

NATIONAL CRIME VICTIM LAW INSTITUTE

at Lewis & Clark Law School

PROTECTING, ENFORCING, and ADVANCING VICTIMS' RIGHTS

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NEW JERSEY VICTIMS' RIGHTS LAWS¹

Constitution

Article I, § 22 – Rights of victims of crime

A victim of a crime shall be treated with fairness, compassion and respect by the criminal justice system. A victim of a crime shall not be denied the right to be present at public judicial proceedings except when, prior to completing testimony as a witness, the victim is properly sequestered in accordance with law or the Rules Governing the Courts of the State of New Jersey. A victim of a crime shall be entitled to those rights and remedies as may be provided by the Legislature. For the purposes of this paragraph, "victim of a crime" means: a) a person who has suffered physical or psychological injury or has incurred loss of or damage to personal or real property as a result of a crime or an incident involving another person operating a motor vehicle while under the influence of drugs or alcohol, and b) the spouse, parent, legal guardian, grandparent, child or sibling of the decedent in the case of a criminal homicide.

Statutes

Title 52, State Government, Departments and Officers; Subtitle I, General Provisions; Chapter 4B, Compensation for Victims of Crimes;

Crime Victim's Bill of Rights

§ 52:4B-34 – Short title

This act shall be known and may be cited as the "Crime Victim's Bill of Rights."

§ 52:4B-35 – Legislative findings and declarations

The Legislature finds and declares that without the participation and cooperation of crime victims and witnesses, the criminal justice system would cease to function. The rights of these individuals should be given full recognition and protection. The Legislature has the responsibility to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process. In furtherance of this, the improved treatment of these persons should be assured through the establishment of specific rights. These rights are among the most fundamental and important in assuring public confidence in the criminal justice system.

¹ Not intended to be exhaustive.

§ 52:4B-36 – Rights of crime victims and witnesses

The Legislature finds and declares that crime victims and witnesses are entitled to the following rights:

- a. To be treated with dignity and compassion by the criminal justice system;
- b. To be informed about the criminal justice process;
- c. To be free from intimidation;
- d. To have inconveniences associated with participation in the criminal justice process minimized to the fullest extent possible;
- e. To make at least one telephone call provided the call is reasonable in both length and location called;
- f. To medical assistance if, in the judgment of the law enforcement agency, medical assistance appears necessary;
- g. To be notified if presence in court is not needed;
- h. To be informed about available remedies, financial assistance and social services;
- i. To be compensated for their loss whenever possible;
- j. To be provided a secure, but not necessarily separate, waiting area during court proceedings;
- k. To be advised of case progress and final disposition;
- l. To the prompt return of property when no longer needed as evidence;
- m. To submit a written statement about the impact of the crime to a representative of the county prosecutor's office which shall be considered prior to the prosecutor's final decision concerning whether formal criminal charges will be filed;
- n. To make, prior to sentencing, an in-person statement directly to the sentencing court concerning the impact of the crime.

This statement is to be made in addition to the statement permitted for inclusion in the presentence report by N.J.S.2C:44-6.

In any homicide prosecution the victim's survivor may display directly to the sentencing court at the time of this statement a photograph of the victim taken before the homicide; and

- o. No crime victim shall be required to pay the maintenance, support, rehabilitation or other

costs arising from the imprisonment or commitment of a victimizer as a result of the crime.

§ 52:4B-37 – Victim defined

As used in this act, "victim" means 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 of a crime committed by an adult or an act of delinquency that would constitute a crime if committed by an adult, committed against that person. "Victim" also includes the nearest relative of the victim of a criminal homicide.

§ 52:4B-38 – Inapplicability of act to claims under Tort Claims Act

Nothing contained in this act shall mitigate any right which the victim may have pursuant to the New Jersey Tort Claims Act.

Victim-Witness Assistance

§ 52:4B-44 – Standards to insure the rights of crime victims

- a. The Attorney General shall, through the Office of Victim-Witness Advocacy in the Division of Criminal Justice in the Department of Law and Public Safety and in consultation with the county prosecutors, promulgate standards for law enforcement agencies to ensure that the rights of crime victims are enforced.
- b. The standards shall require that the Office of Victim-Witness Advocacy in the Division of Criminal Justice and each county prosecutor's office provide the following services upon request for victims and witnesses involved in the prosecution of a case:
 - (1) Orientation information about the criminal justice system and the victim's and witness's role in the criminal justice process;
 - (2) Notification of any change in the case status and of final disposition;
 - (3) Information on crime prevention and on available responses to witness intimidation;
 - (4) Information about available services to meet needs resulting from the crime and referrals to service agencies, where appropriate;
 - (5) Advance notice of the date, time and place of the defendant's initial appearance before a judicial officer, submission to the court of any plea agreement, the trial and sentencing;
 - (6) Advance notice of when presence in court is not needed;

- (7) Advice about available compensation, restitution and other forms of recovery and assistance in applying for government compensation;
- (8) A waiting or reception area separate from the defendant for use during court proceedings;
- (9) An escort or accompaniment for intimidated victims or witnesses during court appearances;
- (10) Information about directions, parking, courthouse and courtroom locations, transportation services and witness fees, in advance of court appearances;
- (11) Assistance for victims and witnesses in meeting special needs when required to make court appearances, such as transportation and child care arrangements;
- (12) Assistance in making travel and lodging arrangements for out-of-State witnesses;
- (13) Notification to employers of victims and witnesses, if cooperation in the investigation or prosecution causes absence from work;
- (14) Notification of the case disposition, including the trial and sentencing;
- (15) Assistance to victims in submitting a written statement to a representative of the county prosecutor's office about the impact of the crime prior to the prosecutor's final decision concerning whether formal charges will be filed;
- (16) Advice to victims about their right to make a statement about the impact of the crime for inclusion in the presentence report or at time of parole consideration, if applicable;
- (17) Notification to victims of the right to make an in-person statement, prior to sentencing, directly to the sentencing court concerning the impact of the crime;
- (18) Expediting the return of property when no longer needed as evidence;
- (19) Advise and counsel, or refer for advice or counseling, victims of sexual assault, or other criminal acts involving a risk of transmission of disease, concerning available medical testing and assist such victims, or refer such victims for assistance, in obtaining appropriate testing, counseling and medical care and in making application to the Victims of Crime Compensation Board for compensation for the costs of such testing, counseling and care;
- (20) Assistance to victims in submitting a written impact statement to a representative of the county prosecutor's office concerning the impact of the crime which shall be considered prior to the prosecutor's accepting a negotiated plea agreement containing recommendations as to sentence and assistance to victims in securing an explanation of the terms of any such agreement and the reasons for the agreement;

- (21) Notification to the victim of the defendant's release from custody which shall include:
 - (a) notice of the defendant's escape from custody and return to custody following escape;
 - (b) notice of any other release from custody, including placement in an Intensive Supervision Program or other alternative disposition, and any associated conditions of release;
 - (c) notice of the filing by an inmate of an application for commutation of sentence pursuant to N.J.S.2A:167-4 and its disposition;
 - (d) notice of parole consideration pursuant to provisions of P.L.1979, c. 441 (C.30:4-123.45 et seq.); and
 - (e) notice of the pending release of an inmate due to expiration of sentence; and

 - (22) Interpreting services for victims and witnesses when necessary to assist a victim or witness who is hearing impaired or developmentally disabled as defined in section 3 of P.L.1977, c. 82 (C.30:6D-3) to understand questions and frame answers.
- c. In a case involving a victim of aggravated sexual assault or sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2, the Office of Victim-Witness Advocacy or the county prosecutor's office involved in the case shall:
- (1) Notify the victim of the victim's right to obtain an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS, and assist the victim, or refer the victim for assistance, in obtaining a test and appropriate counseling and medical care;
 - (2) Notify the victim of the victim's right to obtain a court order pursuant to subsection a. of section 4 of P.L.1993, c. 364 (C.2C:43-2.2) requiring the offender to submit to an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS in the event that the offender is indicted, formally charged, convicted or adjudicated delinquent;
 - (3) Communicate the request of a victim who agrees to seek an order pursuant to subsection a. of section 4 of P.L.1993, c. 364 (C.2C:43-2.2) to the prosecutor handling the case and notify the victim or arrange for the victim to be notified of the test result; and
 - (4) Assist the victim in applying to the Victims of Crime Compensation Board for compensation for the costs of testing, counseling and medical care.
- d. The Attorney General shall, through the Office of Victim-Witness Advocacy and in consultation with the Commissioner of Health and Senior Services, the Superintendent of State Police and representatives of providers of sexual assault services, to be designated by the Director of the Office of Victim-Witness Advocacy, coordinate the establishment of standard protocols for the provision of information and services to victims of sexual assault, and shall make such protocols available to victims upon request except that the provision of

information and services with regard to emergency contraception and sexually transmitted diseases shall be in accordance with P.L.2005, c. 50 (C.26:2H-12.6b et al.).

- e. In a case involving a victim of human trafficking as defined in section 1 of P.L.2005 c. 77, (C.2C:13-8) the Office of Victim-Witness Advocacy or the county prosecutor's office involved in the case shall ensure that the victim of human trafficking obtains assistance in receiving any available benefits or services, including assistance in receiving any necessary certifications or endorsements needed to be recognized as having federal T non-immigrant status for the purpose of receiving any federal benefits or services available pursuant to the "Trafficking Victims Protection Reauthorization Act of 2003," 22 U.S.C. s. 7101 et seq.
- f. The Attorney General shall, through the Office of Victim-Witness Advocacy and in consultation with the Commissioner of the Department of Health and Senior Services, the Superintendent of State Police and representatives of providers of services to victims of human trafficking, to be designated by the Director of the Office of Victim-Witness Advocacy, coordinate the establishment of standard protocols for the provision of information and services to victims of human trafficking, including coordination of efforts with the appropriate federal authorities pursuant to the "Trafficking Victims Protection Reauthorization Act of 2003," 22 U.S.C. s. 7101 et seq. and shall make such protocols available to victims upon request.