) For victims, the right to be informed by appropriate juvenile authorities of probation revocation hearings initiated by the juvenile authority and the right to be heard at such hearings or to offer a written statement, video or audio tape in lieu of a personal appearance, the right to be informed by the board of probation and parole of probation revocation hearings initiated by the board and of parole hearings, the right to be present at each and every phase of parole hearings and the right to be heard at probation revocation and parole hearings or to offer a written statement, video or audio tape in lieu of a personal appearance,

and the right to be informed by the custodial mental health facility or agency thereof of any hearings for the release of a person committed pursuant to the provisions of chapter 552, RSMo, the right to be present at such hearings, the right to be heard at such hearings or to offer a written statement, video or audio tape in lieu of personal appearance;

- (7) For victims and witnesses, upon their written request, the right to be informed by the appropriate custodial authority, including any municipal detention facility, juvenile detention facility, county jail, correctional facility operated by the department of corrections, mental health facility, division of youth services or agency thereof if the offense would have been a felony if committed by an adult, postconviction or commitment pursuant to the provisions of chapter 552, RSMo, of the following:
 - (a) The projected date of such person's release from confinement;
 - (b) Any release of such person on bond;
 - (c) Any release of such person on furlough, work release, trial release, electronic monitoring program, or to a community correctional facility or program or release for any other reason, in advance of such release;
 - (d) Any scheduled parole or release hearings regarding such person and any changes in the scheduling of such hearings. No such hearing shall be conducted without thirty days' advance notice;
 - (e) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;
 - (f) Any decision by a parole board, juvenile releasing authority or circuit court presiding over releases pursuant to the provisions of chapter 552, RSMo, to release such person or any decision by the governor to commute the sentence of such person or pardon such person;
 - (g) Notification within thirty days of the death of such person;
- (8) For witnesses who have been summoned by the prosecuting attorney and for victims, to be notified by the prosecuting attorney in a timely manner when a court proceeding will not go on as scheduled;
- (9) For victims and witnesses, the right to reasonable protection from the defendant or any person acting on behalf of the defendant from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;
- (10) For victims and witnesses, on charged cases or submitted cases where no charge decision has yet been made, to be informed by the prosecuting attorney of the status of the case and of the availability of victim compensation assistance and of financial assistance and emergency and crisis intervention services available within the community and information relative to applying for such assistance or services, and of any final decision by the prosecuting attorney not to file charges;

- (11) For victims, to be informed by the prosecuting attorney of the right to restitution which shall be enforceable in the same manner as any other cause of action as otherwise provided by law;
 - (12) For victims and witnesses, to be informed by the court and the prosecuting attorney of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;
 - (13) When a victim's property is no longer 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 shall, 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 provide written explanation of the reason why such property shall not be returned;
 - (14) An employer may not discharge or discipline any witness, 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;
 - (15) For victims, to be provided with creditor intercession services by the prosecuting attorney if the victim is unable, as a result of the crime, temporarily to meet financial obligations;
 - (16) For victims and witnesses, the right to speedy disposition of their cases, and for victims, the right to speedy appellate review of their cases, provided that nothing in this subdivision shall prevent the defendant from having sufficient time to prepare such defendant's defense. The attorney general shall provide victims, upon their written request, case status information throughout the appellate process of their cases. The provisions of this subdivision shall apply only to proceedings involving the particular case to which the person is a victim or witness;
 - (17) For victims and witnesses, to be provided by the court, a secure waiting area during court proceedings and to receive notification of the date, time and location of any hearing conducted by the court for reconsideration of any sentence imposed, modification of such sentence or recall and release of any defendant from incarceration.
2. The provisions of subsection 1 of this section shall not be construed to imply any victim who is incarcerated by the department of corrections or any local law enforcement agency has a right to be released to attend any hearing or that the department of corrections or the local law enforcement agency has any duty to transport such incarcerated victim to any hearing.
 3. Those persons entitled to notice of events pursuant to the provisions of subsection 1 of this section shall provide the appropriate person or agency with their current addresses and telephone numbers or the addresses or telephone numbers at which they wish notification to be given.

4. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section.
5. Victims' rights as established in section 32 of article I of the Missouri Constitution or the laws of this state pertaining to the rights of victims of crime shall be granted and enforced regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor of the defendant to exclude victims or prevent their full participation in each and every phase of parole hearings or probation revocation hearings. The rights of the victims granted in this section are absolute and the policy of this state is that the victim's rights are paramount to the defendant's rights. The victim has an absolute right to be present at any hearing in which the defendant is present before a probation and parole hearing officer.

§ 595.210 – Victims of sexually violent offenses, right to testify at parole hearings

Any victim of a sexually violent offense, as defined in section 632.480, RSMo, shall have the right to testify at any parole hearing scheduled for the sexually violent predator, as defined in section 632.480, RSMo, who victimized such person, provided that the sexually violent predator is being considered for parole from imprisonment for a crime which arose out of such sexually violent predator's escape or attempted escape from commitment as a sexually violent predator under chapter 632, RSMo. Such crimes shall not be limited to the crimes of escape or attempted escape, but shall include any crime which was committed during the course of the sexually violent predator's escape or attempted escape from commitment as a sexually violent predator.

§ 595.212 – Prosecuting attorneys to create and maintain program for victims and witnesses rights – funding, approval of agency programs

1. Each prosecuting attorney shall create and maintain, but not be limited to, a program to afford victims and witnesses of crimes the rights and services described in sections 595.200 to 595.215.
2. State funding shall be only for rights and services actually afforded victims and witnesses of crimes as set forth in sections 595.200 to 595.215. State and local government agencies which seek state funding shall have an operating victims' services program before said agency seeks state funding. The attorney general's office through the Missouri office of prosecution services utilizing existing staff and volunteers shall approve agency programs before such agency seeks state funding. Said approved programs shall be funded by the general assembly within the limits of funds appropriated for such purposes.

§ 595.215 – Duty of cooperation for prosecutor, law enforcement and social service agencies

The prosecuting attorney, local law enforcement agencies, local social services agencies, and court shall cooperate to afford victims and witnesses of crimes the rights and services described in sections 595.200 to 595.215.

§ 595.218 – Construction of provisions, no cause of action created against public employees or agencies

Nothing in sections 595.200 to 595.215 shall be construed as creating a cause of action on behalf of any person against any public employee, public agency, the state or any agency responsible for the enforcement of rights and provisions of services set forth in sections 595.200 to 595.215.