



Select Victims' Rights – California

USING THIS RESOURCE

This resource is intended to provide a base of knowledge regarding crime victims' rights in California and promising practices to ensure compliance with and enforcement of those rights. To keep this *Guide* as user-friendly as possible in light of the breadth, complexity and evolving nature of law, the *Guide* does not include all laws. The *Guide* is intended for informational purposes only. It does not constitute legal advice, nor does it substitute for legal advice. For more in-depth information about the laws governing privacy, confidentiality and privilege in California see the companion resource: *Law Enforcement-Based Victim Services in California: Privacy, Privilege and Confidentiality*.

The following icons are used throughout this resource to highlight key moments for the user.



= Promising Practices: As used in this *Guide*, the “promising practices” indicator highlights procedures, methods or techniques, grounded in victim-centered and trauma-informed research and experience, that afford victims meaningful rights in the justice system.



= Take Note: As used in this *Guide*, the “take note” indicator provides context for the law cited or discussed. For example, if a law has a particularly narrow application or does not explicitly prohibit an action the “take note” indicator is used to highlight or provide clarity around the law.



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¹ This table of contents and index of rights provides specific page references for many of the victims' rights laws contained within this *Guide*. The referenced laws are often narrower in scope than the broader rights identified in the index and may contain components of multiple core rights. Not all of the laws contained within this *Guide* are referenced in the table of contents and index; therefore, it is recommended that this document be reviewed in full.

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| SELECT DEFINITIONS | California Constitutional Provisions and Statutes |
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| <p>Marsy's Law Definitions.</p> <p>(e) As used in [California Constitution, article 1, § 28], a “victim” is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term “victim” also includes the person’s spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated. The term “victim” does not include a person in custody for an offense, the accused, or a person whom the court finds would not act in the best interests of a minor victim.</p> <p> This definition explicitly applies to Marsy’s Law, Cal. Const. art. 1, § 28.</p> | <p>Cal. Const. art. 1, § 28(e).</p> |
| <p>Rights of Victims and Witnesses of Crime Act Definitions.</p> <p>(a) “Crime” means an act committed in this state which, if committed by a competent adult, would constitute a misdemeanor or felony.</p> <p>(b) “Victim” means a person against whom a crime has been committed.</p> <p>(c) “Witness” means any person who has been or is expected to testify for the prosecution, or who, by reason of having relevant information, is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet been commenced.</p> <p> These definitions explicitly apply to California’s Rights of Victims and Witnesses of Crime Act, Cal. Penal Code §§ 679–680.4.</p> | <p>Cal. Penal Code § 679.01.</p> |

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| <p>Victims' Right to Give Statement at Sentencing Definitions.</p> <p>The definition of the term “victim” as used in Section 1191.1 includes any insurer or employer who was the victim of workers’ compensation fraud for the crimes specified in Section 549 of this code, Sections 2314 and 6152 of the Business and Professions Code, Sections 1871.4, 11760, and 11880 of the Insurance Code, and Section 3215 of the Labor Code.</p> <p> This definition explicitly applies to Cal. Penal Code §1191.1, which is one of the state laws governing victim statements at sentencing.</p> | <p>Cal. Penal Code § 1191.10.</p> |
| <p>Victims' Right to Access Incident Reports Definitions.</p> <p>(f) For purposes of this section, “victim” includes a minor who is 12 years of age or older.</p> <p>(g)(1) For purposes of this section, if the victim is deceased, a “representative of the victim” means any of the following:</p> <ul style="list-style-type: none"> (A) The surviving spouse. (B) A surviving child of the decedent who has attained 18 years of age. (C) A domestic partner, as defined in subdivision (a) of Section 297. (D) A surviving parent of the decedent. (E) A surviving adult relative. (F) The personal representative of the victim, as defined in Section 58 of the Probate Code, if one is appointed. (G) The public administrator if one has been appointed. <p>(2) For purposes of this section, if the victim is not deceased, a “representative of the victim” means any of the following:</p> <ul style="list-style-type: none"> (A) A parent, guardian, or adult child of the victim, or an adult sibling of a victim 12 years of age or older, who shall present to law enforcement identification pursuant to subdivision (c). (c). A guardian shall also present to law enforcement a copy of the letters of guardianship demonstrating that the person is the appointed guardian of the victim. | <p>Cal. Fam. Code § 6228(f)–(g).</p> |

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| <p>(B) An attorney for the victim, who shall present to law enforcement identification pursuant to subdivision (c) and written proof that the person is the attorney for the victim.</p> <p>(C) A conservator of the victim who shall present to law enforcement identification pursuant to subdivision (c) and a copy of the letters of conservatorship demonstrating that the person is the appointed conservator of the victim.</p> <p>(3) A representative of the victim does not include any person who has been convicted of murder in the first degree, as defined in Section 189 of the Penal Code, of the victim, or any person identified in the incident report face sheet as a suspect.</p> <p> These definitions explicitly apply to Cal. Fam. Code § 6228, which grants certain categories of victims the right to obtain a copy of the incident report at no cost.</p> | |
| <p>Address Confidentiality Definitions.</p> <p>Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.</p> <p>(a) “Address” means a residential street address, school address, or work address of an individual, as specified on the individual’s application to be a program participant under this chapter.</p> <p>(b) “Cohabitant” has the same meaning as in subdivision (b) of Section 18291 of the Welfare and Institutions Code.</p> <p>(c) “Domestic violence” means an act as defined in Section 6211 of the Family Code.</p> <p>(d) “Domicile” means a place of habitation as defined in Section 349 of the Elections Code.</p> <p>(e) “Elder or dependent adult abuse” means an act described in Section 15610.07 of the Welfare and Institutions Code or an offense described in Section 368 of the Penal Code.</p> <p>(f) “Household member” means an adult person who resides at the same residential address as the applicant or participant and is related to the applicant or participant by blood, marriage,</p> | <p>Cal. Gov’t Code § 6205.5.</p> |

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| <p>registered domestic partnership, adoption, or is a cohabitant of an applicant or participant.</p> <p>(g) “Human trafficking” means any act punishable pursuant to Section 236.1 of the Penal Code.</p> <p>(h) “Program participant” means a person certified as a program participant under Section 6206.</p> <p>(i) “Sexual assault” means an act or attempt made punishable by Section 220, 261, 261.5, 262, 264.1, 266c, 269, 285, 286, 287, 288, 288.5, 289, or 647.6 of, or former Section 288a of, the Penal Code.</p> <p>(j) “Stalking” means an act as defined in Section 646.9 of the Penal Code.</p> <p> These definitions explicitly apply to the statutory provisions governing California’s address confidentiality program: Safe at Home. Cal. Gov’t Code §§ 6205–6216.</p> | |
| <p>Sexual Assault Counselor-Victim Privilege Definitions.</p> <p>Cal. Evid. Code § 1035.</p> <p>As used in this article, “victim” means a person who consults a sexual assault counselor for the purpose of securing advice or assistance concerning a mental, physical, or emotional condition caused by a sexual assault.</p> <p>Cal. Evid. Code § 1035.2.</p> <p>As used in this article, “sexual assault counselor” means any of the following:</p> <p>(a) A person who is engaged in any office, hospital, institution, or center commonly known as a rape crisis center, whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who has received a certificate evidencing completion of a training program in the counseling of sexual assault victims issued by a counseling center that meets the criteria for the award of a grant established pursuant to Section 13837 of the Penal Code and who meets one of the following requirements:</p> | <p>Cal. Evid. Code §§ 1035–1035.6; Cal. Evid. Code § 1036.2.</p> |

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| <p>(1) Is a psychotherapist as defined in Section 1010; has a master's degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape crisis counseling.</p> <p>(2) Has 40 hours of training as described below and is supervised by an individual who qualifies as a counselor under paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include, but not be limited to, the following areas:</p> <p>(A) Law.</p> <p>(B) Medicine.</p> <p>(C) Societal attitudes.</p> <p>(D) Crisis intervention and counseling techniques.</p> <p>(E) Role playing.</p> <p>(F) Referral services.</p> <p>(G) Sexuality.</p> <p>(b) A person who is engaged in a program on the campus of a public or private institution of higher education, whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who has received a certificate evidencing completion of a training program in the counseling of sexual assault victims issued by a counseling center that meets the criteria for the award of a grant established pursuant to Section 13837 of the Penal Code and who meets one of the following requirements:</p> <p>(1) Is a psychotherapist as defined in Section 1010; has a master's degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape crisis counseling.</p> <p>(2) Has 40 hours of training as described below and is supervised by an individual who qualifies as a counselor under paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include, but not be limited to, the following areas:</p> <p>(A) Law.</p> <p>(B) Medicine.</p> <p>(C) Societal attitudes.</p> <p>(D) Crisis intervention and counseling techniques.</p> <p>(E) Role playing.</p> <p>(F) Referral services.</p> <p>(G) Sexuality.</p> <p>(c) A person who is employed by any organization providing the programs specified in</p> | |
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Section 13835.2 of the Penal Code, whether financially compensated or not, for the purpose of counseling and assisting sexual assault victims, and who meets one of the following requirements:

(1) Is a psychotherapist as defined in Section 1010; has a master's degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape assault counseling.

(2) Has the minimum training for sexual assault counseling required by guidelines established by the employing agency pursuant to subdivision (c) of Section 13835.10 of the Penal Code, and is supervised by an individual who qualifies as a counselor under paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include, but not be limited to, the following areas:

(A) Law.

(B) Victimology.

(C) Counseling.

(D) Client and system advocacy.

(E) Referral services.

Cal. Evid. Code § 1035.4.

As used in this article, "confidential communication between the sexual assault counselor and the victim" means information transmitted between the victim and the sexual assault counselor in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the sexual assault counselor is consulted. The term includes all information regarding the facts and circumstances involving the alleged sexual assault and also includes all information regarding the victim's prior or subsequent sexual conduct, and opinions regarding the victim's sexual conduct or reputation in sexual matters.

The court may compel disclosure of information received by the sexual assault counselor which constitutes relevant evidence of the facts and circumstances involving an alleged sexual assault about which the victim is complaining and which is the subject of a criminal proceeding if the court determines that the probative value outweighs the effect on the victim, the treatment relationship, and the treatment services if disclosure is compelled. The

court may also compel disclosure in proceedings related to child abuse if the court determines the probative value outweighs the effect on the victim, the treatment relationship, and the treatment services if disclosure is compelled.

When a court is ruling on a claim of privilege under this article, the court may require the person from whom disclosure is sought or the person authorized to claim the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the person authorized to claim the privilege and such other persons as the person authorized to claim the privilege is willing to have present. If the judge determines that the information is privileged and must not be disclosed, neither he or she nor any other person may ever disclose, without the consent of a person authorized to permit disclosure, what was disclosed in the course of the proceedings in chambers.

If the court determines certain information shall be disclosed, the court shall so order and inform the defendant. If the court finds there is a reasonable likelihood that particular information is subject to disclosure pursuant to the balancing test provided in this section, the following procedure shall be followed:


- (1) The court shall inform the defendant of the nature of the information which may be subject to disclosure.
- (2) The court shall order a hearing out of the presence of the jury, if any, and at the hearing allow the questioning of the sexual assault counselor regarding the information which the court has determined may be subject to disclosure.
- (3) At the conclusion of the hearing, the court shall rule which items of information, if any, shall be disclosed. The court may make an order stating what evidence may be introduced by the defendant and the nature of questions to be permitted. The defendant may then offer evidence pursuant to the order of the court. Admission of evidence concerning the sexual conduct of the complaining witness is subject to Sections 352, 782, and 1103.

Cal. Evid. Code § 1035.6.

As used in this article, "holder of the privilege" means:

- (a) The victim when such person has no guardian or conservator.
- (b) A guardian or conservator of the victim when the victim has a guardian or conservator.
- (c) The personal representative of the victim if the victim is dead.

Cal. Evid. Code § 1036.2.

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| <p>As used in this article, “sexual assault” includes all of the following:</p> <ul style="list-style-type: none"> (a) Rape, as defined in Section 261 of the Penal Code. (b) Unlawful sexual intercourse, as defined in Section 261.5 of the Penal Code. (c) Rape in concert with force and violence, as defined in Section 264.1 of the Penal Code. (d) Rape of a spouse, as defined in Section 262 of the Penal Code. (e) Sodomy, as defined in Section 286 of the Penal Code, except a violation of subdivision (e) of that section. (f) A violation of Section 288 of the Penal Code. (g) Oral copulation, as defined in Section 287 of, or former Section 288a of, the Penal Code, except a violation of subdivision (e) of those sections. (h) Sexual penetration, as defined in Section 289 of the Penal Code. (i) Annoying or molesting a child under 18, as defined in Section 647a of the Penal Code. (j) Any attempt to commit any of the above acts. <p> These definitions explicitly apply to the sexual assault counselor-victim privilege, Cal. Evid. Code § 1035.6.</p> | |
| <p>Domestic Violence Counselor-Victim Privilege Definitions.</p> <p>Cal. Evid. Code § 1037.</p> <p>As used in this article, “victim” means any person who suffers domestic violence, as defined in Section 1037.7.</p> <p>Cal. Evid. Code § 1037.1.</p> <p>(a)(1) As used in this article, “domestic violence counselor” means a person who is employed by a domestic violence victim service organization, as defined in this article, whether financially compensated or not, for the purpose of rendering advice or assistance to victims of domestic violence and who has at least 40 hours of training as specified in paragraph (2).</p> <p>(2) The 40 hours of training shall be supervised by an individual who qualifies as a counselor under paragraph (1), and who has at least one year of experience counseling domestic violence victims for the domestic violence victim service organization. The training shall include, but need not be limited to, the following areas: history of domestic violence, civil</p> | <p>Cal. Evid. Code §§ 1307–1037.2; Cal. Evid. Code § 1037.4; Cal. Evid. Code § 1037.7.</p> |

and criminal law as it relates to domestic violence, the domestic violence victim-counselor privilege and other laws that protect the confidentiality of victim records and information, societal attitudes towards domestic violence, peer counseling techniques, housing, public assistance and other financial resources available to meet the financial needs of domestic violence victims, and referral services available to domestic violence victims.

(3) A domestic violence counselor who has been employed by the domestic violence victim service organization for a period of less than six months shall be supervised by a domestic violence counselor who has at least one year of experience counseling domestic violence victims for the domestic violence victim service organization.

(b) As used in this article, "domestic violence victim service organization" means either of the following:

(1) A nongovernmental organization or entity that provides shelter, programs, or services to victims of domestic violence and their children, including, but not limited to, either of the following:

(A) Domestic violence shelter-based programs, as described in Section 18294 of the Welfare and Institutions Code.

(B) Other programs with the primary mission to provide services to victims of domestic violence whether or not that program exists in an agency that provides additional services.

(2) Programs on the campus of a public or private institution of higher education with the primary mission to provide support or advocacy services to victims of domestic violence.

Cal. Evid. Code § 1037.2.

(a) As used in this article, "confidential communication" means any information, including, but not limited to, written or oral communication, transmitted between the victim and the counselor in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the domestic violence counselor is consulted. The term includes all information regarding the facts and circumstances involving all incidences of domestic violence, as well as all information about the children of the victim or abuser and the relationship of the victim with the abuser.

(b) The court may compel disclosure of information received by a domestic violence

counselor which constitutes relevant evidence of the facts and circumstances involving a crime allegedly perpetrated against the victim or another household member and which is the subject of a criminal proceeding, if the court determines that the probative value of the information outweighs the effect of disclosure of the information on the victim, the counseling relationship, and the counseling services. The court may compel disclosure if the victim is either dead or not the complaining witness in a criminal action against the perpetrator. The court may also compel disclosure in proceedings related to child abuse if the court determines that the probative value of the evidence outweighs the effect of the disclosure on the victim, the counseling relationship, and the counseling services.

(c) When a court rules on a claim of privilege under this article, it may require the person from whom disclosure is sought or the person authorized to claim the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the person authorized to claim the privilege and such other persons as the person authorized to claim the privilege consents to have present. If the judge determines that the information is privileged and shall not be disclosed, neither he nor she nor any other person may disclose, without the consent of a person authorized to permit disclosure, any information disclosed in the course of the proceedings in chambers.

(d) If the court determines that information shall be disclosed, the court shall so order and inform the defendant in the criminal action. If the court finds there is a reasonable likelihood that any information is subject to disclosure pursuant to the balancing test provided in this section, the procedure specified in subdivisions (1), (2), and (3) of Section 1035.4 shall be followed.


Cal. Evid. Code § 1037.4.

As used in this article, “holder of the privilege” means:

(a) The victim when he or she has no guardian or conservator.

(b) A guardian or conservator of the victim when the victim has a guardian or conservator, unless the guardian or conservator is accused of perpetrating domestic violence against the victim.

Cal. Evid. Code § 1037.7. As used in this article, “domestic violence” means “domestic violence” as defined in Section 6211 of the Family Code.

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|  These definitions explicitly apply to the domestic violence counselor-victim privilege, Cal. Evid. Code § 1037.5. | |
| <p>Human Trafficking Counselor-Victim Privilege Definitions.</p> <p>As used in this article, the following terms have the following meanings:</p> <p>(a) “Confidential communication” means all information, including but not limited to written and oral communication, transmitted between the victim and the human trafficking caseworker in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the human trafficking caseworker is consulted and made with the victim’s knowledge and consent. “Confidential communication” includes all information regarding the facts and circumstances relating to all incidences of human trafficking, as well as all information about the children of the victim and the relationship of the victim to the human trafficker.</p> <p>(b) “Holder of the privilege” means:</p> <ol style="list-style-type: none"> (1) The victim if the victim has no guardian or conservator. (2) A guardian or conservator of the victim if the victim has a guardian or conservator. (3) The personal representative of the victim if the victim is deceased. <p>(c) “Human trafficking caseworker” means a person working for a human trafficking victim service organization, whether financially compensated or not, for the purpose of rendering advice or assistance to victims of human trafficking, who meets the requirements of paragraph (1) or (2) and who also meets the requirements of paragraph (3), if applicable:</p> <ol style="list-style-type: none"> (1) Has an advanced degree or license, such as a master’s degree in counseling, social work, or a related field and at least one year of experience in a caseworker role working directly with victims of human trafficking. (2) Has at least 40 hours of training as specified in this paragraph and is supervised by an individual who qualifies as a human trafficking caseworker under paragraph (1). The | <p>Cal. Evid. Code § 1038.2.</p> |

training, supervised by a person qualified under paragraph (1), shall include, but need not be limited to, the following areas:


- (A) History of human trafficking.
- (B) Civil and criminal law relating to human trafficking.
- (C) Systems of oppression.
- (D) Peer counseling techniques.
- (E) Resources available to victims of human trafficking.
- (F) Crisis intervention and counseling techniques.
- (G) Role playing.
- (H) Intersections of human trafficking and other crimes.
- (I) Client and system advocacy.
- (J) Referral services.
- (K) Connecting to local, regional, and national human trafficking coalitions.
- (L) Explaining privileged communications.

(3) If the caseworker has been employed by a human trafficking service organization for a period of less than six months, that caseworker is supervised by another human trafficking caseworker who has at least one year of experience working with human trafficking victims.

(d) "Human trafficking victim service organization" means a nongovernmental organization or entity that provides shelter, program, or other support services to victims of human trafficking and their children and that does all of the following:

- (1) Employs staff that meet the requirements of a human trafficking caseworker as set forth in this section.
- (2) Operates a telephone hotline, advertised to the public, for survivor crisis calls.
- (3) Offers psychological support and peer counseling provided in accordance with this section.
- (4) Makes staff available during normal business hours to assist victims of human trafficking who need shelter, programs, or other support services.

(e) "Victim" means a person who consults a human trafficking caseworker for the purpose of securing advice or assistance concerning a mental, physical, emotional, or other condition related to their experience as a victim of human trafficking.

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|  These definitions explicitly apply to the human trafficking caseworker-victim privilege, Cal. Evid. Code § 1038. | |
| <p>Psychotherapist-Patient Privilege Definitions.</p> <p>Cal. Evid. Code § 1010.</p> <p>As used in this article, “psychotherapist” means a person who is, or is reasonably believed by the patient to be:</p> <ul style="list-style-type: none"> (a) A person authorized to practice medicine in any state or nation who devotes, or is reasonably believed by the patient to devote, a substantial portion of his or her time to the practice of psychiatry. (b) A person licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code. (c) A person licensed as a clinical social worker under Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code, when he or she is engaged in applied psychotherapy of a nonmedical nature. (d) A person who is serving as a school psychologist and holds a credential authorizing that service issued by the state. (e) A person licensed as a marriage and family therapist under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code. (f) A person registered as a psychological assistant who is under the supervision of a licensed psychologist or board certified psychiatrist as required by Section 2913 of the Business and Professions Code, or a person registered as an associate marriage and family therapist who is under the supervision of a licensed marriage and family therapist, a licensed clinical social worker, a licensed professional clinical counselor, a licensed psychologist, or a licensed physician and surgeon certified in psychiatry, as specified in Section 4980.44 of the Business and Professions Code. (g) A person registered as an associate clinical social worker who is under supervision as specified in Section 4996.23 of the Business and Professions Code. (h) A person registered with the Board of Psychology as a registered psychologist who is under the supervision of a licensed psychologist or board certified psychiatrist. (i) A psychological intern as defined in Section 2911 of the Business and Professions Code | <p>Cal. Evid. Code §§ 1010, 1012, 1013.</p> |

who is under the supervision of a licensed psychologist or board certified psychiatrist.

(j) A trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, who is fulfilling his or her supervised practicum required by subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 of, or subdivision (c) of Section 4980.37 of, the Business and Professions Code and is supervised by a licensed psychologist, a board certified psychiatrist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional clinical counselor.

(k) A person licensed as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, who possesses a master's degree in psychiatric-mental health nursing and is listed as a psychiatric-mental health nurse by the Board of Registered Nursing.

(l) An advanced practice registered nurse who is certified as a clinical nurse specialist pursuant to Article 9 (commencing with Section 2838) of Chapter 6 of Division 2 of the Business and Professions Code and who participates in expert clinical practice in the specialty of psychiatric-mental health nursing.

(m) A person rendering mental health treatment or counseling services as authorized pursuant to Section 6924 of the Family Code.

(n) A person licensed as a professional clinical counselor under Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

(o) A person registered as an associate professional clinical counselor who is under the supervision of a licensed professional clinical counselor, a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed physician and surgeon certified in psychiatry, as specified in Sections 4999.42 to 4999.48, inclusive, of the Business and Professions Code.

(p) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code, who is fulfilling his or her supervised practicum required by paragraph (3) of subdivision (c) of Section 4999.32 of, or paragraph (3) of subdivision (c) of Section 4999.33 of, the Business and Professions Code, and is supervised by a licensed psychologist, a board-certified psychiatrist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional clinical counselor.

Cal. Evid. Code § 1012.

As used in this article, "confidential communication between patient and psychotherapist"

means information, including information obtained by an examination of the patient, transmitted between a patient and his psychotherapist in the course of that relationship and in confidence by a means which, so far as the patient is aware, discloses the information to no third persons other than those who are present to further the interest of the patient in the consultation, or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which the psychotherapist is consulted, and includes a diagnosis made and the advice given by the psychotherapist in the course of that relationship.

Cal. Evid. Code § 1013.

As used in this article, “holder of the privilege” means:

- (a) The patient when he has no guardian or conservator.
- (b) A guardian or conservator of the patient when the patient has a guardian or conservator.
- (c) The personal representative of the patient if the patient is dead.



“Patient” (Cal. Evid. Code § 1011). As used in this article, “patient” means a person who consults a psychotherapist or submits to an examination by a psychotherapist for the purpose of securing a diagnosis or preventive, palliative, or curative treatment of his mental or emotional condition or who submits to an examination of his mental or emotional condition for the purpose of scientific research on mental or emotional problems.








These definitions explicitly apply to the psychotherapist-patient privilege, Cal. Evid. Code § 1014.




| SELECT CRIME VICTIMS' RIGHTS | California Constitutional Provisions and Statutes |
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| <p>Findings Regarding the Need for and Scope of Crime Victims' Rights.</p> <p>(1) Criminal activity has a serious impact on the citizens of California. The rights of victims of crime and their families in criminal prosecutions are a subject of grave statewide concern.</p> <p>(2) Victims of crime are entitled to have the criminal justice system view criminal acts as serious threats to the safety and welfare of the people of California. The enactment of comprehensive provisions and laws ensuring a bill of rights for victims of crime, including safeguards in the criminal justice system fully protecting those rights and ensuring that crime victims are treated with respect and dignity, is a matter of high public importance. California's victims of crime are largely dependent upon the proper functioning of government, upon the criminal justice system and upon the expeditious enforcement of the rights of victims of crime described herein, in order to protect the public safety and to secure justice when the public safety has been compromised by criminal activity.</p> <p>(3) The rights of victims pervade the criminal justice system. These rights include personally held and enforceable rights described in paragraphs (1) through (17) of subdivision (b).</p> <p>(4) The rights of victims also include broader shared collective rights that are held in common with all of the People of the State of California and that are enforceable through the enactment of laws and through good-faith efforts and actions of California's elected, appointed, and publicly employed officials. These rights encompass the expectation shared with all of the people of California that persons who commit felonious acts causing injury to innocent victims will be appropriately and thoroughly investigated, appropriately detained in custody, brought before the courts of California even if arrested outside the State, tried by the courts in a timely manner, sentenced, and sufficiently punished so that the public safety is protected and encouraged as a goal of highest importance.</p> <p>(5) Victims of crime have a collectively shared right to expect that persons convicted of</p> | <p>Cal. Const. art. 1, § 28(a).</p> |




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| <p>committing criminal acts are sufficiently punished in both the manner and the length of the sentences imposed by the courts of the State of California. This right includes the right to expect that the punitive and deterrent effect of custodial sentences imposed by the courts will not be undercut or diminished by the granting of rights and privileges to prisoners that are not required by any provision of the United States Constitution or by the laws of this State to be granted to any person incarcerated in a penal or other custodial facility in this State as a punishment or correction for the commission of a crime.</p> <p>(6) Victims of crime are entitled to finality in their criminal cases. Lengthy appeals and other post-judgment proceedings that challenge criminal convictions, frequent and difficult parole hearings that threaten to release criminal offenders, and the ongoing threat that the sentences of criminal wrongdoers will be reduced, prolong the suffering of crime victims for many years after the crimes themselves have been perpetrated. This prolonged suffering of crime victims and their families must come to an end.</p> <p>(7) Finally, the People find and declare that the right to public safety extends to public and private primary, elementary, junior high, and senior high school, and community college, California State University, University of California, and private college and university campuses, where students and staff have the right to be safe and secure in their persons.</p> <p>(8) To accomplish the goals it is necessary that the laws of California relating to the criminal justice process be amended in order to protect the legitimate rights of victims of crime.</p> | |
| <p>Victims' Constitutional Rights May Not be Construed to Deny or Disparage Other Rights.</p> <p>The granting of these rights to crime victims [under California Constitution, article 1, § 28] shall not be construed to deny or disparage other rights possessed by victims. The court in its discretion may extend the right to be heard at sentencing to any person harmed by the defendant. The parole authority shall extend the right to be heard at a parole hearing to any person harmed by the offender.</p> | <p>Cal. Const. art. 1, § 28(d).</p> |






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| <p>Victims' Rights to Fair Treatment, Respect for Their Privacy and Dignity and To Be Free from Intimidation, Harassment and Abuse.</p> <p>In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment and abuse, throughout the criminal justice process.</p> | <p>Cal. Const. art. 1, § 28(b)(1).</p> |
| <p>Victims' Right to Reasonable Protection.</p> <p>In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o be reasonably protected from the defendant and persons acting on behalf of the defendant.</p> | <p>Cal. Const. art. 1, § 28(b)(2).</p> |
| <p>Victims' Right to Have Safety Considered in Bail and Release Decisions.</p> <p>In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.</p> <p> Victims have the right to be heard before the court makes any decision regarding defendant's bail. Cal. Const. art. 1, § 28(b)(8).</p> <p> The California Penal Code also requires courts to consider victim safety when setting bail. <i>See, e.g.</i>, Cal. Penal Code § 1270.1(d) (when setting bail, court must address issue of threats made against the victim); <i>id.</i> at § 1275(a)(2) (when setting bail, court must consider injury to the victim and threats to the victim).</p> | <p>Cal. Const. art. 1, § 28(b)(3).</p> |




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| <p>Victims' Right to the Nondisclosure of Confidential Information or Records.</p> <p>In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.</p> | <p>Cal. Const. art. 1, § 28(b)(4).</p> |
| <p>Victims' Right to Refuse Defense Interviews, Depositions or Discovery Requests.</p> <p>In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.</p> | <p>Cal. Const. art. 1, § 28(b)(5).</p> |
| <p>Victims' Rights to Confer with the Prosecution and to Notice Before Pretrial Disposition of the Case.</p> <p>In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following rights . . . [t]o reasonable notice of and to reasonably confer with the prosecuting attorney, upon request, regarding the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.</p> <p> The California Penal Code also guarantees crime victims the right to notice, "by reasonable means[,]” of any pretrial disposition. Cal. Penal Code § 679.02(a)(12).</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the</p> | <p>Cal. Const. art. 1, § 28(b)(6).</p> |



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| <p>first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p> | |
| <p>Victims’ Rights to Notice of and To Be Present at All Public Proceedings.</p> <p>In order to preserve and protect a victim’s rights to justice and due process, a victim shall be entitled to the following rights . . . [t]o reasonable notice of all public proceedings, including any delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.</p> <p> The California Penal Code also guarantees crime victims the right to be present during any criminal proceeding. Cal. Penal Code § 1102.6. Under the statute, a victim can only be excluded if certain criteria are met. <i>Id.</i></p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p> | <p>Cal. Const. art. 1, § 28(b)(7).</p> |
| <p>Victims’ Right to be Heard at Any Proceeding.</p> <p>In order to preserve and protect a victim’s rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o be heard, upon request, at any proceeding . . . involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.</p> <p> The California Penal Code also guarantees crime victims the right to be heard at specific stages of the criminal justice process, such as sentencing. <i>See, e.g.,</i> Cal. Penal Code § 679.02(a)(3) (victims’ right to give statement at sentencing).</p> | <p>Cal. Const. art. 1, § 28(b)(8).</p> |


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|  A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. | |
| <p>Victims’ Right to a Speedy Trial and Prompt and Final Conclusion of the Case.</p> <p>In order to preserve and protect a victim’s rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o a speedy trial and prompt and final conclusion of the case and any related post-judgment proceedings.</p> <p> The California Penal Code also guarantees crime victims the right to an expeditious disposition of the case. Cal. Penal Code § 679.02(a)(10).</p> | Cal. Const. art. 1, § 28(b)(9). |
| <p>Victims’ Right to Provide Impact Information to the Probation Department.</p> <p>In order to preserve and protect a victim’s rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim’s family and any sentencing recommendations before the sentencing of the defendant.</p> | Cal. Const. art. 1, § 28(b)(10). |
| <p>Victims’ Right to Receive Pre-Sentence Report.</p> <p>In order to preserve and protect a victim’s rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should</p> | Cal. Const. art. 1, § 28(b)(11). |



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| carefully maintain documentation of a victim's request to exercise rights. | |
| <p>Victims' Right to Information Regarding the Defendant's Conviction, Sentence and Incarceration.</p> <p>In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.</p> <p> The Penal Code also guarantees crime victims the right to be informed of the final disposition of the case, Cal. Penal Code § 679.02(a)(1), and sets forth the procedure for conveying such information, <i>id.</i> at § 11116.10.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.</p> <p> A defendant's release or escape may take place long after the victim's initial contact with the justice system. A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p> | Cal. Const. art. 1, § 28(b)(12). |
| <p>Victims' Right to Restitution.</p> <p>In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o restitution.</p> <p>(A) It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.</p> | Cal. Const. art. 1, § 28(b)(13). |

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| <p>(B) Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.</p> <p>(C) All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.</p> <p> The California Penal Code details the procedure for restitution orders. <i>See, e.g.</i>, Cal. Penal Code § 1203.1(a)(3) (restitution orders enforceable as a civil judgment); <i>id.</i> at § 1202.4 (restitution orders, procedure); <i>id.</i> at § 1203.d (payment priorities); <i>id.</i> at § 1214 (restitution collection; continuing obligation to pay).</p> <p> A victim's constitutional right to restitution takes priority over any fines, penalties, or other court charges that the defendant owes. Cal. Penal Code § 1203.d.</p> <p> A promising practice is to notify victims that they should collect and neatly organize all documentation relating to their losses—including anticipated future expenses.</p> | |
| <p>Victims' Right to Prompt Return of Property.</p> <p>In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o the prompt return of property when no longer needed as evidence.</p> <p> The California Penal Code also guarantees crime victims the right to expeditious to the return of property that was stolen or embezzled, once it is no longer needed as evidence. Cal. Penal Code § 679.02(a)(9).</p> <p> A promising practice is to have a policy and procedure in place that clearly defines what "promptly" means in the context of the victim's right to return of property. Instructions should</p> | <p>Cal. Const. art. 1, § 28(b)(14).</p> |

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| <p>be ready and available to provide to victims, explaining how they may promptly obtain their property, and including the name of a person they may contact to check the status of the return.</p> | |
| <p>Victims' Rights to Information About and to Participation in the Parole Process.</p> <p>In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.</p> <p> Crime victims also have a right to notice of and participation in parole eligibility hearings under the California Penal Code. Cal. Penal Code § 679.02(a)(5); <i>id.</i> at § 679.02(a)(11).</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.</p> <p> A defendant's parole may take place long after the victim's initial contact with the justice system. A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p> | <p>Cal. Const. art. 1, § 28(b)(15).</p> |
| <p>Victims' Right to Have Safety Considered Before Any Post-Judgment Release Decision is Made.</p> <p>In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment decision is made.</p> | <p>Cal. Const. art. 1, § 28(b)(16).</p> |

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| <p>Victims' Right to Information Regarding Constitutional Rights.</p> <p>In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following right[] . . . [t]o be informed of the rights enumerated in paragraphs (1) through (16) [of California Constitution, article 1, § 28(b)].</p> <p> This right is effectuated through statutes calling for the creation and distribution of free informational materials for crime victims. <i>See, e.g.,</i> Cal. Penal Code § 679.026(b) (victims' right to receive, without cost or charge, a list of their constitutional rights); <i>id.</i> at § 679.026(c) (every law enforcement agency investigating a criminal act and every agency prosecuting a criminal act must provide crime victims, at various times throughout the criminal justice process, with a "Marsy Rights" card, which details the rights contained in the California Constitution, article 1, § 28).</p> <p> A promising practice is to provide victims with this information as soon as possible. Consideration should be given to providing written notice in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p> | <p>Cal. Const. art. 1, § 28(b)(17).</p> |
| <p>Victims' Standing to Enforce Rights; Court's Obligation to Act Promptly on Requests for Enforcement; and No Cause of Action Against the State or its Officers, Employees, or Agents for Failure to Enforce Rights.</p> <p>(1) A victim, the retained attorney of a victim, a lawful representative of the victim, or the prosecuting attorney upon request of the victim, may enforce the rights enumerated in [California Constitution, article 1, § 28(b)] in any trial or appellate court with jurisdiction over the case as a matter of right. The court shall act promptly on such a request.</p> <p>(2) This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court.</p> | <p>Cal. Const. art. 1, § 28(c).</p> |

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|  A promising practice is that, when notifying victims that they have standing to enforce their rights in court, to let them know that they may do so personally or with the assistance of an attorney. This notice should include an explanation of the different roles of a prosecuting attorney vs. an attorney hired by the victim to represent their interests and assert their rights. | |
| <p>Legislative Intent Behind Victims' Statutory Rights.</p> <p>In recognition of the civil and moral duty of victims and witnesses of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of this citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the Legislature declares its intent, in the enactment of this title, to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity. It is the further intent that the rights enumerated in Section 679.02 relating to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants. It is the intent of the Legislature to add to Section 679.02 references to new rights as or as soon after they are created. The failure to enumerate in that section a right which is enumerated elsewhere in the law shall not be deemed to diminish the importance or enforceability of that right.</p> | Cal. Penal Code § 679. |
| <p>State Policy: Encouraging Victims to Cooperate with the Justice System and Not Penalize Them for Being Victims.</p> <p>It is the public policy of this state to protect the public from crime and violence by encouraging all persons to cooperate with the criminal justice system and not to penalize these persons for being victims or for cooperating with the criminal justice system.</p> | Cal. Penal Code § 679.015(a). |
| <p>Creation of Victims' Resource Center to Provide Law Enforcement and Others with Materials to Distribute to Crime Victims.</p> <p>There shall be established a resource center which shall operate a statewide, toll-free</p> | Cal. Penal Code § 13897.1. |

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| <p>information service, consisting of legal and other information, for crime victims and providers of services to crime victims. The center shall provide information and educational materials discussing victims' legal rights. The center shall distribute these materials to administrative agencies, law enforcement agencies, victim-service programs, local, regional, and statewide education systems, appropriate human service agencies, and political, social, civic, and religious leaders and organizations.</p> <p>As used in this chapter, "provider of services to crime victims" means any hospital, doctor, attorney, local or statewide rape crisis center, domestic violence center, child abuse counseling center, or victims' witness center that seeks to assist crime victims in understanding and exercising their legal rights, including those under Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code.</p> <p> The California legislature sets forth its finding in support of the creation of a victims' resource center in Cal. Penal Code § 13897(c).</p> | |
| <p>Victims' Right to Receive Information Regarding Constitutional Victims' Rights.</p> <p>Every victim of crime has the right to receive without cost or charge a list of the rights of victims of crime recognized in Section 28 of Article I of the California Constitution. These rights shall be known as "Marsy Rights."</p> <p> Crime Victims have a constitutional right to be informed of their constitutional rights. Cal. Const. art. 1, § 28(b)(17).</p> | Cal. Penal Code § 679.026(b). |
| <p>Law Enforcement's Obligation to Provide Crime Victims with a Card Listing Their Constitutional Rights ("Marsy Rights") and a "Victims' Survival and Resource Guide."</p> <p>(1) Every law enforcement agency investigating a criminal act and every agency prosecuting a criminal act shall, as provided herein, at the time of initial contact with a crime victim, during follow-up investigation, or as soon thereafter as deemed appropriate by investigating officers</p> | Cal. Penal Code § 679.026(c). |

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| <p>or prosecuting attorneys, provide or make available to each victim of the criminal act without charge or cost a “Marsy Rights” card described in paragraphs (3) and (4).</p> <p>(2) The victim disclosures required under this section shall be available to the public at a state funded and maintained Web site authorized pursuant to Section 14260 of the Penal Code to be known as “Marsy’s Page.”</p> <p>(3) The Attorney General shall design and make available in “.pdf” or other imaging format to every agency listed in paragraph (1) a “Marsy Rights” card, which shall contain the rights of crime victims described in subdivision (b) of Section 28 of Article I of the California Constitution, information on the means by which a crime victim can access the web page described in paragraph (2), and a toll-free telephone number to enable a crime victim to contact a local victim’s assistance office.</p> <p>(4) Every law enforcement agency which investigates criminal activity shall, if provided without cost to the agency by any organization classified as a nonprofit organization under paragraph (3) of subdivision (c) of Section 501 of the Internal Revenue Code, make available and provide to every crime victim a “Victims’ Survival and Resource Guide” pamphlet and/or video that has been approved by the Attorney General. The “Victims’ Survival and Resource Guide” and video shall include an approved “Marsy Rights” card, a list of government agencies, nonprofit victims’ rights groups, support groups, and local resources that assist crime victims, and any other information which the Attorney General determines might be helpful to victims of crime.</p> <p>(5) Any agency described in paragraph (1) may in its discretion design and distribute to each victim of a criminal act its own Victims’ Survival and Resource Guide and video, the contents of which have been approved by the Attorney General, in addition to or in lieu of the materials described in paragraph (4).</p> | |
| <p>“Victim’s Rights Card”: Information Regarding Existing Services and Rights.</p> <p>(a)(1) Whenever there has been a crime committed against a victim, the law enforcement officer assigned to the case may provide the victim of the crime with a “Victim’s Rights Card,”</p> | <p>Cal. Penal Code § 679.08.</p> |

as specified in subdivision (b).

(2) This section shall be operative in a city or county only upon the adoption of a resolution by the city council or board of supervisors to that effect.

(3) This section shall not be interpreted as replacing or prohibiting any services currently offered to victims of crime by any agency or person affected by this section.

(b) A "Victim's Rights Card" means a card or paper that provides a printed notice with a disclaimer, in at least 10-point type, to a victim of a crime regarding potential services that may be available under existing state law to assist the victim. The printed notice shall include the following language or language substantially similar to the following:

"California law provides crime victims with important rights. If you are a victim of crime, you may be entitled to the assistance of a victim advocate who can answer many of the questions you might have about the criminal justice system."

"Victim advocates can assist you with the following:

(1) Explaining what information you are entitled to receive while criminal proceedings are pending.

(2) Assisting you in applying for restitution to compensate you for crime-related losses.

(3) Communicating with the prosecution.

(4) Assisting you in receiving victim support services.

(5) Helping you prepare a victim impact statement before an offender is sentenced."

"To speak with a victim advocate, please call any of the following numbers:"

[Set forth the name and phone number, including area code, of all victim advocate agencies in the local jurisdiction]

"PLEASE NOTE THAT THIS INFORMATION IS PROVIDED IN AN ATTEMPT TO ASSIST THE VICTIM, BY NOTIFYING THE VICTIM ABOUT SOME, BUT NOT NECESSARILY ALL, SERVICES AVAILABLE TO THE VICTIM; THE PROVISION OF THIS INFORMATION AND THE INFORMATION CONTAINED THEREIN IS NOT LEGAL ADVICE AND IS NOT INTENDED TO CONSTITUTE A GUARANTEE OF ANY VICTIM'S RIGHTS OR OF A VICTIM'S ELIGIBILITY OR ENTITLEMENT TO ANY SPECIFIC BENEFITS OR SERVICES."

(c) Any act or omission covered by this section is a discretionary act pursuant to Section 820.2 of the Government Code.

Law Enforcement's Obligations to Provide Sexual Assault Victims with Card Explaining Rights; Content of Cards; and Law Enforcement's Obligation to Furnish Victims with Free Copy of Initial Crime Report.

Cal. Penal Code § 680.2.

(a) Upon the initial interaction with a sexual assault victim, a law enforcement officer or medical provider shall provide the victim with a card to be developed by every local law enforcement agency, in consultation with sexual assault experts, that explains all of the rights of sexual assault victims in clear language that is comprehensible to a person proficient in English at the fifth grade level, in at least 12-point font, and available in all major languages of the state. This card shall include, but is not limited to, all of the following:

(1) A clear statement that a sexual assault victim is not required to participate in the criminal justice system or to receive a medical evidentiary or physical examination in order to retain his or her rights under law.

(2) Telephone or Internet Web site contact information for a nearby rape crisis center and sexual assault counselor.

(3) Information about the types of law enforcement protection available to the sexual assault victim, including a temporary protection order, and the process to obtain that protection.

(4) Instructions for requesting the results of the analysis of the victim's sexual assault forensic evidence.



(5) Information about state and federal compensation funds for medical and other costs associated with the sexual assault and information on any municipal, state, or federal right to restitution for sexual assault victims if a criminal trial occurs.


(6) A clear statement that the victim has the right to have a sexual assault counselor and at least one other support person of the victim's choosing present at any initial medical evidentiary examination, physical examination, or investigative interview arising out of a sexual assault, and that a sexual assault counselor can be contacted 24 hours a day.

(7) Information about the rate of potential evidence degradation.

(8) A clear statement that if sexual assault forensic evidence will be tested, it should be transported to the crime laboratory and analyzed within the time limits imposed by subparagraphs (A) and (B) of paragraph (1) of subdivision (g) of Section 803.

(9) A clear statement that the law enforcement agency or crime laboratory will retain the sexual assault forensic evidence for at least 20 years, or if the victim was under 18 years of age at the

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| <p>time of the alleged offense, at least until the victim's 40th birthday.</p> <p>(b) A law enforcement official shall, upon written request by a sexual assault victim, furnish a free copy of the initial crime report related to the sexual assault, regardless of whether the report has been closed by the law enforcement agency, to the victim. A law enforcement agency may redact personal, identifying information in the copy furnished to the victim.</p> <p>(c) A prosecutor shall, pursuant to Section 290.46, upon written request by a sexual assault victim, provide the convicted defendant's information on a sex offender registry to the victim, if the defendant is required to register as a sex offender.</p> <p>(d) The law enforcement agency shall provide sufficient copies of the card described in subdivision (a) to each provider in its jurisdiction of medical evidentiary examinations or physical examinations arising out of sexual assault.</p> <p> Marsy's Law affords crime victims a constitutional right to privacy. Cal. Const. art. 1, § 28(b)(1).</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.</p> | |
| <p>Law Enforcement's Obligation to Provide Sexual Assault and Domestic Violence Victims with Cards Containing Information About Their Rights.</p> <p>Whenever there is an alleged violation or violations of subdivision (e) of Section 243, or Section 261, 261.5, 262, 273.5, 286, 287, or 289, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the "Victims of Domestic Violence" card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701, or with the card described in subdivision (a) of Section 680.2, whichever is more</p> | <p>Cal. Penal Code § 264.2(a).</p> |

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| applicable. | |
| <p>Victims' Right to Notice of and to be Heard and Provide Comments on Custody Status at Arraignment.</p> <p>(a) The victim of the crime for which the defendant was arrested shall be given notice of the arraignment by the prosecution and, if requested, any other hearing at which the custody status of the defendant will be determined. If requested by the victim, the victim shall be given a reasonable opportunity to be heard on the matter of the defendant's custody status.</p> <p>(b) The prosecution shall make a reasonable effort to contact the victim for comment on the defendant's custody status.</p> <p>(c) In instances where a victim cannot or does not wish to appear at the arraignment, the prosecution shall submit any of the victim's comments on the defendant's custody status in writing to the court.</p> <p>(d) The appearance or nonappearance of the victim and any comments provided by the victim shall be included in the record.</p> <p>(e) If requested by either party, the court may review and modify the conditions of the defendant's release at arraignment.</p> <p> Although enacted in 2019, this provision is suspended pursuant to a referendum petition. It will be operative only if approved as a referendum measure at the November 3, 2020 election.</p> | Cal. Penal Code § 1320.16. |
| <p>Victims' Right to be Present and Heard at Preventative Detention Hearing.</p> <p>(a) If the defendant is detained in custody, the preventive detention hearing shall be held no later than three court days after the motion for preventive detention is filed. If the defendant</p> | Cal. Penal Code § 1320.19. |

is not detained in custody, the preventive detention hearing shall be held no later than three court days after the defendant is brought into custody as a result of a warrant issued in accordance with subdivision (c). If the defendant is not in custody at the time of the request for a preventive detention hearing and the court does not issue a warrant in connection with the request for a hearing, the preventive detention hearing shall be held within five court days of the request for the hearing. By stipulation of counsel and with agreement of the court, the preventive detention hearing may be held in conjunction with the arraignment, or within three days after arraignment.





(b) For good cause, the defense or the prosecution may seek a continuance of the preventive detention hearing. If a request for a continuance is granted, the continuance may not exceed three court days unless stipulated by the parties.

(c) The hearing shall be completed at one session, unless the defendant personally waives his or her right to a continuous preventive detention hearing. If the defendant is out of custody at the time the preventive detention hearing is requested, the court, upon the filing of an application for a warrant in conjunction with the motion for preventive detention, may issue a warrant requiring the defendant's placement in custody pending the completion of the preventive detention hearing.

(d) The defendant shall have the right to be represented by counsel at the hearing. If financially unable to obtain representation, the defendant has a right to have counsel appointed. The defendant has the right to be heard at the preventive detention hearing.

(e) Upon request of the victim of the crime, the victim shall be given notice by the prosecution of the preventive detention hearing. If requested, the victim shall be given a reasonable opportunity to be heard on the matter of the defendant's custody status.

(f) The prosecution shall make a reasonable effort to contact the victim for comment on the defendant's custody status. In instances where a victim cannot or does not wish to appear at the preventive detention hearing, the prosecution shall submit the victim's comments, if any, on the defendant's custody status in writing to the court and counsel.

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| <p>(g) The appearance or nonappearance of a victim, and comments provided by a victim, shall be included in the record.</p> <p> Although enacted in 2019, this provision is suspended pursuant to a referendum petition. It will be operative only if approved as a referendum measure at the November 3, 2020 election.</p> | |
| <p>Victims' Right to Notice of Pretrial Disposition of Case.</p> <p>[T]he statutory rights of victims and witnesses of crimes [include the right] [f]or the victim, upon request, to be notified of any pretrial disposition of the case, to the extent required by Section 28 of Article 1 of the California Constitution.</p> <p>(A) A victim may request to be notified of a pretrial disposition.</p> <p>(B) The victim may be notified by any reasonable means available.</p> <p>Nothing in this paragraph is intended to affect the right of the people and the defendant to an expeditious disposition as provided in Section 1050.</p> <p> Marsy's Law guarantees victims a right "[t]o reasonable notice of and to reasonably confer with the prosecuting attorney." Cal. Const. art 1, § 28(b)(6).</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.</p> <p> A promising practice is to have a policy in place to establish what constitutes "reasonable means of notification."</p> | <p>Cal. Penal Code § 679.02(a)(12).</p> |

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| <p>Victims' Rights to Notice Before an In-Custody Informant Testifies and to Information Regarding the Prosecution's Offer in Exchange for Testimony.</p> <p>The prosecution shall make a good faith attempt to notify any victim of a crime which was committed by, or is alleged to have been committed by, an in-custody informant, as defined in subdivision (a) of Section 1127a, within a reasonable time before the in-custody informant is called to testify. The notice shall include information concerning the prosecution's intention to offer the in-custody informant a modification or reduction in sentence or dismissal of the case or early parole in exchange for the in-custody informant's testimony in another case. The notification or attempt to notify the victim shall be made prior to the commencement of the trial in which the in-custody informant is to testify where the intention to call him or her is known at that time, but in no case shall the notice be made later than the time the in-custody informant is called to the stand.</p> <p>Nothing contained in this section is intended to affect the right of the people and the defendant to an expeditious disposition of a criminal proceeding, as provided in Section 1050. The victim of any case alleged to have been committed by the in-custody informant may exercise his or her right to appear at the sentencing of the in-custody informant pursuant to Section 1191.1, but the victim shall not have a right to intervene in the trial in which the in-custody informant is called to testify.</p> | <p>Cal. Penal Code § 1191.25.</p> |
| <p>Victims' Right to Be Present During Any Criminal Proceeding; Criteria for Exclusion.</p> <p>The right of a victim of crime to be present during any criminal proceeding shall be secured as follows:</p> <p>(a) Notwithstanding any other law, and except as specified in subdivision (d), a victim shall be entitled to be present and seated at all criminal proceedings where the defendant, the prosecuting attorney, and the general public are entitled to be present.</p> <p>(b) A victim may be excluded from a criminal proceeding only if each of the following criteria are met:</p> | <p>Cal. Penal Code § 1102.6.</p> |

(1) Any movant, including the defendant, who seeks to exclude the victim from any criminal proceeding demonstrates that there is a substantial probability that overriding interests will be prejudiced by the presence of the victim. "Overriding interests" may include, but are not limited to, the following:

- (A) The defendant's right to a fair trial.
- (B) The government's interest in inhibiting the disclosure of sensitive information.
- (C) The protection of witnesses from harassment and physical harm.
- (D) The court's interest in maintaining order.
- (E) The protection of sexual offense victims from the trauma and embarrassment of testifying.
- (F) Safeguarding the physical and psychological well-being of a minor.
- (G) The preservation of trade secrets.


(2) The court considers reasonable alternatives to exclusion of the victim from the criminal proceeding.

(3) The exclusion of the victim from any criminal proceeding, or any limitation on his or her presence at any criminal proceeding, is narrowly tailored to serve the overriding interests identified by the movant.



(4) Following a hearing at which any victim who is to be excluded from a criminal proceeding is afforded an opportunity to be heard, the court makes specific factual findings that support the exclusion of the victim from, or any limitation on his or her presence at, the criminal proceeding.

(c) As used in this section, "victim" means (1) the alleged victim of the offense and one person of his or her choosing or however many more the court may allow under the particular circumstances surrounding the proceeding, (2) in the event that the victim is unable to attend the proceeding, two persons designated by the victim or however many more the court may allow under the particular circumstances surrounding the proceeding, or (3) if the victim is no longer living, two members of the victim's immediate family or however many more the court may allow under the particular circumstances surrounding the proceeding.

(d) Nothing in this section shall prevent a court from excluding a victim from a criminal proceeding, pursuant to Section 777 of the Evidence Code, when the victim is subpoenaed as a witness. An order of exclusion shall be consistent with the objectives of paragraphs (1) to (4), inclusive, of subdivision (b) to allow the victim to be present, whenever possible, at all

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| <p>proceedings.</p> <p> Marsy's Law guarantees victims a right, upon request, to be present at any public proceedings at which the defendant and prosecutor are entitled to be present, as well as at all parole or other post-conviction release proceedings. Cal. Const. art 1, § 28(b)(7).</p> | |
| <p>Exclusion of Public from Courtroom During Preliminary Hearing Upon Defendant's Request; Exceptions for Victims and Victims' Families.</p> <p>The examination shall be open and public. However, upon the request of the defendant and a finding by the magistrate that exclusion of the public is necessary in order to protect the defendant's right to a fair and impartial trial, the magistrate shall exclude from the examination every person except the clerk, court reporter and bailiff, the prosecutor and his or her counsel, the Attorney General, the district attorney of the county, the investigating officer, the officer having custody of a prisoner witness while the prisoner is testifying, the defendant and his or her counsel, the officer having the defendant in custody, and a person chosen by the prosecuting witness who is not himself or herself a witness but who is present to provide the prosecuting witness moral support, provided that the person so chosen shall not discuss prior to or during the preliminary examination the testimony of the prosecuting witness with any person, other than the prosecuting witness, who is a witness in the examination. Upon motion of the prosecution, members of the alleged victim's family shall be entitled to be present and seated during the examination. The court shall grant the motion unless the magistrate finds that the exclusion is necessary to protect the defendant's right to a fair and impartial trial, or unless information provided by the defendant or noticed by the court establishes that there is a reasonable likelihood that the attendance of members of the alleged victim's family poses a risk of affecting the content of the testimony of the victim or any other witness. The court shall admonish members of the alleged victim's family who are present and seated during the examination not to discuss any testimony with family members, witnesses, or the public. Nothing in this section shall affect the exclusion of witnesses as provided in Section 867 of the Penal Code.</p> <p>For purposes of this section, members of the alleged victim's family shall include the alleged</p> | <p>Cal. Penal Code § 868.</p> |

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| victim's spouse, parents, legal guardian, children, or siblings. | |
| <p>Victim-Witnesses' Right to Notice of Court Proceeding Schedule Change.</p> <p>[T]he statutory rights of victims and witnesses of crimes [include the right] [t]o be notified as soon as feasible that a court proceeding to which he or she has been subpoenaed as a witness will not proceed as scheduled, provided the prosecuting attorney determines that the witness' attendance is not required.</p> | Cal. Penal Code § 679.02(a)(1). |
| <p>Right of Elder Abuse, Sexual Assault and Child Abuse Victims to Attendance of Support Persons in Courtroom During Victim Testimony.</p> <p>(a) Notwithstanding any other law, a prosecuting witness in a case involving a violation or attempted violation of Section 187, 203, 205, or 207, subdivision (b) of Section 209, Section 211, 215, 220, 236.1, 240, 242, 243.4, 245, 261, 262, 266, 266a, 266b, 266c, 266d, 266e, 266f, 266g, 266h, 266i, 266j, 266k, 267, 269, 273a, 273d, 273.5, 273.6, 278, 278.5, 285, 286, 287, 288, 288.5, 288.7, 289, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.10, 311.11, 422, 646.9, or 647.6, former Section 277, 288a, or 647a, subdivision (1) of Section 314, or subdivision (b), (d), or (e) of Section 368 when the prosecuting witness is the elder or dependent adult, shall be entitled, for support, to the attendance of up to two persons of his or her own choosing, one of whom may be a witness, at the preliminary hearing and at the trial, or at a juvenile court proceeding, during the testimony of the prosecuting witness. Only one of those support persons may accompany the witness to the witness stand, although the other may remain in the courtroom during the witness' testimony. The person or persons so chosen shall not be a person described in Section 1070 of the Evidence Code unless the person or persons are related to the prosecuting witness as a parent, guardian, or sibling and do not make notes during the hearing or proceeding.</p> <p>(b) If the person or persons so chosen are also witnesses, the prosecution shall present evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing, the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support</p> | Cal. Penal Code § 868.5. |

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| <p>person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony. In the case of a juvenile court proceeding, the judge shall inform the support person or persons that juvenile court proceedings are confidential and may not be discussed with anyone not in attendance at the proceedings. In all cases, the judge shall admonish the support person or persons to not prompt, sway, or influence the witness in any way. Nothing in this section shall preclude a court from exercising its discretion to remove a person from the courtroom whom it believes is prompting, swaying, or influencing the witness.</p> <p>(c) The testimony of the person or persons so chosen who are also witnesses shall be presented before the testimony of the prosecuting witness. The prosecuting witness shall be excluded from the courtroom during that testimony. Whenever the evidence given by that person or those persons would be subject to exclusion because it has been given before the corpus delicti has been established, the evidence shall be admitted subject to the court's or the defendant's motion to strike that evidence from the record if the corpus delicti is not later established by the testimony of the prosecuting witness.</p> <p> Crime victims who are entitled to the presence of a support person under this statute are also entitled to "the opportunity to have a therapy or facility dog accompany him or her while testifying in court, subject to the approval of the court." Cal. Penal Code § 868.4(a).</p> <p> For crime victims with disabilities who are entitled to the presence of a support person under this provision, a court may allow the victim to utilize, in addition to or instead of the support person, a person "necessary to facilitate the communication or physical needs of the person with a disability." Cal. Penal Code § 1347.5(b)(2).</p> | |
| <p>Courtroom Accommodations for Certain Victim-Witnesses.</p> <p>Notwithstanding any other provision of law, in any criminal proceeding in which the defendant is charged with a violation or attempted violation of subdivision (b) of Section 209, Section 220, 236.1, 243.4, 261, 269, 273a, 273d, 285, 286, 287, 288, 288.5, 288.7, or 289, subdivision</p> | <p>Cal. Penal Code § 868.8.</p> |

(1) of Section 314, Section 422, 646.9, 647.6, or former Section 288a or 647a, or any crime that constitutes domestic violence defined in Section 13700, committed with or upon a person with a disability or a minor under 11 years of age, the court shall take special precautions to provide for the comfort and support of the person with a disability or minor and to protect him or her from coercion, intimidation, or undue influence as a witness, including, but not limited to, any of the following:

(a) In the court's discretion, the witness may be allowed reasonable periods of relief from examination and cross-examination during which he or she may retire from the courtroom. The judge may also allow other witnesses in the proceeding to be examined when the person with a disability or child witness retires from the courtroom.

(b) Notwithstanding Section 68110 of the Government Code, in his or her discretion, the judge may remove his or her robe if the judge believes that this formal attire intimidates the person with a disability or the minor.


(c) In the court's discretion the judge, parties, witnesses, support persons, and court personnel may be relocated within the courtroom to facilitate a more comfortable and personal environment for the person with a disability or the child witness.

(d) In the court's discretion, the taking of the testimony of the person with a disability or the minor may be limited to normal school hours if there is no good cause to take the testimony of the person with a disability or the minor during other hours.

(e) For the purposes of this section, the term "disability" is defined in subdivision (j) of Section 12926 of the Government Code.



California law also requires certain courtroom accommodations for crime victims with disabilities, including allowing the victim reasonable periods of relief from examination and cross-examination and allowing for alternative means of testifying. Cal. Penal Code ¶ 1347.5.

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| <p>Victims' Right to Not Submit to a Psychiatric or Psychological Examination for the Purpose of Assessing Credibility.</p> <p>Notwithstanding the provisions of subdivision (d) of Section 28 of Article I of the California Constitution, the trial court shall not order any prosecuting witness, complaining witness, or any other witness, or victim in any sexual assault prosecution to submit to a psychiatric or psychological examination for the purpose of assessing his or her credibility.</p> | <p>Cal. Penal Code § 1112.</p> |
| <p>Sexual Assault Victims' Right to Presence of Victim Advocate and Support Person at Interviews.</p> <p>A victim of sexual assault as the result of any offense specified in paragraph (1) of subdivision (b) of Section 264.2 has the right to have victim advocates and a support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys. A victim retains this right regardless of whether he or she has waived the right in a previous medical evidentiary or physical examination or in a previous interview by law enforcement authorities, district attorneys, or defense attorneys. However, the support person may be excluded from an interview by law enforcement or the district attorney if the law enforcement authority or the district attorney determines that the presence of that individual would be detrimental to the purpose of the interview. As used in this section, "victim advocate" means a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, or a victim advocate working in a center established under Article 2 (commencing with Section 13835) of Chapter 4 of Title 6 of Part 4.</p> <p> Confidential communications between a victim and a sexual assault victim advocate/counselor are privileged under California Evidence Code § 1035.8.</p> | <p>Cal. Penal Code § 679.04(a).</p> |

Law Enforcement's Obligation to Notify Sexual Assault Victims of Certain Rights; Legislature's Intent to Encourage Trauma-Based Training for Interviewers.

Cal. Penal Code § 679.04(b).

(1) Prior to the commencement of the initial interview by law enforcement authorities or the district attorney pertaining to any criminal action arising out of a sexual assault, a victim of sexual assault as the result of any offense specified in Section 264.2 shall be notified in writing by the attending law enforcement authority or district attorney that he or she has the right to have victim advocates and a support person of the victim's choosing present at the interview or contact, about any other rights of the victim pursuant to law in the card described in subdivision (a) of Section 680.2, and that the victim has the right to request to have a person of the same gender or opposite gender as the victim present in the room during any interview with a law enforcement official or district attorney, unless no such person is reasonably available. This subdivision applies to investigators and agents employed or retained by law enforcement or the district attorney.

(2) At the time the victim is advised of his or her rights pursuant to paragraph (1), the attending law enforcement authority or district attorney shall also advise the victim of the right to have victim advocates and a support person present at any interview by the defense attorney or investigators or agents employed by the defense attorney.


(3) The presence of a victim advocate shall not defeat any existing right otherwise guaranteed by law. A victim's waiver of the right to a victim advocate is inadmissible in court, unless a court determines the waiver is at issue in the pending litigation.


(4) The victim has the right to request to have a person of the same gender or opposite gender as the victim present in the room during any interview with a law enforcement official or district attorney, unless no such person is reasonably available. It is the intent of the Legislature to encourage every interviewer in this context to have trauma-based training.



For the purposes of this provision, "[a]n initial investigation by law enforcement to determine whether a crime has been committed and the identity of the suspects shall not constitute a law enforcement interview." Cal. Penal Code § 679.04(c).

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| <p>Law Enforcement May Not Discourage Sexual Assault Victims from Receiving a Medical Evidentiary or Physical Examination.</p> <p>A law enforcement official shall not, for any reason, discourage a victim of an alleged sexual assault from receiving a medical evidentiary or physical examination.</p> | <p>Cal. Penal Code § 679.04(d).</p> |
| <p>Domestic Violence Victims' Right to the Presence of Victim Advocate and Support Person at Interviews; Advocate's Obligation to Inform Victim of Limits of Confidentiality.</p> <p>A victim of domestic violence or abuse, as defined in Sections 6203 or 6211 of the Family Code [of California], or Section 13700 of the Penal Code [of California], has the right to have a domestic violence advocate and a support person of the victim's choosing present at any interview by law enforcement authorities, prosecutors, or defense attorneys. However, the support person may be excluded from an interview by law enforcement or the prosecutor if the law enforcement authority or the prosecutor determines that the presence of that individual would be detrimental to the purpose of the interview. As used in this section, "domestic violence advocate" means either a person employed by a program specified in Section 13835.2 for the purpose of rendering advice or assistance to victims of domestic violence, or a domestic violence counselor, as defined in Section 1037.1 of the Evidence Code. Prior to being present at any interview conducted by law enforcement authorities, prosecutors, or defense attorneys, a domestic violence advocate shall advise the victim of any applicable limitations on the confidentiality of communications between the victim and the domestic violence advocate.</p> | <p>Cal. Penal Code § 679.05(a).</p> |
| <p>Law Enforcement's Obligation to Notify Domestic Violence Victims of Certain Rights, Including Their Right to Have a Victim Advocate and Support Person Present at Interviews with Law Enforcement, the Prosecutor or the Defense.</p> <p>(1) Prior to the commencement of the initial interview by law enforcement authorities or the prosecutor pertaining to any criminal action arising out of a domestic violence incident, a victim of domestic violence or abuse, as defined in Section 6203 or 6211 of the Family Code</p> | <p>Cal. Penal Code § 679.05(b).</p> |

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| <p>[of California], or Section 13700 of [the California Penal Code], shall be notified orally or in writing by the attending law enforcement authority or prosecutor that the victim has the right to have a domestic violence advocate and a support person of the victim's choosing present at the interview or contact. This subdivision applies to investigators and agents employed or retained by law enforcement or the prosecutor.</p> <p>(2) At the time the victim is advised of his or her rights pursuant to paragraph (1), the attending law enforcement authority or prosecutor shall also advise the victim of the right to have a domestic violence advocate and a support person present at any interview by the defense attorney or investigators or agents employed by the defense attorney.</p> <p> For the purposes of this section, "[a]n initial investigation by law enforcement to determine whether a crime has been committed and the identity of the suspects shall not constitute a law enforcement interview." Cal. Penal Code § 679.05(c).</p> | |
| <p>Protection of Victims' Confidential Personal Information in Police Reports.</p> <p>(a) In each county, the district attorney and the courts, in consultation with any local law enforcement agencies that may desire to provide information or other assistance, shall establish a mutually agreeable procedure to protect confidential personal information regarding any witness or victim contained in a police report, arrest report, or investigative report if one of these reports is submitted to a court by a prosecutor in support of a criminal complaint, indictment, or information, or by a prosecutor or law enforcement officer in support of a search warrant or an arrest warrant.</p> <p>(b) For purposes of this section, "confidential personal information" includes, but is not limited to, an address, telephone number, driver's license or California Identification Card number, social security number, date of birth, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings or checking account number, or credit card number.</p> <p>(c)(1) This section may not be construed to impair or affect the provisions of Chapter 10</p> | <p>Cal. Penal Code § 964.</p> |

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| <p>(commencing with Section 1054) of Title 6 of Part 2.</p> <p>(2) This section may not be construed to impair or affect procedures regarding informant disclosure provided by Sections 1040 to 1042, inclusive, of the Evidence Code, or as altering procedures regarding sealed search warrant affidavits as provided by <i>People v. Hobbs</i> (1994) 7 Cal. 4th 948.</p> <p>(3) This section shall not be construed to impair or affect a criminal defense counsel's access to unredacted reports otherwise authorized by law, or the submission of documents in support of a civil complaint.</p> <p>(4) This section applies as an exception to California Rule of Court 2.550, as provided by paragraph (2) of subdivision (a) of that rule.</p> <p> Marsy's Law guarantees all crime victims a broad right to privacy. Cal. Const. art.1, § 28(b)(1).</p> | |
| <p>Sexual Assault and Human Trafficking Victims' Right to Keep Their Names and Addresses Confidential.</p> <p>(a) An employee of a law enforcement agency who personally receives a report from a person, alleging that the person making the report has been the victim of a sex offense, shall inform that person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to Section 6254 of the Government Code.</p> <p>(b) A written report of an alleged sex offense shall indicate that the alleged victim has been properly informed pursuant to subdivision (a) and shall memorialize his or her response.</p> <p>(c) A law enforcement agency shall not disclose to a person, except the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law, the address of a person who alleges to be the victim of a sex offense.</p> <p>(d) A law enforcement agency shall not disclose to a person, except the prosecutor, parole</p> | <p>Cal. Penal Code § 293.</p> |

officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law, the name of a person who alleges to be the victim of a sex offense if that person has elected to exercise his or her right pursuant to this section and Section 6254 of the Government Code.


(e) A law enforcement agency shall not disclose to a person, except the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies if authorized or required by law, names, addresses, or images of a person who alleges to be the victim of human trafficking, as defined in Section 236.1, or of that alleged victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, and that information and those images shall be withheld and remain confidential. The law enforcement agency shall orally inform the person who alleges to be the victim of human trafficking of his or her right to have his or her name, addresses, and images, and the names, addresses, and images of his or her immediate family members withheld and kept confidential pursuant to this section and Section 6254 of the Government Code. For purposes of this subdivision, "immediate family" shall have the same meaning as that provided in paragraph (3) of subdivision (b) of Section 422.4 of the Penal Code.


(f) For purposes of this section, sex offense means any crime listed in subparagraph (A) of paragraph (2) of subdivision (f) of Section 6254 of the Government Code.


(g) Parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, and probation officers of county probation departments shall be entitled to receive information pursuant to subdivisions (c), (d), and (e) only if the person to whom the information pertains alleges that he or she is the victim of a sex offense or is the victim of human trafficking, as defined in Section 236.1, the alleged perpetrator of which is a parolee who is alleged to have committed the offense while on parole, or in the case of a county probation officer, the person who is alleged to have committed the offense is a probationer or is under investigation by a county probation department.



Marsy's Law guarantees all crime victims a broad right to privacy. Cal. Const. art.1,

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| § 28(b)(1). | |
| <p>Sexual Assault Victims' Right to Request Identification as Jane or John Doe in All Court Records and Proceedings.</p> <p>(a) Except as provided in Chapter 10 (commencing with Section 1054) of Part 2 of Title 7, or for cases in which the alleged victim of a sex offense, as specified in subdivision (f) of Section 293, has not elected to exercise his or her right pursuant to Section 6254 of the Government Code, the court, at the request of the alleged victim, may order the identity of the alleged victim in all records and during all proceedings to be either Jane Doe or John Doe, if the court finds that such an order is reasonably necessary to protect the privacy of the person and will not unduly prejudice the prosecution or the defense.</p> <p>(b) If the court orders the alleged victim to be identified as Jane Doe or John Doe pursuant to subdivision (a) and if there is a jury trial, the court shall instruct the jury, at the beginning and at the end of the trial, that the alleged victim is being so identified only for the purpose of protecting his or her privacy pursuant to this section.</p> <p> Marsy's Law guarantees all crime victims a broad right to privacy. Cal. Const. art.1, § 28(b)(1).</p> | Cal. Penal Code § 293.5. |
| <p>Prohibition on Disclosure by Attorneys of Victims' Address and Telephone Number.</p> <p>(a)(1) Except as provided in paragraph (2), no attorney may disclose or permit to be disclosed to a defendant, members of the defendant's family, or anyone else, the address or telephone number of a victim or witness whose name is disclosed to the attorney pursuant to subdivision (a) of Section 1054.1, unless specifically permitted to do so by the court after a hearing and a showing of good cause.</p> <p>(2) Notwithstanding paragraph (1), an attorney may disclose or permit to be disclosed the address or telephone number of a victim or witness to persons employed by the attorney or to persons appointed by the court to assist in the preparation of a defendant's case if that disclosure is required for that preparation. Persons provided this information by an attorney</p> | Cal. Penal Code § 1054.2. |

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| <p>shall be informed by the attorney that further dissemination of the information, except as provided by this section, is prohibited.</p> <p>(3) Willful violation of this subdivision by an attorney, persons employed by the attorney, or persons appointed by the court is a misdemeanor.</p> <p>(b) If the defendant is acting as his or her own attorney, the court shall endeavor to protect the address and telephone number of a victim or witness by providing for contact only through a private investigator licensed by the Department of Consumer Affairs and appointed by the court or by imposing other reasonable restrictions, absent a showing of good cause as determined by the court.</p> <p> Marsy's Law guarantees all crime victims a broad right to privacy. Cal. Const. art.1, § 28(b)(1). It also protects against the disclosure of confidential information to the defendant. <i>Id.</i> at § 28(b)(4).</p> | |
| <p>Sexual Assault Victims' Right to Have a Sexual Assault Counselor and Support Person Present at Any Medical Evidentiary or Physical Exam; Law Enforcement's Obligations Regarding Notice to Local Rape Victim Counseling Center and to Victim Regarding Rights.</p> <p>(1) The law enforcement officer, or his or her agency, shall immediately notify the local rape victim counseling center, whenever a victim of an alleged violation of Section 261, 261.5, 262, 286, 287, or 289 is transported to a hospital for any medical evidentiary or physical examination. The hospital may notify the local rape victim counseling center, when the victim of the alleged violation of Section 261, 261.5, 262, 286, 287, or 289 is presented to the hospital for the medical or evidentiary physical examination, upon approval of the victim. The victim has the right to have a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, and a support person of the victim's choosing present at any medical evidentiary or physical examination.</p> <p>(2) Prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault, the medical provider shall give the victim the card described in</p> | <p>Cal. Penal Code § 264.2(b).</p> |

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| <p>subdivision (a) of Section 680.2. This requirement shall apply only if the law enforcement agency has provided the card to the medical provider in a language understood by the victim.</p> <p>(3) The hospital may verify with the law enforcement officer, or his or her agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.</p> <p>(4) A support person may be excluded from a medical evidentiary or physical examination if the law enforcement officer or medical provider determines that the presence of that individual would be detrimental to the purpose of the examination.</p> <p>(5) After conducting the medical evidentiary or physical examination, the medical provider shall give the victim the opportunity to shower or bathe at no cost to the victim, unless a showering or bathing facility is not available.</p> <p>(6) A medical provider shall, within 24 hours of obtaining sexual assault forensic evidence from the victim, notify the law enforcement agency having jurisdiction over the alleged violation if the medical provider knows the appropriate jurisdiction. If the medical provider does not know the appropriate jurisdiction, the medical provider shall notify the local law enforcement agency.</p> | |
| <p>Sexual Assault Victims' Right to Free Testing for Pregnancy and Sexually Transmitted Diseases.</p> <p>In addition to any examination performed without charge to a victim of rape or other sexual assault pursuant to Section 13823.95 of the Penal Code, a county hospital shall, without charge, provide the victim of rape, or other sexual assault, with testing for venereal disease and pregnancy.</p> <p> Sexual assault victims also have the right to request the results of a defendant's HIV test. Cal. Penal Code § 680; <i>id.</i> at § 1202.1.</p> | <p>Cal. Health & Safety Code § 1491.</p> |

Sexual Assault and Domestic Violence Victims Cannot be Held in Contempt or Arrested for Refusing to Testify.

(b) Notwithstanding any other law, a court shall not imprison or otherwise confine or place in custody the victim of a sexual assault or domestic violence crime for contempt if the contempt consists of refusing to testify concerning that sexual assault or domestic violence crime. Before finding a victim of a domestic violence crime in contempt as described in this section, the court may refer the victim for consultation with a domestic violence counselor. All communications between the victim and the domestic violence counselor that occur as a result of that referral shall remain confidential under Section 1037.2 of the Evidence Code.

(c) Notwithstanding any other law, a court shall not imprison, hold in physical confinement, or otherwise confine or place in custody a minor for contempt if the contempt consists of the minor's failure to comply with a court order pursuant to subdivision (b) of Section 601 of, or Section 727 of, the Welfare and Institutions Code, if the minor was adjudged a ward of the court on the ground that he or she is a person described in subdivision (b) of Section 601 of the Welfare and Institutions Code. Upon a finding of contempt of court, the court may issue any other lawful order, as necessary, to secure the minor's attendance at school.

(d) As used in this section, the following terms have the following meanings:

(1) "Sexual assault" means any act made punishable by Section 261, 262, 264.1, 285, 286, 287, 288, or 289 of, or former Section 288a of, the Penal Code.

(2) "Domestic violence" means "domestic violence" as defined in Section 6211 of the Family Code.

(3) "Domestic violence counselor" means "domestic violence counselor" as defined in subdivision (a) of Section 1037.1 of the Evidence Code.

(4) "Physical confinement" has the same meaning as defined in subdivision (d) of Section 726 of the Welfare and Institutions Code.



Under Cal. Civ. Proc. Code § 128(d)–(e), if an order of contempt for refusal to testify is made affecting a victim of sexual assault or domestic violence, the execution of any sentence will be stayed pending the filing, within three judicial days, of a petition for extraordinary

Cal. Civ. Proc. Code § 1219(b)–(d).

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| relief testifying the lawfulness of the court's order. | |
| <p>Sexual Assault, Domestic Violence and Stalking Victims' Right to Participate in Counseling or Seek Medical Attention During the Work Day.</p> <p>(a) In addition to the requirements and prohibitions imposed on employees pursuant to Section 230, an employer with 25 or more employees shall not discharge, or in any manner discriminate or retaliate against, an employee who is a victim of domestic violence, sexual assault, or stalking for taking time off from work for any of the following purposes:</p> <ul style="list-style-type: none"> (1) To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking. (2) To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking. (3) To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking. (4) To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation. <p>(b)(1) As a condition of taking time off for a purpose set forth in subdivision (a), the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.</p> <p>(2) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the categories described in paragraph (2) of subdivision (d) of Section 230 [of the California Labor Code].</p> <p>(3) To the extent allowed by law and consistent with subparagraph (D) of paragraph (7) of subdivision (f) of Section 230 [of the California Labor Code], employers shall maintain the confidentiality of any employee requesting leave under subdivision (a).</p> <p>(c) An employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has taken time off for a purpose set forth in</p> | <p>Cal. Labor Code § 230.1.</p> |

subdivision (a) is entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer, as well as appropriate equitable relief. An employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure or hearing authorized by law is guilty of a misdemeanor.

(d)(1) An employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has exercised his or her rights as set forth in subdivision (a) may file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations pursuant to Section 98.7 [of the California Labor Code].

(2) Notwithstanding any time limitation in Section 98.7 [of the California Labor Code], an employee may file a complaint with the division based upon a violation of subdivision (a) within one year from the date of occurrence of the violation.

(e) An employee may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a purpose specified in subdivision (a). The entitlement of any employee under this section shall not be diminished by any term or condition of a collective bargaining agreement.

(f) This section does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2601 et seq.).

(g) For purposes of this section:

(1) "Domestic violence" means any of the types of abuse set forth in Section 6211 of the Family Code, as amended.

(2) "Sexual assault" means any of the crimes set forth in Section 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 287, 288, 288.5, 289, or 311.4 of, or former Section 288a of, the Penal Code, as amended.

(3) "Stalking" means a crime set forth in Section 646.9 of the Penal Code or Section 1708.7 of the Civil Code.

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| <p>(h)(1) Employers shall inform each employee of his or her rights established under this section and subdivisions (c), (e), and (f) of Section 230 in writing. The information shall be provided to new employees upon hire and to other employees upon request.</p> <p>(2) The Labor Commissioner shall develop a form that an employer may use to comply with the notice requirements in paragraph (1). The form shall set forth the rights and duties of employers and employees under this section in clear and concise language. The Labor Commissioner shall post the form on the commissioner's Internet Web site to make it available to employers who are required to comply with this section. If an employer elects not to use the form developed by the Labor Commissioner, the notice provided by the employer to the employees shall be substantially similar in content and clarity to the form developed by the Labor Commissioner. The Labor Commissioner shall develop the form and post it in accordance with this paragraph on or before July 1, 2017.</p> <p>(3) Employers shall not be required to comply with paragraph (1) until the Labor Commissioner posts the form on the commissioner's Internet Web site in accordance with paragraph (2).</p> | |
| <p>Prohibition on Peace Officers' Detention of or Rendition to Federal Immigration Authorities of Crime Victims Exclusively for Actual or Suspected Immigration Violations.</p> <p>Whenever an individual who is a victim of or a witness to a crime, or who otherwise can give evidence in a criminal investigation, is not charged with or convicted of committing any crime under state law, a peace officer may not detain the individual exclusively for any actual or suspected immigration violation or turn the individual over to federal immigration authorities absent a judicial warrant.</p> | <p>Cal. Penal Code § 679.015(b).</p> |

Victims' Right to Access Certain Law Enforcement Records Regarding Their Case; Victims' Right to Request Nondisclosure of Contact Information in Release of Certain Records to Public; Human Trafficking Victims' Right to Withhold Name and Images from Disclosure.

Cal. Gov't Code § 6254(f).

[The California Public Records Act does not require disclosure of] [r]ecords of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, this subdivision does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related

investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2)(A) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(B) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the names and images of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, and of that victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, may be withheld at the victim's request until the investigation or any subsequent prosecution is complete. For purposes of this subdivision, "immediate family" shall have the same meaning as that provided in paragraph (3) of subdivision (b) of Section 422.4 of the Penal Code.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, if the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. This paragraph shall not be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(4) Notwithstanding any other provision of this subdivision, commencing July 1, 2019, a video or audio recording that relates to a critical incident, as defined in subparagraph (C), may be withheld only as follows:

(A)(i) During an active criminal or administrative investigation, disclosure of a recording related to a critical incident may be delayed for no longer than 45 calendar days after the date the agency knew or reasonably should have known about the incident, if, based on the facts and circumstances depicted in the recording, disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source. If an agency delays disclosure pursuant to this paragraph, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation and the estimated date for disclosure.

(ii) After 45 days from the date the agency knew or reasonably should have known about the incident, and up to one year from that date, the agency may continue to delay disclosure of a recording if the agency demonstrates that disclosure would substantially interfere with the investigation. After one year from the date the agency knew or reasonably should have known about the incident, the agency may continue to delay disclosure of a recording only if the

agency demonstrates by clear and convincing evidence that disclosure would substantially interfere with the investigation. If an agency delays disclosure pursuant to this clause, the agency shall promptly provide in writing to the requester the specific basis for the agency's determination that the interest in preventing interference with an active investigation outweighs the public interest in disclosure and provide the estimated date for the disclosure. The agency shall reassess withholding and notify the requester every 30 days. A recording withheld by the agency shall be disclosed promptly when the specific basis for withholding is resolved.

(B)(i) If the agency demonstrates, on the facts of the particular case, that the public interest in withholding a video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, the agency shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served by withholding the recording and may use redaction technology, including blurring or distorting images or audio, to obscure those specific portions of the recording that protect that interest. However, the redaction shall not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording and the recording shall not otherwise be edited or altered.

(ii) Except as provided in clause (iii), if the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be protected through redaction as described in clause (i) and that interest outweighs the public interest in disclosure, the agency may withhold the recording from the public, except that the recording, either redacted as provided in clause (i) or unredacted, shall be disclosed promptly, upon request, to any of the following:

(I) The subject of the recording whose privacy is to be protected, or their authorized representative.

(II) If the subject is a minor, the parent or legal guardian of the subject whose privacy is to be protected.

(III) If the subject whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased subject whose privacy is to be protected.

(iii) If disclosure pursuant to clause (ii) would substantially interfere with an active criminal or administrative investigation, the agency shall provide in writing to the requester the specific

basis for the agency's determination that disclosure would substantially interfere with the investigation, and provide the estimated date for the disclosure of the video or audio recording. Thereafter, the recording may be withheld by the agency for 45 calendar days, subject to extensions as set forth in clause (ii) of subparagraph (A).

(C) For purposes of this paragraph, a video or audio recording relates to a critical incident if it depicts any of the following incidents:

- (i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.
- (ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death or in great bodily injury.

(D) An agency may provide greater public access to video or audio recordings than the minimum standards set forth in this paragraph.

(E) This paragraph does not alter, limit, or negate any other rights, remedies, or obligations with respect to public records regarding an incident other than a critical incident as described in subparagraph (C).

(F) For purposes of this paragraph, a peace officer does not include any peace officer employed by the Department of Corrections and Rehabilitation.



Victims have the right not to show proof of their legal presence in the United States when exercising their right to obtain police reports regarding their case. Cal. Gov't Code § 6254.30.



Victims have the right to seek review of a decision to deny their right to access information about their case. Cal. Gov't Code § 6259; *see also id.* at § 6258 (proceedings to enforce right to receive or inspect copy of record).

Right of Certain Victims to Copy of Incident Report; Law Enforcement's Obligation to Provide the Copy.

(a) State and local law enforcement agencies shall provide, upon request and without charging a fee, one copy of all incident report face sheets, one copy of all incident reports, or both, to a victim, or the victim's representative as defined in subdivision (g), of a crime that constitutes an act of any of the following:


- (1) Domestic violence, as defined in Section 6211.
- (2) Sexual assault, as defined in Sections 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 287, 288, 288.5, 289, or 311.4 of, or former Section 288a of, the Penal Code.
- (3) Stalking, as defined in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code
- (4) Human trafficking, as defined in Section 236.1 of the Penal Code.
- (5) Abuse of an elder or a dependent adult, as defined in Section 15610.07 of the Welfare and Institutions Code.


(b)(1) A copy of an incident report face sheet shall be made available during regular business hours to a victim or the victim's representative no later than 48 hours after being requested, unless the state or local law enforcement agency informs the victim or the victim's representative of the reasons why, for good cause, the incident report face sheet is not available, in which case the incident report face sheet shall be made available no later than five working days after the request is made.

(2) A copy of the incident report shall be made available during regular business hours to a victim or the victim's representative no later than five working days after being requested, unless the state or local law enforcement agency informs the victim or the victim's representative of the reasons why, for good cause, the incident report is not available, in which case the incident report shall be made available no later than 10 working days after the request is made.

(c) A person requesting copies under this section shall present state or local law enforcement with the person's identification, including a current, valid driver's license, a state-issued identification card, or a passport. If the person is a representative of the victim and the victim

Cal. Fam. Code § 6228.

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| <p>is deceased, the representative shall also present a certified copy of the death certificate or other satisfactory evidence of the death of the victim at the time a request is made. If the person is a representative of the victim and the victim is alive and not the subject of a conservatorship, the representative shall also present a written authorization, signed by the victim, making the person the victim's personal representative.</p> <p>(d)(1) This section shall apply to requests for domestic violence face sheets or incident reports made within five years from the date of completion of the incident report.</p> <p>(2) This section shall apply to requests for sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult face sheets or incident reports made within two years from the date of completion of the incident report.</p> <p>(e) This section shall be known and may be cited as the Access to Domestic Violence Reports Act of 1999.</p> <p> The terms used in this section are defined in Cal. Fam. Code § 6228(f)–(g). The text of these definitions is contained above in the section “Select Definitions.”</p> | |
| <p>Law Enforcement's Obligation to Maintain the Confidentiality of Victim Contact Information.</p> <p>(a) Except as otherwise required by Chapter 10 (commencing with Section 1054) of Title 7, or by the United States Constitution or the California Constitution, no law enforcement officer or employee of a law enforcement agency shall disclose to any arrested person, or to any person who may be a defendant in a criminal action, the address or telephone number of any person who is a victim or witness in the alleged offense.</p> <p>(b) Nothing in this section shall impair or interfere with the right of a defendant to obtain information necessary for the preparation of his or her defense through the discovery process.</p> <p>(c) Nothing in this section shall impair or interfere with the right of an attorney to obtain the address or telephone number of any person who is a victim of, or a witness to, an alleged</p> | <p>Cal. Penal Code § 841.5.</p> |

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| <p>offense where a client of that attorney has been arrested for, or may be a defendant in, a criminal action related to the alleged offense.</p> <p>(d) Nothing in this section shall preclude a law enforcement agency from releasing the entire contents of an accident report as required by Section 20012 of the Vehicle Code.</p> <p> Marsy's Law guarantees all crime victims the right to the nondisclosure of confidential information to a defendant or anyone working on the defendant's behalf. Cal. Const. art. 1, § 28(b)(4). It also guarantees all crime victims a broad right to privacy. <i>Id.</i> at § 28(b)(1).</p> | |
| <p>Right of Victims of Domestic Violence, Sexual Assault, Human Trafficking, Stalking and Elder/Dependent Abuse to Address Confidentiality.</p> <p>(a) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, who is domiciled in California, may apply to the Secretary of State to have an address designated by the Secretary of State serve as the person's address or the address of the minor or incapacitated person. An application shall be completed in person at a community-based victims' assistance program or a community-based assistance program that serves victims of elder or dependent adult abuse pursuant to the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code). The application process shall include a requirement that the applicant shall meet with a victims' assistance counselor and receive orientation information about the program. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State and if it contains all of the following:</p> <p>(1) A sworn statement by the applicant that the applicant has good reason to believe both of the following:</p> <p>(A) That the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse, or is a household member of a victim who is making or has made an application pursuant to this section, unless the applicant is the perpetrator of the crime which provided the basis for that victim's application.</p> | <p>Cal. Gov't Code § 6206.</p> |

(B) That the applicant fears for his or her safety, the safety of his or her children or household members, or the safety of the minor or incapacitated person on whose behalf the application is made.

(2) If the applicant alleges that the basis for the application is that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse, the application may be accompanied by evidence including, but not limited to, any of the following:

(A) Police, court, or other government agency records or files.

(B) Documentation from a domestic violence or sexual assault program if the person is alleged to be a victim of domestic violence, sexual assault, stalking, or human trafficking.

(C) Documentation from a legal, clerical, medical, or other professional from whom the applicant or person on whose behalf the application is made has sought assistance in dealing with the alleged domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse.

(D) Any other evidence that supports the sworn statement, such as a statement from any other individual with knowledge of the circumstances that provides the basis for the claim, or physical evidence of the act or acts of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse.

(3) If the basis for the application is that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a household member of a person described in paragraph (2), the application shall include the name of that person and evidence that the applicant is a household member.

(4) The name and last known address of the applicant's minor child or children, the name and last known address of the other parent or parents of the minor child or children of the applicant, and all court orders related to the minor child or children of the applicant, and legal counsel of record in those cases.

(5) A designation of the Secretary of State as agent for purposes of service of process and for the purpose of receipt of mail.

(A) Service on the Secretary of State of any summons, writ, notice, demand, or process shall be made by delivering to the address confidentiality program personnel of the office of the Secretary of State two copies of the summons, writ, notice, demand, or process.

(B) If a summons, writ, notice, demand, or process is served on the Secretary of State, the

Secretary of State shall immediately cause a copy to be forwarded to the program participant at the address shown on the records of the address confidentiality program so that the summons, writ, notice, demand, or process is received by the program participant within three days of the Secretary of State's having received it.

(C) The Secretary of State shall keep a record of all summonses, writs, notices, demands, and processes served upon the Secretary of State under this section and shall record the time of that service and the Secretary of State's action.

(D) The office of the Secretary of State and any agent or person employed by the Secretary of State shall be held harmless from any liability in any action brought by any person injured or harmed as a result of the handling of first-class mail on behalf of program participants.

(6) The mailing address where the applicant can be contacted by the Secretary of State, and the phone number or numbers where the applicant can be called by the Secretary of State.

(7) The address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse.

(8) The signature of the applicant and of any individual or representative of any office designated in writing under Section 6208.5 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(b) Applications shall be filed with the office of the Secretary of State.

(c) Upon filing a properly completed application, the Secretary of State shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall by rule establish a renewal procedure. A minor program participant, who reaches 18 years of age during his or her enrollment, may renew as an adult following the renewal procedures established by the Secretary of State.

(d) Upon certification, the Secretary of State shall, within 10 days, notify the other parent or parents identified pursuant to paragraph (4) of subdivision (a) of the designation of the Secretary of State as agent for purposes of service of process and, unless there is a court order prohibiting contact, the address designated by the Secretary of State for the program participant. The notice shall be given by mail, return receipt requested, postage prepaid, to the

last known address of the other parent to be notified. A copy shall also be sent to that parent's counsel of record, if provided to the Secretary of State by the applicant.

(e) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or household members, or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, is guilty of a misdemeanor. A notice shall be printed in bold type and in a conspicuous location on the face of the application informing the applicant of the penalties under this subdivision.



Marsy's Law guarantees all crime victims a broad right to privacy. Cal. Const. art.1, § 28(b)(1).



Further details about the operation of California's address confidentiality program can be found elsewhere in the Government Code. *See, e.g.*, Cal. Gov't Code § 6205 (legislative findings regarding the need for state and local agencies to provide name and address confidentiality to victims of domestic violence, sexual assault, human trafficking, or elder or dependent adult abuse); *id.* at § 6205.5 (definitions); *id.* at § 6206.5 (retention of records upon termination of address confidentiality program participant's certification); *id.* at § 6206.7 (withdrawal/termination from program); *id.* at § 6207 (use of substitute address by state and local agencies); *id.* at § 6207.5 (right to confidential voter registration); *id.* at § 6208 (disclosure of program participant's address/name change); *id.* at § 6208.1 (prohibition on internet posting or trading program participant's contact information or image; remedies); *id.* at § 6208.5 (designation of state and local agencies and nonprofits to assist victims in application to address confidentiality program); *id.* at § 6209.5 (notice to address confidentiality program participants); *id.* at § 6209.7 (effect of address confidentiality program participation on custody and visitation orders); Cal. Ct. R. 2.575 (confidential information in name change proceedings under address confidentiality program).



The terms used in this section are defined in Cal. Gov't Code § 6205.5. The text of these definitions is contained above in the section "Select Definitions."



Sexual Assault, Domestic Violence and Stalking Victims' Right to Apply for New License Plates.





(a) Notwithstanding any other provision of law, the department shall issue new and different license plates immediately upon request to the registered owner of a vehicle who appears in person and submits a completed application, if all of the following are provided:



- (1) Proof of ownership of the vehicle that is acceptable to the department.
- (2) A driver's license or identification card containing a picture of the licensee or cardholder issued to the registered owner by the department pursuant to Chapter 1 (commencing with Section 12500) of Division 6. The department shall conduct a search of its records to verify the authenticity of any document submitted under this paragraph.
- (3) The previously issued license plates from the vehicle.
- (4) The payment of required fees under subdivision (c) of Section 4850 and subdivision (b) of Section 9265 for the issuance of duplicate license plates.
- (5) One of the following:
 - (A) A copy of a police report, court documentation, or other law enforcement documentation identifying the registered owner of the vehicle as the victim of an incident of domestic violence, as specified in Section 1708.6 of the Civil Code, the subject of stalking, as specified in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code, the victim of a rape, as defined in Section 261 or 262 of the Penal Code, or the victim of a sexual battery, as defined in Section 1708.5 of the Civil Code.
 - (B) A written acknowledgment, dated within 30 days of submission, on the letterhead of a domestic violence agency or a rape crisis center, that the registered owner is actively seeking assistance or has sought assistance from that agency within the past year.
 - (C) An active protective order as defined in Section 6218 of the Family Code, or issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, which names the registered owner as a protected party.


(b) Subdivision (a) does not apply to special license plates issued under Article 8 (commencing with Section 5000) of Chapter 1 of Division 3, special interest license plates issued under Article 8.4 (commencing with Section 5060) of Chapter 1 of Division 3, or environmental license plates issued under Article 8.5 (commencing with Section 5100) of Chapter 1 of




Cal. Veh. Code § 4467.




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| Division 3. | |
| <p>Sexual Assault Counselor-Victim Privilege.</p> <p>A victim of a sexual assault, whether or not a party, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a sexual assault counselor if the privilege is claimed by any of the following:</p> <ul style="list-style-type: none"> (a) The holder of the privilege; (b) A person who is authorized to claim the privilege by the holder of the privilege; or (c) The person who was the sexual assault counselor at the time of the confidential communication, but that person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure. <p> The sexual assault counselor who received or made a such a privileged communication must “claim the privilege if he or she is present when the communication is sought to be disclosed and is authorized to claim the privilege under subdivision (c) of Section 1035.8.” Cal. Evid. Code § 1036.</p> <p> The terms used in this privilege are defined in Cal. Evid. Code §§ 1035–1035.6, § 1036.2. The text of these definitions is contained above in the section “Select Definitions.”</p> | <p>Cal. Evid. Code § 1035.8.</p> |
| <p>Domestic Violence Counselor-Victim Privilege.</p> <p>A victim of domestic violence, whether or not a party to the action, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a domestic violence counselor in any proceeding specified in Section 901 if the privilege is claimed by any of the following persons:</p> | <p>Cal. Evid. Code § 1037.5</p> |




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| <p>(a) The holder of the privilege.</p> <p>(b) A person who is authorized to claim the privilege by the holder of the privilege.</p> <p>(c) The person who was the domestic violence counselor at the time of the confidential communication. However, that person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure.</p> <p> The domestic violence counselor who received or made a privileged communication must “claim the privilege whenever he or she is present when the communication is sought to be disclosed and he or she is authorized to claim the privilege under subdivision (c) of Section 1037.5.” Cal. Evid. Code § 1037.6.</p> <p> The terms used in this privilege are defined in Cal. Evid. Code §§ 1037–1037.2, 1037.4, 1037.7. The text of these definitions is contained above in the section “Select Definitions.”</p> <p> This privilege in no way limits mandatory child abuse reporting obligations. Cal. Evid. Code § 1037.3.</p> <p> Domestic violence counselors are required to provide victims with information regarding any applicable limitations on the confidentiality of their communications. Cal. Evid. Code § 1037.8; Cal. Penal Code § 679.05(a).</p> | |
| <p>Human Trafficking Caseworker-Victim Privilege.</p> <p>(a) A trafficking victim, whether or not a party to the action, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication, whether made orally, in writing, or otherwise conveyed, between the victim and a human trafficking caseworker if the privilege is claimed by any of the following persons:</p> <p>(1) The holder of the privilege.</p> | <p>Cal. Evid. Code § 1038.</p> |

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| <p>(2) A person who is authorized to claim the privilege by the holder of the privilege.</p> <p>(3) The person who was the human trafficking caseworker at the time of the confidential communication or is presently the human trafficking caseworker for the victim. However, that person may not claim the privilege if there is no holder of the privilege in existence or if the person is otherwise instructed by the court or by another person authorized to permit disclosure.</p> <p>(b) The human trafficking caseworker shall claim the privilege whenever the caseworker is present when the communication is sought to be disclosed and the caseworker is authorized to claim the privilege under this section.</p> <p>(c) A human trafficking caseworker shall inform a trafficking victim of any applicable limitations on confidentiality of communications between the victim and the caseworker. This information may be given orally.</p> <p> The terms used in this privilege are defined in Cal. Evid. Code § 1038.2. The text of these definitions is contained above in the section “Select Definitions.”</p> <p> This privilege in no way limits mandatory child abuse reporting obligations. Cal. Evid. Code § 1038.3.</p> | |
| <p>Court’s Authority to Compel Disclosure of Confidential Human Trafficking Caseworker-Victim Communications.</p> <p>(a) The court may compel disclosure of information received by a human trafficking caseworker that constitutes relevant evidence of the facts and circumstances involving a crime allegedly perpetrated against the victim and that is the subject of a criminal proceeding, if the court determines that the probative value of the information outweighs the effect of disclosure of the information on the victim, the counseling relationship, and the counseling services.</p> <p>(b) When a court rules on a claim of privilege under this article, it may require the person from</p> | <p>Cal. Evid. Code § 1038.1.</p> |

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| <p>whom disclosure is sought or the person authorized to claim the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the person authorized to claim the privilege and those other persons that the person authorized to claim the privilege consents to have present.</p> <p>(c) If the judge determines that the information is privileged and shall not be disclosed, no person shall disclose, without the consent of a person authorized to permit disclosure, any information disclosed in the course of the proceedings in chambers. If the court determines that information shall be disclosed, the court shall so order and inform the defendant in the criminal action. If the court finds there is a reasonable likelihood that any information is subject to disclosure pursuant to the balancing test provided in this section, the procedure specified in paragraphs (1), (2), and (3) of Section 1035.4 shall be followed.</p> <p> The terms used in this privilege are defined in Cal. Evid. Code § 1038.2. The text of these definitions is contained above in the section “Select Definitions.”</p> | |
| <p>Psychotherapist-Patient Privilege.</p> <p>Subject to Section 912 and except as otherwise provided in this article, the patient, whether or not a party, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between patient and psychotherapist if the privilege is claimed by:</p> <p>(a) The holder of the privilege.</p> <p>(b) A person who is authorized to claim the privilege by the holder of the privilege.</p> <p>(c) The person who was the psychotherapist at the time of the confidential communication, but the person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure.</p> <p>The relationship of a psychotherapist and patient shall exist between a psychological corporation as defined in Article 9 (commencing with Section 2995) of Chapter 6.6 of Division 2 of the Business and Professions Code, a marriage and family therapist corporation as defined in Article 6 (commencing with Section 4987.5) of Chapter 13 of Division 2 of the Business</p> | <p>Cal. Evid. Code § 1014.</p> |

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| <p>and Professions Code, a licensed clinical social workers corporation as defined in Article 5 (commencing with Section 4998) of Chapter 14 of Division 2 of the Business and Professions Code, or a professional clinical counselor corporation as defined in Article 7 (commencing with Section 4999.123) of Chapter 16 of Division 2 of the Business and Professions Code, and the patient to whom it renders professional services, as well as between those patients and psychotherapists employed by those corporations to render services to those patients. The word “persons” as used in this subdivision includes partnerships, corporations, limited liability companies, associations, and other groups and entities.</p> <p> This privilege also applies to communications between a patient and an educational psychologist. Cal. Evid. Code § 1010.5.</p> <p> There is no psychotherapist-patient privilege when the child is under the age of 16 and the psychotherapist “has reasonable cause to believe that the patient has been the victim of a crime and that disclosure of the communication is in the best interest of the child.” Cal. Evid. Code § 1027.</p> <p> The terms used in this privilege are defined in Cal. Evid. Code §§ 1010, 1012, 1013. The text of these definitions is contained above in the section “Select Definitions”.</p> | |
| <p>Victims’ Right to Be Informed by the Prosecutor of the Final Disposition of the Case.</p> <p>(a) Upon the request of a victim or a witness of a crime, the prosecuting attorney shall, within 60 days of the final disposition of the case, inform the victim or witness by letter of such final disposition. Such notice shall state the information described in Section 13151.1.</p> <p>(b) As used in this section, “victim” means any person alleged or found, upon the record, to have sustained physical or financial injury to person or property as a direct result of the crime charged.</p> | <p>Cal. Penal Code § 11116.10.</p> |

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| <p>...</p> <p>(d) As used in this section, “final disposition,” means an ultimate termination of the case at the trial level including, but not limited to, dismissal, acquittal, or imposition of sentence by the court, or a decision by the prosecuting attorney, for whatever reason, not to file the case.</p> <p>...</p> <p>(f) This section shall not apply to any case in which a disposition was made prior to the effective date of this section.</p> <p> Marsy’s Law guarantees crime victims the right to information regarding a defendant’s conviction, sentence and incarceration. Cal. Const. art. 1, § 28(b)(12).</p> <p> A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p> <p> A case may conclude long after the victim’s initial contact with the justice system. A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p> | |
| <p>Victims’ Right to be Present and Heard at Sentencing.</p> <p>[T]he statutory rights of victims and witnesses of crimes [include the right] [f]or the victim, the victim’s parents or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to be notified of all sentencing proceedings, and of the right to appear, to reasonably express his or her views, have those views preserved by audio or video means as provided in Section 1191.16, and to have the court consider his or her statements, as provided by Sections 1191.1 and 1191.15.</p> | <p>Cal. Penal Code § 679.02(a)(3).</p> |

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|  Marsy's Law guarantees crime victims the right to be present and heard at any public proceeding, including sentencing. Cal. Const. art. 1, § 28(b)(8). | |
| <p>Victims' Right to Attend Sentencing Proceedings and Express Views Regarding the Crime, the Defendant and Restitution; Court's Obligation to Consider These Views.</p> <p>The victim of any crime, or the parents or guardians of the victim if the victim is a minor, or the next of kin of the victim if the victim has died, have the right to attend all sentencing proceedings under this chapter and shall be given adequate notice by the probation officer of all sentencing proceedings concerning the person who committed the crime.</p> <p>The victim, or up to two of the victim's parents or guardians if the victim is a minor, or the next of kin of the victim if the victim has died, have the right to appear, personally or by counsel, at the sentencing proceeding and to reasonably express his, her, or their views concerning the crime, the person responsible, and the need for restitution. The court in imposing sentence shall consider the statements of victims, parents or guardians, and next of kin made pursuant to this section and shall state on the record its conclusion concerning whether the person would pose a threat to public safety if granted probation.</p> <p>The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.</p> <p> For the purposes of this section, the term "victim" "includes any insurer or employer who was the victim of workers' compensation fraud for the crime specified in Section 549 of [the California Penal Code]; Sections 2314 and 6152 of the Business and Professions Code, Sections 1871.4, 11760, and 11880 of the Insurance Code, and Section 3215 of the Labor Code."</p> <p> Marsy's Law guarantees crime victims the right to be present and heard at any public proceeding, including sentencing. Cal. Const. art. 1, § 28(b)(8). The Penal Code guarantees</p> | <p>Cal. Penal Code § 1191.1.</p> |

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| <p>a similar right. <i>See, e.g.</i>, Cal. Penal Code § 679.02(a)(3) (victims' right to be present and heard at sentencing); <i>id.</i> at § 1191.1 (victims' right to be present and express views at sentencing; court's obligation to consider views).</p> | |
| <p>Victims' Rights Regarding Recorded Sentencing Statements.</p> <p>(a) The court may permit the victim of any crime, his or her parent or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to file with the court a written, audiotaped, or videotaped statement, or statement stored on a CD-ROM, DVD, or any other recording medium acceptable to the court, expressing his or her views concerning the crime, the person responsible, and the need for restitution, in lieu of or in addition to the person personally appearing at the time of judgment and sentence. The court shall consider the statement filed with the court prior to imposing judgment and sentence.</p> <p>Whenever an audio or video statement or statement stored on a CD-ROM, DVD, or other medium is filed with the court, a written transcript of the statement shall also be provided by the person filing the statement, and shall be made available as a public record of the court after the judgment and sentence have been imposed.</p> <p>(b) Whenever a written, audio, or video statement or statement stored on a CD-ROM, DVD, or other medium is filed with the court, it shall remain sealed until the time set for imposition of judgment and sentence except that the court, the probation officer, and counsel for the parties may view and listen to the statement not more than two court days prior to the date set for imposition of judgment and sentence.</p> <p>(c) A person or a court shall not permit any person to duplicate, copy, or reproduce by audio or visual means a statement submitted to the court under the provisions of this section.</p> <p>(d) Nothing in this section shall be construed to prohibit the prosecutor from representing to the court the views of the victim, his or her parent or guardian, the next of kin, or the California Victim Compensation Board.</p> <p>(e) In the event the court permits an audio or video statement or statement stored on a CD-</p> | <p>Cal. Penal Code § 1191.15.</p> |

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| <p>ROM, DVD, or other medium to be filed, the court shall not be responsible for providing any equipment or resources needed to assist the victim in preparing the statement.</p> | |
| <p>Victims' Rights to Have Sentencing Statement Recorded and to Have the Prosecutor Preserve the Recordings for Use at Parole Hearings.</p> <p>The victim of any crime, or the parents or guardians of the victim if the victim is a minor, or the next of kin of the victim if the victim has died, who choose to exercise their rights with respect to sentencing proceedings as described in Section 1191.1 may, in any case where the defendant is subject to an indeterminate term of imprisonment, have their statements simultaneously recorded and preserved by means of videotape, videodisc, or any other means of preserving audio and video, if they notify the prosecutor in advance of the sentencing hearing and the prosecutor reasonably is able to provide the means to record and preserve the statement. If a video and audio record is developed, that record shall be maintained and preserved by the prosecution and used in accordance with the regulations of the Board of Prison Terms at any hearing to review parole suitability or the setting of a parole date.</p> | <p>Cal. Penal Code § 1191.16.</p> |
| <p>Victims' Right to Submit Statement in Aggravation or Mitigation of Sentence.</p> <p>When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the choice of the appropriate term shall rest within the sound discretion of the court. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation. In determining the appropriate term, the court may consider the record in the case, the probation officer's report, other reports, including reports received pursuant to Section 1203.03, and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall select the term which, in the court's discretion, best serves the interests of justice. The court shall set forth on the record the reasons for imposing the term selected and the court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under any provision of</p> | <p>Cal. Penal Code § 1170(b).</p> |

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| law. A term of imprisonment shall not be specified if imposition of sentence is suspended. | |
| <p>Victims' Right to Access Sentence Recommendations Report.</p> <p>No court shall pronounce judgment upon any defendant, as to whom the court has requested a probation report pursuant to Section 1203.10, unless a copy of the probation report has been made available to the court, the prosecuting attorney, and the defendant or his or her attorney, at least two days or, upon the request of the defendant, five days prior to the time fixed by the court for consideration of the report with respect to pronouncement of judgment. The report shall be filed with the clerk of the court as a record in the case at the time the court considers the report.</p> <p>If the defendant is not represented by an attorney, the court, upon ordering the probation report, shall also order the probation officer who prepares the report to discuss its contents with the defendant. Any waiver of the preparation of the report or the consideration of the report by the court shall be as provided in subdivision (b) of Section 1203, with respect to cases to which that subdivision applies.</p> <p>The sentence recommendations of the report shall also be made available to the victim of the crime, or the victim's next of kin if the victim has died, through the district attorney's office. The victim or the victim's next of kin shall be informed of the availability of this information through the notice provided pursuant to Section 1191.1.</p> | Cal. Penal Code § 1203d. |
| <p>Restitution Order Enforceable as a Civil Judgment; Resources Available to Victim for Restitution Collection.</p> <p>In any case in which a defendant is ordered to pay restitution, the order to pay restitution (1) is deemed a money judgment if the defendant was informed of his or her right to have a judicial determination of the amount and was provided with a hearing, waived a hearing, or stipulated to the amount of the restitution ordered, and (2) shall be fully enforceable by a victim as if the restitution order were a civil judgment, and enforceable in the same manner as is provided for the enforcement of any other money judgment. Upon the victim's request, the court shall</p> | Cal. Penal Code § 1214(b). |

provide the victim in whose favor the order of restitution is entered with a certified copy of that order and a copy of the defendant's disclosure pursuant to paragraph (5) of subdivision (f) of Section 1202.4, affidavit or information pursuant to paragraph (6) of subdivision (f) of Section 1202.4, or report pursuant to paragraph (8) of subdivision (f) of Section 1202.4. The court also shall provide this information to the district attorney upon request in connection with an investigation or prosecution involving perjury or the veracity of the information contained within the defendant's financial disclosure. In addition, upon request, the court shall provide the California Victim Compensation Board with a certified copy of any order imposing a restitution fine or order and a copy of the defendant's disclosure pursuant to paragraph (5) of subdivision (f) of Section 1202.4, affidavit or information pursuant to paragraph (6) of subdivision (f) of Section 1202.4, or report pursuant to paragraph (8) of subdivision (f) of Section 1202.4. A victim shall have access to all resources available under the law to enforce the restitution order, including, but not limited to, access to the defendant's financial records, use of wage garnishment and lien procedures, information regarding the defendant's assets, and the ability to apply for restitution from any fund established for the purpose of compensating victims in civil cases. Any portion of a restitution order that remains unsatisfied after a defendant is no longer on probation, parole, postrelease community supervision under Section 3451, or mandatory supervision imposed pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170 or after a term in custody pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section 1170 is enforceable by the victim pursuant to this section. Victims and the California Victim Compensation Board shall inform the court whenever an order to pay restitution is satisfied. A local collection program may continue to enforce victim restitution orders once a defendant is no longer on probation, postrelease community supervision, or mandatory supervision or after completion of a term in custody pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section 1170.








Under this provision, crime victims have the right to use multiple resources to enforce a restitution order, including access to the defendant's financial records, the use of wage garnishment and lien procedures and asset information.







Marsy's Law guarantees crime victims the right to restitution. Cal. Const. art. 1, § 28(b)(13). The Penal Code guarantees them the right to information regarding their rights



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| to civil recovery and restitution. Cal. Penal Code § 679.02(a)(8). | |
| <p>Victims' Right to Information Regarding Rights to Civil Recovery and Restitution; Probation Officer's Obligations Regarding Notice of Rights.</p> <p>In providing notice to the victim pursuant to Section 1191.1, the probation officer shall also provide the victim with information concerning the victim's right to civil recovery against the defendant, the requirement that the court order restitution for the victim, the victim's right to receive a copy of the restitution order from the court and to enforce the restitution order as a civil judgment, the victim's responsibility to furnish the probation department, district attorney, and court with information relevant to his or her losses, and the victim's opportunity to be compensated from the Restitution Fund if eligible under Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code. This information shall be in the form of written material prepared by the Judicial Council in consultation with the California Victim Compensation Board, shall include the relevant sections of the Penal Code, and shall be provided to each victim for whom the probation officer has a current mailing address.</p> | Cal. Penal Code § 1191.2. |
| <p>Sexual Assault Victims' Right to Request Notice of Defendant's Probation and Proposed Date of Release.</p> <p>[T]he statutory rights of victims and witnesses of crimes [include the right] [f]or the victim, to be notified by the district attorney's office of the right to request, upon a form provided by the district attorney's office, and receive a notice pursuant to paragraph (14), if the defendant is convicted of any of the following offenses [in the California Penal Code]:</p> <p>(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289, in violation of Section 220.</p> <p>(B) A violation of Section 207 or 209 committed with the intent to commit a violation of Section 261, 262, 286, 287, 288, or 289, or former Section 288a.</p> | Cal. Penal Code § 679.02(a)(13). |



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| <p>(C) Rape, in violation of Section 261.</p> <p>(D) Oral copulation, in violation of Section 287 or former Section 288a.</p> <p>(E) Sodomy, in violation of Section 286.</p> <p>(F) A violation of Section 288.</p> <p>(G) A violation of Section 289.</p> <p> California Penal Code § 679.02(a)(14) governs requests for notification regarding information about a defendant's probation and proposed date of release.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.</p> | |
| <p>Sexual Assault Victims' Right to Information Regarding Defendant's Probation and Proposed Date of Release.</p> <p>When a victim has requested notification pursuant to [California Penal Code § 679.02(a)(13)], the sheriff shall inform the victim that the person who was convicted of the offense has been ordered to be placed on probation, and give the victim notice of the proposed date upon which the person will be released from the custody of the sheriff.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.</p> <p> A defendant's probation and release may take place long after the victim's initial contact with the justice system. A promising practice is to have a policy and procedure in place that</p> | <p>Cal. Penal Code § 679.02(a)(14).</p> |

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| enables crime victims to easily keep their contact information up-to-date across agencies. | |
| <p>Right of Victims of Violent Offenses to Request and Receive Notice of Release or Execution.</p> <p>(a) With respect to the conviction of a defendant involving a violent offense, as defined in Section 29905, the county district attorney, probation department, and victim-witness coordinator shall confer and establish an annual policy within existing resources to decide which one of their agencies shall inform each witness involved in the conviction who was threatened by the defendant following the defendant's arrest and each victim or next of kin of the victim of that offense of the right to request and receive a notice pursuant to Section 3058.8 or 3605. If no agreement is reached, the presiding judge shall designate the appropriate county agency or department to provide this notification.</p> <p>(b) The Department of Corrections and Rehabilitation shall supply a form to the agency designated pursuant to subdivision (a) in order to enable persons specified in subdivision (a) to request and receive notification from the department of the release, escape, scheduled execution, or death of the violent offender. That agency shall give the form to the victim, witness, or next of kin of the victim for completion, explain to that person or persons the right to be so notified, and forward the completed form to the department. The department or the Board of Parole Hearings is responsible for notifying all victims, witnesses, or next of kin of victims who request to be notified of a violent offender's release or scheduled execution, as provided by Sections 3058.8 and 3605.</p> <p>(c) All information relating to any person receiving notice pursuant to subdivision (b) shall remain confidential and is not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).</p> <p>(d) Nothing in this section precludes a victim, witness, or next of kin of the victim from requesting notification using an automated electronic notification process, if available.</p> <p> Other provisions of the Penal Code guarantee certain victims notification rights regarding</p> | <p>Cal. Penal Code § 679.03.</p> |

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| <p>a defendant's release or execution. <i>See, e.g.</i>, Cal. Penal Code § 3058.8 (notification of release); <i>id.</i> at § 3605 (notification of execution; request to be present at execution); <i>id.</i> at § 1603(b) (notification of release to outpatient status).</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.</p> <p> A defendant's release or execution may take place long after the victim's initial contact with the justice system. A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p> | |
| <p>Victims' Right to Notice of Offenders' Release from Mental Health Facility to Outpatient Status.</p> <p>(1) Prior to release of a person under subdivision to subdivision (a) of Section 1601, the prosecutor shall provide notice of the hearing date and pending release to the victim or next of kin of the victim of the offense for which the person was committed where a request for the notice has been filed with the court, and after a hearing in court, the court shall specifically approve the recommendation and plan for outpatient status pursuant to Section 1604. The burden shall be on the victim or next of kin to the victim to keep the court apprised of the party's current mailing address.</p> <p>(2) In any case in which the victim or next of kin to the victim has filed a request for notice with the director of the state hospital or other treatment facility, he or she shall be notified by the director at the inception of any program in which the committed person would be allowed any type of day release unattended by the staff of the facility.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should</p> | <p>Cal. Penal Code § 1603(b).</p> |

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| <p>carefully maintain documentation of a victim's request to exercise rights.</p> <p> A defendant's release from a mental health facility may take place long after the victim's initial contact with the justice system. A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p> | |
| <p>Law Enforcement's Obligations Regarding Notice to Victims of Sexually Violent Offenders of Offenders' Release Date and Community of Residence.</p> <p>(a) At the time a notice is sent pursuant to subdivisions (a) and (b) of Section 6609.1, the sheriff, chief of police, or district attorney notified of the release shall also send a notice to persons described in Section 679.03 of the Penal Code who have requested a notice, informing those persons of the fact that the person who committed the sexually violent offense may be released together with information identifying the court that will consider the conditional release, recommendation regarding recommitment, or review of commitment status pursuant to subdivision (f) of Section 6605. When a person is approved by the court to be conditionally released, notice of the community in which the person is scheduled to reside shall also be given only if it is (1) in the county of residence of a witness, victim, or family member of a victim who has requested notice, or (2) within 100 miles of the actual residence of a witness, victim, or family member of a victim who has requested notice. If, after providing the witness, victim, or next of kin with the notice, there is any change in the release date or the community in which the person is to reside, the sheriff, chief of police, or the district attorney shall provide the witness, victim, or next of kin with the revised information.</p> <p>(b) At the time a notice is sent pursuant to subdivision (c) of Section 6609.1 the Department of Corrections shall also send a notice to persons described in Section 679.03 of the Penal Code who have requested a notice informing those persons of the fact that the person who committed the sexually violent offense has been released.</p> <p>(c) In order to be entitled to receive the notice set forth in this section, the requesting party shall keep the sheriff, chief of police, and district attorney who were notified under Section</p> | <p>Cal. Welf. & Inst. Code § 6609.3.</p> |

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| <p>679.03 of the Penal Code, informed of his or her current mailing address.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p> <p> A defendant’s release may take place long after the victim’s initial contact with the justice system. A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p> | |
| <p>Right of Victims of Violent Felony Offenses to Notice of Offender’s Release Date and Community of Residence.</p> <p>(a) At the time a notification is sent pursuant to subdivision (a) of Section 3058.6, the Board of Parole Hearings or the Department of Corrections and Rehabilitation, or the designated agency responsible for notification, as the case may be, shall also notify persons described in Section 679.03 who have requested a notice informing those persons of the fact that the person who committed the violent offense is scheduled to be released from the Department of Corrections and Rehabilitation or from the State Department of State Hospitals, including, but not limited to, conditional release, and specifying the proposed date of release. Notice of the community in which the person is scheduled to reside shall also be given if it is (1) in the county of residence of a witness, victim, or family member of a victim who has requested notification, or (2) within 100 miles of the actual residence of a witness, victim, or family member of a victim who has requested notification. If, after providing the witness, victim, or next of kin with the notice, there is any change in the release date or the community in which the person is to reside, the board or department shall provide the witness, victim, or next of kin with the revised information.</p> <p>(b) In order to be entitled to receive the notice set forth in this section, the requesting party shall keep the department or board informed of his or her current contact information.</p> <p>(c) The board or department, when sending out notices regarding an offender’s release on</p> | <p>Cal. Penal Code § 3058.8.</p> |

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| <p>parole, shall use the information provided by the requesting party pursuant to subdivision (b) of Section 679.03, unless that information is no longer current. If the information is no longer current, the department shall make a reasonable attempt to contact the person and to notify him or her of the impending release.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights</p> <p> A defendant’s release on parole may take place long after the victim’s initial contact with the justice system. A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p> | |
| <p>Law Enforcement’s Obligations Regarding Notice to Stalking and Domestic Violence Victims Regarding Offenders’ Release, Change in Parole Status, or Other Relevant Information.</p> <p>(a)(1) The Department of Corrections and Rehabilitation, county sheriff, or director of the local department of corrections shall give notice not less than 15 days prior to the release from the state prison or a county jail of any person who is convicted of violating Section 646.9 or convicted of a felony offense involving domestic violence, as defined in Section 6211 of the Family Code, or any change in the parole status or relevant change in the parole location of the convicted person, or if the convicted person absconds from supervision while on parole, to any person the court identifies as a victim of the offense, a family member of the victim, or a witness to the offense by telephone, electronic mail, or certified mail at his or her last known address, upon request and using the method of communication selected by the requesting party, if that method is available. A victim, family member, or witness shall keep the department or county sheriff informed of his or her current contact information to be entitled to receive notice. A victim may designate another person for the purpose of receiving notification. The department, county sheriff, or director of the local department of corrections, shall make reasonable attempts to locate a person who has requested notification but whose contact information is incorrect or not current. However, the duty to keep the department or county</p> | <p>Cal. Penal Code § 646.92.</p> |

sheriff informed of current contact information shall remain with the victim.
 (2) Following notification by the department pursuant to Section 3058.61, in the event the victim had not originally requested notification under this section, the sheriff or the chief of police, as appropriate, shall make an attempt to advise the victim or, if the victim is a minor, the parent or guardian of the victim, of the victim's right to notification under this section.

(b) All information relating to any person who receives notice under this section shall remain confidential and shall not be made available to the person convicted of violating this section.

(c) For purposes of this section, "release" includes a release from the state prison or a county jail because time has been served, a release from the state prison or a county jail to parole or probation supervision, or an escape from an institution or reentry facility

(d) The department or county sheriff shall give notice of an escape from an institution or reentry facility of any person convicted of violating Section 646.9 or convicted of a felony offense involving domestic violence, as defined in Section 6211 of the Family Code, to the notice recipients described in subdivision (a).

(e) Substantial compliance satisfies the notification requirements of subdivision (a).



A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.



A defendant's release on parole may take place long after the victim's initial contact with the justice system. A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.

Victims' Rights to Notice of Offender's Placement into Reentry or Work Furlough Program and of Escape; Victims' Responsibility to Provide Current Contact Information; Law Enforcement's Responsibility to Make Diligent Effort to Provide Notice When Contact Information is Not Up-to-Date.






Cal. Penal Code § 11155.


(a) As soon as placement of an inmate in any reentry or work furlough program is planned, but in no case less than 60 days prior to that placement, the Department of Corrections and Rehabilitation shall provide notice, if notice has been requested, to all of the following: (1) written notice to the chief of police of the city, if any, in which the inmate will reside, if known, or in which placement will be made, (2) written notice to the sheriff of the county in which the inmate will reside, if known, or in which placement will be made, and (3) notice, as provided in subdivision (d), to the victim, if any, of the crime for which the inmate was convicted or the next of kin of the victim if the crime was a homicide, if the victim or the next of kin has submitted a request for notice with the department. Information regarding victims or next of kin requesting the notice, and the notice, shall be confidential and not available to the inmate.

(b) In the event of an escape of an inmate from any facility under the jurisdiction of the department, the department shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city, and the sheriff of the county, in which the inmate resided immediately prior to the inmate's arrest and conviction, and, if previously requested, to the victim, if any, of the crime for which the inmate was convicted, or to the next of kin of the victim if the crime was a homicide. If the inmate is recaptured, the department shall send written notice thereof to the chief of police and the sheriff, and notice to the victim, or next of kin of the victim, within 30 days after regaining custody of the inmate.

(c) Except as provided in subdivision (d), the department shall send the notices required by this section to the last address provided to the department by the requesting party. It is the responsibility of the requesting party to provide the department with a current address.

(d) Whenever the department provides the notice required by this section to a victim, or next of kin of the victim, it shall do so by telephone, certified mail, or electronic mail, using the method of communication selected by the victim or the next of kin of the victim, if that method is available. In the event the victim's or next of kin's contact information provided to the

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| <p>department is no longer current, the department shall make a diligent, good faith effort to learn the whereabouts of the victim in order to comply with these notification requirements.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p> <p> A defendant’s placement in a reentry or work furlough program or escape from such a program may take place long after the victim’s initial contact with the justice system. A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p> <p> A promising practice is to have a policy and procedure in place regarding what constitutes “a diligent, good faith effort” to learn the victim’s current whereabouts.</p> | |
| <p>Victims’ Rights to Notice of and Participation in Parole Eligibility Hearings.</p> <p>[T]he statutory rights of victims and witnesses of crimes [include the right] [u]pon request by the victim or the next of kin of the victim if the victim has died to be notified of any parole eligibility hearing and of the right to appear, either personally as provided by Section 3043 of or by other means as provided by Section 3043.2 and 3043.25 of [the California Penal Code], to reasonably express his or her views, and to have his or her statements considered, as provided by Section 3043 of [the California Penal Code] and by Section 1767 of the Welfare and Institutions Code.</p> <p> Marsy’s Law guarantees crime victims the rights to information about and to participation in the parole process. Cal. Const. art. 1, § 28(b)(15).</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should</p> | <p>Cal. Penal Code § 679.02(a)(5).</p> |

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| carefully maintain documentation of a victim's request to exercise rights. | |
| <p>Victims' Right to Notice When Defendant to be Placed on Parole.</p> <p>[T]he statutory rights of victims and witnesses of crimes [include the right] [t]o be notified, if applicable, in accordance with Sections 679.03 and 3058.8 if the defendant is to be placed on parole.</p> <p> Marsy's Law guarantees crime victims the rights to information about and to participation in the parole process. Cal. Const. art. 1, § 28(b)(15).</p> | Cal. Penal Code § 679.02(a)(11). |
| <p>Victims' Rights Regarding Parole Hearings: to Notice, to Presence, to be Heard and to Presence of Support Persons.</p> <p>(a)(1) Upon request to the Department of Corrections and Rehabilitation and verification of the identity of the requester, notice of any hearing to review or consider the parole suitability for any inmate in a state prison shall be given by telephone, certified mail, regular mail, or electronic mail, using the method of communication selected by the requesting party, if that method is available, by the Board of Parole Hearings at least 90 days before the hearing to any victim of any crime committed by the inmate, or to the next of kin of the victim if the victim has died, to include the commitment crimes, determinate term commitment crimes for which the inmate has been paroled, and any other felony crimes or crimes against the person for which the inmate has been convicted. The requesting party shall keep the board apprised of his or her current contact information in order to receive the notice.</p> <p>(2) No later than 30 days before the date selected for the hearing, any person, other than the victim, entitled to attend the hearing shall inform the board of his or her intention to attend the hearing and the name and identifying information of any other person entitled to attend the hearing who will accompany him or her.</p> <p>(3) No later than 14 days before the date selected for the hearing, the board shall notify every person entitled to attend the hearing confirming the date, time, and place of the hearing.</p> | Cal. Penal Code § 3043. |



(b)(1) The victim, next of kin, members of the victim's family, and two representatives designated as provided in paragraph (2) of this subdivision have the right to appear, personally or by counsel, at the hearing and to adequately and reasonably express his, her, or their views concerning the inmate and the case, including, but not limited to the commitment crimes, determinate term commitment crimes for which the inmate has been paroled, any other felony crimes or crimes against the person for which the inmate has been convicted, the effect of the enumerated crimes on the victim and the family of the victim, the person responsible for these enumerated crimes, and the suitability of the inmate for parole.

(2) Any statement provided by a representative designated by the victim or next of kin may cover any subject about which the victim or next of kin has the right to be heard including any recommendation regarding the granting of parole. The representatives shall be designated by the victim or, in the event that the victim is deceased or incapacitated, by the next of kin. They shall be designated in writing for the particular hearing before the hearing.

(c) A representative designated by the victim or the victim's next of kin for purposes of this section may be any adult person selected by the victim or the family of the victim. The board shall permit a representative designated by the victim or the victim's next of kin to attend a particular hearing, to provide testimony at a hearing, and to submit a statement to be included in the hearing as provided in Section 3043.2, even though the victim, next of kin, or a member of the victim's immediate family is present at the hearing, and even though the victim, next of kin, or a member of the victim's immediate family has submitted a statement as described in Section 3043.2.

(d) The board, in deciding whether to release the person on parole, shall consider the entire and uninterrupted statements of the victim or victims, next of kin, immediate family members of the victim, and the designated representatives of the victim or next of kin, if applicable, made pursuant to this section and shall include in its report a statement whether the person would pose a threat to public safety if released on parole.

(e) In those cases where there are more than two immediate family members of the victim who wish to attend any hearing covered in this section, the board shall allow attendance of additional immediate family members to include the following: spouse, children, parents, siblings, grandchildren, and grandparents.

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| <p> Marsy's Law guarantees crime victims the rights to information about and to participation in the parole process. Cal. Const. art. 1, § 28(b)(15). Other provisions of the Penal Code also address the scope of a victims' parole-related rights. <i>See, e.g.</i>, Cal. Penal Code § 679.02(a)(11) (victims' right to notice when defendant to be placed on parole); Cal. Penal Code § 3043.2 (victims' right to file written or electronically recorded statement with parole board in lieu of personal appearance); Cal. Penal Code § 3043.25 (victim's right to provide statement to parole board via videoconferencing).</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.</p> | |
| <p>California Victim Compensation Board's Responsibility to Publicize the Existence of Victim Compensation; Law Enforcement's Responsibilities Related to Compensation.</p> <p>(a) The [California Victim Compensation Board ("the board")] shall publicize through the board, law enforcement agencies, victim centers, hospitals, medical, mental health or other counseling service providers, and other public or private agencies, the existence of the program established pursuant to this chapter, including the procedures for obtaining compensation under the program.</p> <p>(b) It shall be the duty of every local law enforcement agency to inform crime victims of the provisions of this chapter, of the existence of victim centers, and in counties where no victim center exists, to provide application forms to victims who desire to seek compensation pursuant to this chapter. The board shall provide application forms and all other documents that local law enforcement agencies and victim centers may require to comply with this section. The board, in cooperation with victim centers, shall set standards to be followed by local law enforcement agencies for this purpose and may require them to file with the board a description of the procedures adopted by each agency to comply with the standards. The board shall conduct outreach to local law enforcement agencies about their duties under this section.</p> | <p>Cal. Gov't Code § 13962.</p> |

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| <p>(c) Every local law enforcement agency shall annually provide to the board contact information for the Victims of Crime Liaison Officer designated pursuant to Section 649.36 of Title 2 of the California Code of Regulations.</p> <p>(d) The board shall annually make available to the Victims of Crime Liaison Officer at every local law enforcement agency one hour of training on victim compensation in California and materials to educate the officers and staff in their law enforcement agencies and publicize the program within their jurisdictions.</p> <p>(e) The board's outreach pursuant to subdivision (a) and training pursuant to subdivision (d) shall affirm that neither access to information about victim compensation, nor an application for compensation, shall be denied on the basis of the victim's or derivative victim's membership in, association with, or affiliation with, a gang, or on the basis of the victim's or derivative victim's designation as a suspected gang member, associate, or affiliate in a shared gang database, as defined in Section 186.34 of the Penal Code.</p> <p>(f) The board's outreach pursuant to subdivision (a) and training pursuant to subdivision (d) shall affirm that neither access to information about victim compensation, nor an application for compensation, shall be denied on the basis of the victim's or derivative victim's documentation or immigration status.</p> | |
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