

## **WASHINGTON D.C. VICTIMS' RIGHTS LAWS<sup>1</sup>**

### **Constitution**

No sovereign constitution

### **Statutes**

#### **TITLE 22. CRIMINAL OFFENSES AND PENALTIES**

#### **SUBTITLE III. SEX OFFENDERS**

#### **CHAPTER 39. HIV TESTING OF CERTAIN CRIMINAL OFFENDERS**

#### **§ 22-3901. Definitions**

For the purposes of this chapter, the term:

- (1) "Convicted" means having received a verdict, or a finding, of guilt in a criminal proceeding, adjudicated as being delinquent in a juvenile proceeding, or having entered a plea of guilty or nolo contendere.
- (2) "HIV test" means blood testing for the human immunodeficiency virus ("HIV") or any other identified causative agent of the acquired immune deficiency syndrome ("AIDS").
- (3) "Mayor" means the Mayor of the District of Columbia, or his or her designee.
- (4) "Offense" means any prohibited activity involving a sexual act that includes contact between the penis and the vulva or the penis and the anus, however slight, or contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.
- (5) "Victim" means a person injured by the commission of an offense, and includes the parent or legal guardian of the victim, if the victim is a minor, or the spouse, domestic partner, or child of a victim, if the victim is deceased or incapacitated.

#### **§ 22-3902. Testing and counselling**

- (a) Upon the request of a victim, the court shall order any individual convicted of an offense, as defined by § 22-3901, to furnish a blood sample to be tested for the presence of HIV.
- (b) The court shall promptly notify the Mayor of any court order for an HIV test. Upon receipt of a court order for an HIV test, the Mayor shall promptly collect a blood sample from the convicted individual and conduct an HIV test on the blood sample.

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

- (c) After conducting the HIV test, the Mayor shall promptly notify the victim and the convicted individual of the results of the HIV test. The Mayor shall not disclose the results of the HIV test without also providing, offering, or arranging for appropriate counselling and referral for appropriate health care and support services to the victim and the convicted individual.
- (d) The victim may disclose the results of the HIV test to any other individual to protect the health and safety of the victim, the victim's sexual partners, or the victim's family.
- (e) The result of any HIV test conducted under this section shall not be admissible as evidence of guilt or innocence in any criminal proceeding.

### **§ 22-3903. Rules**

- (a) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement this chapter.
- (b) The rules shall include provisions regarding notification to the victim of his or her right to request an HIV test, confidentiality of the test results, free counselling for the victim and the convicted individual concerning HIV testing and HIV disease, and referral for appropriate health care and supportive services.

## **TITLE 23. CRIMINAL PROCEDURE**

### **CHAPTER 1. GENERAL PROVISIONS**

### **§ 23-103. Statements prior to sentence**

- (a) Except as provided in subsection (b) of this section, before imposing sentence the court may disclose to the defendant's counsel and to the prosecuting attorney, but not to one and not the other, all or part of any pre-sentencing report submitted to the court in the case. The court also prior to imposing sentence shall afford counsel an opportunity to speak on behalf of the defendant and shall address the defendant personally and ask him if he wishes to make a statement in his own behalf and to present any information in mitigation of punishment. At any time when the defendant or his counsel addresses the court on the sentence to be imposed, the prosecuting attorney shall, if he wishes, have an equivalent opportunity to address the court and to make a recommendation to the court on the sentence to be imposed and to present information in support of his recommendation. Such information as the defendant or his counsel or the prosecuting attorney may present shall at all times be subject to the applicable rules of mutual discovery.
- (b) When a victim elects to file a victim impact statement pursuant to § 23-103a, the court shall disclose the victim impact statement portion of the presentence report at a reasonable time prior to imposing sentence to the defendant's counsel and to the prosecuting attorney.

### **§ 23-1901. Crime Victims' Bill of Rights.**

- (a) Officers or employees of the District of Columbia engaged in the detection, investigation, or prosecution of crime or the judicial process shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b) of this section.
- (b) A crime victim has the right to:
  - (1) Be treated with fairness and with respect for the victim's dignity and privacy;
  - (2) Be reasonably protected from the accused offender;

- (3) Be notified of court proceedings;
  - (4) Be present at all court proceedings related to the offense, including the sentencing, and release, parole, record-sealing, and post-conviction 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;
  - (5) Confer with an attorney for the prosecution in the case which does not include the authority to direct the prosecution of the case;
  - (6) An order of restitution from the person convicted of the criminal conduct that caused the victim's loss or injury;
  - (7) Information about the conviction, sentencing, imprisonment, detention, and release of the offender, and about any court order to seal the offender's criminal records; and
  - (8) Notice of the rights provided in this chapter and under the laws of the District of Columbia.
- (c) This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b) of this section.

**§ 23-1902. Notice to crime victims.**

- (a) The head of each department and agency of the District of Columbia engaged in the detection, investigation, or prosecution of crime or in the judicial process shall designate the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) of this section at each stage of a criminal case.
- (b) At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall identify the victim or victims of a crime.
- (c)(1) At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall inform identified victims of:
  - (A) Their right to receive the services described in this subsection and a listing of their bill of rights as contained in section 23-1901;
  - (B) 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 in this subsection;
  - (C) The place where the victim may receive emergency medical and social services;
  - (D) Any restitution, crime victims' compensation, crime victims' assistance or other relief for which the victim may be eligible under this or any other law and the manner in which such relief may be obtained;
  - (E) 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;
  - (F) The procedure and resources available for reasonable protection of the victim; and

- (G) The police report number, if available, and other identifying case information.
- (2) During the investigation and prosecution of a crime, a responsible official shall provide the victim, to the extent possible, with timely notice of the:
- (A) 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;
  - (B) Arrest of a suspected offender;
  - (C) Filing of criminal charges, the nolle prosequi of the case, or the dismissal of all charges against a suspected offender;
  - (D) Date of each scheduled court proceeding and any scheduling changes;
  - (E) Release or detention status of an offender or suspected offender;
  - (F) Acceptance of a plea of guilty, nolo contendere or an Alford plea, or the rendering of a verdict after trial; and
  - (G) Sentence or disposition imposed on an offender, including the date on which the offender will be eligible for parole or release.
- (d) After trial, a responsible official shall provide a victim with timely notice of the:
- (1) Scheduling of a release, parole, record-sealing, or post-conviction hearing for the offender.
  - (2) Escape, work release, furlough, or any other form of release from custody of the offender; and
  - (3) Death of the offender, if the offender dies while in custody or under supervision.
- (e) The victim or the representative of the victim appointed by the court has a continuing obligation to provide the appropriate investigative, prosecutive, judicial, or correctional agency with correct and up-to-date information on the victim's name and address or an alternate means by which the victim can be given notice.
- (f) This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by this chapter.

**§ 23-1903. Crime victim privacy and security.**

- (a) Before, during, and immediately after any court proceeding, the court shall provide appropriate safeguards 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.
- (b) The accused or defendant, the accused's or defendant's attorney or another person acting on behalf of the accused or defendant shall clearly identify himself or herself as being, representing or acting on behalf of the accused, defendant, or respondent in any contact with the victim.

- (c) A responsible official shall 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 is no longer needed for evidentiary purposes.
- (d) In a proceeding in which a child is called to give testimony, on motion by the attorney for the government or the victim's legal or court-appointed representative, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall expedite the proceeding and ensure that it takes precedence over any other. The court shall 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 shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child witness.

**§ 23-1904. Crime victims' rights at sentencing.**

- (a) Crime victims shall have the right to be present at the defendant's sentencing, release, parole, post-conviction, and record-sealing hearings.
- (b) Crime victims shall 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.
- (c) In determining the appropriate sentence to be imposed on the defendant, the Court shall consider any victim impact statement submitted in accordance with this chapter and such statement shall be made a part of the pre-sentence report filed by the Court Services and Offender Supervision Agency.
- (d) Crime victims shall 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.
- (e) Crime victims shall have the right to make a statement at the defendant's sentencing and record-sealing hearings. The absence of the crime victim shall not preclude the court from holding the sentencing or record-sealing hearings.

**§ 23-1905. Definitions.**

For purposes of this section,

- (1) The term "court" means the Superior Court of the District of Columbia.
- (2)(A) The term "victim" or "crime victim" means a person who or entity which has suffered direct physical, emotional, or pecuniary harm:
  - (i) As a result of the commission of any felony or violent misdemeanor in violation of any criminal statute in the District of Columbia;
  - (ii) While assisting lawfully to apprehend a person reasonably suspected of having committed or attempted a crime;
  - (iii) While assisting a person against whom a crime has been committed or attempted if the assistance was rendered in a reasonable manner; or

(iv) While attempting to prevent the commission of a crime.

(B) In the case of a victim or crime victim:

(i) That is an institutional entity, the term “victim” or “crime victim” includes an authorized representative of the entity.

(ii) Who is under 18 years of age, incompetent, incapacitated, or deceased, the term “victim” or “crime victim” includes a representative appointed by the court to exercise the rights and receive the services set forth in this chapter on behalf of the victim.

(C) The term “victim” shall not include any person who committed or aided or abetted in the commission of the crime.

### **§ 23-1906. Applicability.**

The provisions of this chapter requiring notice to the victim shall be applicable when computer systems are in place at the Metropolitan Police Department or the Superior Court of the District of Columbia to provide such notice or one year after the effective date of this chapter [June 8, 2001], whichever occurs first, and will apply only to crimes committed on or after that date.

## **TITLE 32. LABOR**

### **CHAPTER 1A. EMPLOYEE SICK LEAVE**

#### **§ 32-131.02. Provision of paid leave**

[ . . . ] (b) Paid leave accrued under this section may be used by an employee for any of the following:

[ . . . ] (4) An absence if the employee or the employee’s family member is a victim of stalking, domestic violence, or sexual abuse; provided, that the absence is directly related to social or legal services pertaining to the stalking, domestic violence, or sexual abuse, to:

(A) Seek medical attention for the employee or the employee’s family member to recover from physical or psychological injury or disability caused by domestic violence or sexual abuse;

(B) Obtain services from a victim services organization;

(C) Obtain psychological or other counseling;

(D) Temporarily or permanently relocate;

(E) Take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence or sexual abuse; or

(F) Take other actions to enhance the physical, psychological, or economic health or safety of the employee or the employee’s family member or to enhance the safety of those who associate or work with the employee.