



Select Victims' Rights – Kansas

USING THIS RESOURCE

This resource is intended to provide a base of knowledge regarding crime victims' rights in Kansas 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 Kansas, see the companion resource: *Law Enforcement-Based Victim Services in Kansas: 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.


SELECT DEFINITIONS	Kansas Statutes
<p>Bill of Rights for Crime Victims Act Definitions.</p> <p>(b) As used in this act, “victim” means any person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime against such person.</p> <p>(c) As used in this act and as used in article 15 of section 15 of the Kansas constitution, the term “crime” shall not include violations of ordinances of cities except for violations of ordinances of cities which prohibit acts or omissions which are prohibited by articles 33, 34, 35 and 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, and as provided in subsection (d).</p> <p> This definition expressly applies to the Bill of Rights for Crime Victims Act, § 74-7333.</p>	<p>Kan. Stat. Ann. § 74-7333(b)–(c).</p>
<p>Victims’ Right to Be Present Definitions.</p> <p>As used in this section:</p> <p>(1) “Public hearing” means any court proceeding or administrative hearing which is open to the public and shall include but not be limited to the:</p> <p>(A) Preliminary hearing;</p> <p>(B) trial;</p> <p>(C) sentencing;</p> <p>(D) sentencing modification;</p> <p>(E) public comment sessions, pursuant to K.S.A. 22-3717, and amendments thereto;</p> <p>(F) expungement hearing; and</p>	<p>Kan. Stat. Ann. § 74-7335(c).</p>

<p>(G) granting of probation or parole by a judge.</p> <p>(2) “Victim’s family” means a spouse, surviving spouse, children, parents, legal guardian, siblings, stepparent or grandparents.</p> <p>(3) “Juvenile offender proceedings” means any hearing concerning a juvenile pursuant to the revised Kansas juvenile justice code.</p> <p> These definitions expressly apply to the statute governing victims’ rights to notice and presence at all public hearings and any hearings/proceedings related to probation or parole, Kan. Stat. Ann. § 74-7335.</p>	
<p>Notification Provisions When Offender Released, Escapes or Dies Definitions.</p> <p>As used in this section, “victim’s family” means a spouse, surviving spouse, children, parents, legal guardian, siblings, stepparents or grandparents.</p> <p> These definitions expressly apply to two statutes governing victims’ rights to notice of an offender’s release, escape or death, Kan. Stat. Ann. § 22-3727 and § 22-3727a.</p>	<p>Kan. Stat. Ann. § 22-3727(b); Kan. Stat. Ann. § 22-3727a(b).</p>
<p>Address Confidentiality Program Definitions.</p> <p>The following words and phrases when used in K.S.A. 75-451 to 75-458, inclusive, and amendments thereto, shall have the meanings respectively ascribed to them herein, unless the context clearly requires otherwise:</p> <p>(a) “Abuse” means:</p> <p>(1) Causing or attempting to cause physical harm;</p> <p>(2) placing another person in fear of imminent physical harm;</p>	<p>Kan. Stat. Ann. § 75-452.</p>



- (3) causing another person to engage involuntarily in sexual relations by force, threats or duress, or threatening to do so;
 - (4) engaging in mental abuse, which includes threats, intimidation and acts designed to induce terror;
 - (5) depriving another person of necessary health care, housing or food; or
 - (6) unreasonably and forcibly restraining the physical movement of another.
- (b) "Confidential address" means a residential street address, school street address or work street address of an individual, as specified on the individual's application to be a program participant under K.S.A. 75-451 to 75-458, inclusive, and amendments thereto.
- (c) "Confidential mailing address" means an address that is recognized for delivery by the United States postal service.
- (d) "Domestic violence" means abuse committed against a victim or the victim's spouse or dependent child by:
- (1) A current or former spouse of the victim;
 - (2) a person with whom the victim shares parentage of a child in common;
 - (3) a person who is cohabitating with, or has cohabitated with, the victim;
 - (4) a person who is related by blood or marriage; or
 - (5) a person with whom the victim has or had a dating or engagement relationship.
- (e) "Program participant" means a person certified as a program participant under K.S.A. 75-453, and amendments thereto.
- (f) "Enrolling agent" means state and local agencies, law enforcement offices, nonprofit agencies and any others designated by the secretary of state that provide counseling and shelter services to victims of domestic violence, sexual assault, human trafficking or stalking.
- (g) "Sexual assault" means an act which if committed in this state would constitute any crime defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or



<p>article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6419 through 21-6422, and amendments thereto.</p> <p>(h) “Stalking” means an act which if committed in this state would constitute “stalking” as defined by K.S.A. 60-31a01, and amendments thereto.</p> <p>(i) “Human trafficking” means an act which if committed in this state would constitute the crime of human trafficking as defined by K.S.A. 21-3446, prior to its repeal, or K.S.A. 21-5426(a), and amendments thereto.</p> <p> These definitions expressly apply to Kansas’s address confidentiality statutes, §§ Kan. Stat. Ann. 75-451 to 75-458.</p>	
<p>Attorney-Client Privilege Definitions.</p> <p>As used in this section:</p> <p>(1) “Client” means a person or corporation or other association that, directly or through an authorized representative, consults an attorney or attorney’s representative for the purpose of retaining the attorney or securing legal service or advice from the attorney in a professional capacity; and includes an incapacitated person who, or whose guardian on behalf of the incapacitated person, so consults the attorney or the attorney’s representative in behalf of the incapacitated person.</p> <p>(2) “Communication” includes advice given by the attorney in the course of representing the client and includes disclosures of the client to a representative, associate or employee of the attorney incidental to the professional relationship.</p> <p>(3) “Attorney” means a person authorized, or reasonably believed by the client to be authorized, to practice law in any state or nation the law of which recognizes a privilege against disclosure of confidential communications between client and attorney.</p>	<p>Kan. Stat. Ann. § 60-426(c).</p>


 These definitions expressly apply to the attorney-patient privilege, Kan. Stat. Ann. § 60-426.	
<p>Physician-Patient Privilege Definitions.</p> <p>As used in this section:</p> <p>(1) “Patient” means a person who, for the sole purpose of securing preventive, palliative, or curative treatment, or a diagnosis preliminary to such treatment, of such person’s physical or mental condition, consults a physician, or submits to an examination by a physician.</p> <p>(2) “Physician” means a person licensed or reasonably believed by the patient to be licensed to practice medicine or one of the healing arts as defined in K.S.A. 65-2802, and amendments thereto, in the state or jurisdiction in which the consultation or examination takes place.</p> <p>(3) “Holder of the privilege” means the patient while alive and not under guardianship or conservatorship or the guardian or conservator of the patient, or the personal representative of a deceased patient.</p> <p>(4) “Confidential communication between physician and patient” means such information transmitted between physician and patient, including information obtained by an examination of the patient, as is transmitted in confidence and by a means which, so far as the patient is aware, discloses the information to no third persons other than those reasonably necessary for the transmission of the information or the accomplishment of the purpose for which it is transmitted.</p> <p> These definitions expressly apply to the physician-patient privilege, Kan. Stat. Ann. § 60-427.</p>	<p>Kan. Stat. Ann. § 60-427(a).</p>

<p>SELECT CRIME VICTIMS' RIGHTS</p>	<p>Kansas Constitutional Provisions and Statutes</p>
<p>Victims' Rights to be Informed of and to be Present at Public Hearings, to be Heard at Sentencing and Any Other Time Deemed Appropriate by the Court.</p> <p>Victims of crime, as defined by law, shall be entitled to certain basic rights, including the right to be informed of and to be present at public hearings, as defined by law, of the criminal justice process, and to be heard at sentencing or at any other time deemed appropriate by the court, to the extent that these rights do not interfere with the constitutional or statutory rights of the accused.</p> <p> A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your jurisdiction's law, victims may choose to: (1) read or speak their impact statement aloud at the sentencing proceeding, or have another person do it for them; (2) submit a written victim impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.</p>	<p>Kan. Const. art. 15, § 15(a).</p>
<p>Victims' Constitutional Rights Do Not Create a Cause of Action for Money Damages.</p> <p>Nothing in this section shall be construed as creating a cause of action for money damages against the state, a county, a municipality, or any of the agencies, instrumentalities, or employees thereof. The legislature may provide for other remedies to ensure adequate enforcement of this section.</p>	<p>Kan. Const. art. 15, § 15(b).</p>

<p>Victims' Constitutional Rights Do Not Authorize Courts to Set Aside or Void Determinations of Guilt or Acceptance of Pleas or to Set Aside Any Sentence or Final Disposition.</p> <p>Nothing in this section shall be construed to authorize a court to set aside or to void a finding of guilty or not guilty or an acceptance of a plea of guilty or to set aside any sentence imposed or any other final disposition in any criminal case.</p>	<p>Kan. Const. art. 15, § 15(c).</p>
<p>Victims' Rights to Be Treated with Courtesy, Compassion and with Respect for their Dignity and Privacy and to Suffer the Minimum of Necessary Inconvenience from Their Involvement with the Criminal Justice System.</p> <p>In order to ensure the fair and compassionate treatment of victims of crime and to increase the effectiveness of the criminal justice system by affording victims of crime certain basic rights and considerations, victims of crime shall have the following right[]: Victims should be treated with courtesy, compassion and with respect for their dignity and privacy and should suffer the minimum of necessary inconvenience from their involvement with the criminal justice system.</p>	<p>Kan. Stat. Ann. § 74-7333(a)(1).</p>
<p>Victims' Right to Receive Prompt and Fair Redress for Harm Suffered.</p> <p>In order to ensure the fair and compassionate treatment of victims of crime and to increase the effectiveness of the criminal justice system by affording victims of crime certain basic rights and considerations, victims of crime shall have the following right[]: Victims should receive, through formal and informal procedures, prompt and fair redress for the harm which they have suffered.</p>	<p>Kan. Stat. Ann. § 74-7333(a)(2).</p>

<p>Victims' Right to Information Regarding the Availability of Restitution, Civil Recovery and Compensation.</p> <p>In order to ensure the fair and compassionate treatment of victims of crime and to increase the effectiveness of the criminal justice system by affording victims of crime certain basic rights and considerations, victims of crime shall have the following right[]: Information regarding the availability of criminal restitution, recovery of damages in a civil cause of action, the crime victims compensation fund and other remedies and the mechanisms to obtain such remedies should be made available to victims.</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> Victims should be informed that they are entitled to seek restitution upon the conviction of defendant for losses caused by defendant's criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	<p>Kan. Stat. Ann. § 74-7333(a)(3).</p>
<p>Victims' Right to Information About Participation in Criminal Proceedings and Scheduling, Progress and Final Disposition of Case.</p> <p>In order to ensure the fair and compassionate treatment of victims of crime and to increase the effectiveness of the criminal justice system by affording victims of crime certain basic rights and considerations, victims of crime shall have the following right[]: Information should be made available to victims about their participation in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings.</p>	<p>Kan. Stat. Ann. § 74-7333(a)(4).</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>Victims' Right to Have Views and Concerns Ascertained and Appropriate Assistance Provided.</p> <p>In order to ensure the fair and compassionate treatment of victims of crime and to increase the effectiveness of the criminal justice system by affording victims of crime certain basic rights and considerations, victims of crime shall have the following right[]: The views and concerns of victims should be ascertained and the appropriate assistance provided throughout the criminal process.</p>	<p>Kan. Stat. Ann. § 74-7333(a)(5).</p>
<p>Victims' Right to Have Personal Interests Brought to the Attention of the Court.</p> <p>In order to ensure the fair and compassionate treatment of victims of crime and to increase the effectiveness of the criminal justice system by affording victims of crime certain basic rights and considerations, victims of crime shall have the following right[]: When the personal interests of victims are affected, the views or concerns of the victim should, when appropriate and consistent with criminal law and procedure, be brought to the attention of the court.</p> <p> This right to be heard is broad. Other statutes offer narrower procedures for expressing this right. <i>See, e.g.</i>, Kan. Stat. Ann. § 22-3434(e) (victim has the right to address the court before imposition of a sentence); <i>id.</i> at § 22-3436(b) (victim has right to be present at hearing involving plea agreement and may submit written argument to the court prior to the hearing); <i>id.</i> at § 22-3424(e)(3) (before imposing sentence, the court must allow the victim to address the court, if the victim so requests); <i>id.</i> at § 22-3717(h) (parole board must consider victim comments made in person, contemporaneous or pre-recorded).</p>	<p>Kan. Stat. Ann. § 74-7333(a)(6).</p>

<p>Victims' Right to Safety.</p> <p>In order to ensure the fair and compassionate treatment of victims of crime and to increase the effectiveness of the criminal justice system by affording victims of crime certain basic rights and considerations, victims of crime shall have the following right[]: Measures may be taken when necessary to provide for the safety of victims and their families and to protect them from intimidation and retaliation.</p>	<p>Kan. Stat. Ann. § 74-7333(a)(7).</p>
<p>Victims' Right to Information Regarding Health and Social Services and Other Relevant Assistance.</p> <p>In order to ensure the fair and compassionate treatment of victims of crime and to increase the effectiveness of the criminal justice system by affording victims of crime certain basic rights and considerations, victims of crime shall have the following right[]: Victims should be informed of the availability of health and social services and other relevant assistance that they might continue to receive the necessary medical, psychological and social assistance through existing programs and services.</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>Kan. Stat. Ann. § 74-7333(a)(9).</p>
<p>Victims' Responsibility to Report Crime and Cooperate with Law Enforcement.</p> <p>In order to ensure the fair and compassionate treatment of victims of crime and to increase the effectiveness of the criminal justice system by affording victims of crime certain basic rights and considerations . . . [v]ictims should report the crime and cooperate with law enforcement authorities.</p>	<p>Kan. Stat. Ann. § 74-7333(a)(10).</p>

<p>Requirement of Enhanced Training and Guidelines to Sensitize Criminal Justice Personnel to Victims' Need and Concerns.</p> <p>In order to ensure the fair and compassionate treatment of victims of crime and to increase the effectiveness of the criminal justice system by affording victims of crime certain basic rights and considerations, . . . [e]nhanced training should be made available to sensitize criminal justice personnel to the needs and concerns of victims and guidelines should be developed for this purpose.</p>	<p>Kan. Stat. Ann. § 74-7333(a)(8).</p>
<p>Cities with Municipal Courts Must Adopt Policies to Afford Victims Constitutional and Statutory Rights.</p> <p>The governing body of any city which has established a municipal court shall adopt policies which afford the rights granted to victims of crime pursuant to this act and pursuant to article 15 of section 15 of the Kansas constitution to victims of ordinance violations specified in such policies.</p>	<p>Kan. Stat. Ann. § 74-7333(d).</p>
<p>Nothing in the Bill of Rights for Victims of Crime Act Creates a Cause of Action.</p> <p>Nothing in [Bill of Rights for Victims of Crime Act] shall be construed as creating a cause of action on behalf of any person against the state, a county, a municipality or any of their agencies, instrumentalities or employees responsible for the enforcement of rights as provided in this act.</p>	<p>Kan. Stat. Ann. § 74-7333(e).</p>
<p>Victims' Right to Notice of Right to Be Present at Any Public Hearing and Any Proceeding or Hearing Involving Probation or Parole.</p> <p>(a) The victim of a crime or the victim's family shall be notified of the right to be present at any public hearing or any juvenile offender proceeding concerning the accused or the convicted person or the respondent or the juvenile offender.</p>	<p>Kan. Stat. Ann. § 74-7335.</p>

(b) The victim of a crime or the victim's family shall be notified of the right to be present at any proceeding or hearing where probation or parole is considered or granted by a judge whether or not a public hearing is conducted or required.

(c) As used in this section: (1) "Public hearing" means any court proceeding or administrative hearing which is open to the public and shall include but not be limited to the:

(A) Preliminary hearing;

(B) trial;

(C) sentencing;

(D) sentencing modification;

(E) public comment sessions, pursuant to K.S.A. 22-3717, and amendments thereto;

(F) expungement hearing; and

(G) granting of probation or parole by a judge.

(2) "Victim's family" means a spouse, surviving spouse, children, parents, legal guardian, siblings, stepparent or grandparents.

(3) "Juvenile offender proceedings" means any hearing concerning a juvenile pursuant to the revised Kansas juvenile justice code.

(d) The city, county or district attorney or municipal court clerk shall notify any victim of the crime who is alive and whose address is known to the city, county or district attorney or municipal court clerk or, if the victim is deceased, to the victim's family if the family's address is known to such attorney or clerk.

(e) Costs of transportation for the victim to appear shall be borne by the victim unless the appearance is required pursuant to a subpoena or other order of the court.

<p>Victims' Right to Notice of Any Dismissal or Declining of Prosecution of Charges; Victims' Right to Information Regarding Proposed Plea Agreements; Victims' Right to Information and Notice of Right to Be Present and Heard at Any Hearing Involving a Plea Agreement.</p> <p>This section applies if a defendant is charged with a crime pursuant to articles 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments thereto.</p> <p>(a) The prosecuting attorney, as defined in K.S.A. 22-2202, and amendments thereto, shall: (1) Inform the victim or the victim's family before any dismissal or declining of prosecuting charges; (2) inform the victim or the victim's family of the nature of any proposed plea agreement; and (3) inform and give notice to the victim or the victim's family of the rights established in subsection (b).</p> <p>(b) The victim of a crime or the victim's family have the right to be present at any hearing where a plea agreement is reviewed or accepted and the parties may submit written arguments to the court prior to the date of the hearing.</p>	<p>Kan. Stat. Ann. § 22-3436.</p>
<p>Criminal Discovery: Victims' Personal Identifiers May Be Redacted; If Unredacted, Defense Counsel May Not Further Disclose.</p> <p>(a) Upon request, the prosecuting attorney shall permit the defense to inspect and copy or photograph the following, if relevant: (1) Written or recorded statements or confessions made by the defendant, or copies thereof, which are or have been in the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; (2) results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the particular case, or copies thereof, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; (3) recorded testimony of the defendant before a grand jury or at an inquisition; and (4) memoranda of any oral confession</p>	<p>Kan. Stat. Ann. § 22-3212.</p>

made by the defendant and a list of the witnesses to such confession, the existence of which is known, or by the exercise of due diligence may become known to the prosecuting attorney.

(b)(1) Except as provided in subsection (1), upon request, the prosecuting attorney shall permit the defense to inspect and copy or photograph books, papers, documents, tangible objects, buildings or places, or copies, or portions thereof, which are or have been within the possession, custody or control of the prosecution, and which are material to the case and will not place an unreasonable burden upon the prosecution.

(2) The prosecuting attorney shall also provide a summary or written report of what any expert witness intends to testify to on direct examination, including the witness' qualifications and the witness' opinions, at a reasonable time prior to trial by agreement of the parties or by order of the court.

(3) Except as provided in subsections (a)(2) and (a)(4), and as otherwise provided by law, this section does not authorize the discovery or inspection of reports, memoranda or other internal government documents made by officers in connection with the investigation or prosecution of the case, or of statements made by state witnesses or prospective state witnesses, other than the defendant.



(4) Except as provided in subsection (g), this section does not require the prosecuting attorney to provide unredacted vehicle identification numbers or personal identifiers of persons mentioned in such books, papers or documents.

(5) As used in this subsection, personal identifiers include, but are not limited to, birthdates, social security numbers, taxpayer identification numbers, drivers license numbers, account numbers of active financial accounts, home addresses and personal telephone numbers of any victims or material witnesses.

(6) If the prosecuting attorney does provide the defendant's counsel with unredacted vehicle identification numbers or personal identifiers, the defendant's counsel shall not further disclose the unredacted numbers or identifiers to the defendant or any other person, directly or indirectly, except as authorized by order of the court.

(7) If the prosecuting attorney provides books, papers or documents to the defendant's counsel with vehicle identification numbers or personal identifiers redacted by the prosecuting attorney, the prosecuting attorney shall provide notice to the defendant's counsel that such books, papers or documents had such numbers or identifiers redacted by the prosecuting attorney.

<p>(8) Any redaction of vehicle identification numbers or personal identifiers by the prosecuting attorney shall be by alteration or truncation of such numbers or identifiers and shall not be by removal.</p>	
<p>Duties of Victims Rights Coordinator.</p> <p>The attorney general shall appoint a victims rights coordinator. It shall be the duty of the victims rights coordinator to:</p> <p>(a) Create, coordinate and assist in the operation of local victim-witness programs throughout the state;</p> <p>(b) respond to a statewide victims rights telephone hotline;</p> <p>(c) administer the Kansas crime victims assistance fund; and</p> <p>(d) report to the legislature on or before February 1, 1996, regarding the use of moneys received from docket fees and credited to the crime victims assistance fund and the protection from abuse fund and recommendations for further assistance for programs receiving grants from such funds.</p>	<p>Kan. Stat. Ann. § 74-7337.</p>
<p>Victims' Right to Notice of Public Comment Session for Inmate; Responsibility to Update Contact Information; Confidentiality of Contact Information.</p> <p>(a) Notwithstanding the provisions of K.S.A. 74-7335 and amendments thereto, in the case of any inmate convicted of an off-grid felony or a class A felony, the secretary of corrections shall give written notice of the time and place of the public comment session pursuant to K.S.A. 22-3717 and amendments thereto for such inmate, at least one month preceding the public comment session, to any victim or the victim's family pursuant to subsection (b).</p> <p>(b) Any victim, or a member of the victim's family of a crime, if such victim requests notice</p>	<p>Kan. Stat. Ann. § 74-7338.</p>

<p>of the public comment session, shall give the secretary of corrections such victim's name and current address or the name and current address of the victim's family. It shall be the duty of the victim or the victim's family to provide the secretary with any change in name or address or change in the person to be notified pursuant to this section.</p> <p>(c) The secretary of corrections shall keep a record of all victims and their current addresses or such victims' family and their current addresses, who give the secretary such victim or victims' family name pursuant to subsection (b), and shall update such record as notified by the victims or the victims' family. Such record shall be kept confidential and separate from all other records and shall not be available to the inmate or any other party other than the victim or the victim's family.</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 procedure in place that reminds victims of their responsibility to keep their contact information current with the secretary of corrections and that enables victims to make any necessary updates easily.</p>	
<p>Presentence Investigation and Report: Must Include Information Regarding Attitude of Victim, Harm Suffered and Potential Restitution.</p> <p>Whenever a presentence report is requested, the court services officer, with the assistance of the county or district attorney, shall secure, except for good cause shown, information concerning:</p> <p>. . . (2) the attitude of the complainant or victim and, if possible in homicide cases, the victim's immediate family;</p> <p>. . . (4) any other facts or circumstances that may aid the court in sentencing, which may include, but is not limited to, the financial, social, psychological, physical or other harm or loss suffered by victims of the offense and the restitution needs of such victims. Except</p>	<p>Kan. Stat. Ann. § 21-6703(b)(2), (b)(4).</p>

<p>where specifically prohibited by law, all local governmental and state agencies shall furnish to the officer conducting the presentence investigation any records requested by the officer. If ordered by the court, the presentence investigation shall include a physical and mental examination of the defendant.</p>	
<p>Presentence Investigation Report: Must Include a Victim Report When There is an Identifiable Victim; Confidentiality of Victim Report.</p> <p>(b) Each presentence investigation report prepared for an offender to be sentenced for one or more felonies committed on or after July 1, 1993, shall be limited to the following information: . . . (3) When there is an identifiable victim, a victim report. The person preparing the victim report shall submit the report to the victim and request that the information be returned to be submitted as a part of the presentence investigation. To the extent possible, the report shall include a complete listing of restitution for damages suffered by the victim. . . .</p> <p>(c) The presentence investigation report will become part of the court record and shall be accessible to the public, except that the official version, defendant’s version and the victim’s statement, any psychological reports, risk and needs assessments and drug and alcohol reports and assessments shall be accessible only to: The parties; the sentencing judge; the department of corrections; community correctional services; any entity required to receive the information under the interstate compact for adult offender supervision; and, if requested, the Kansas sentencing commission. If the offender is committed to the custody of the secretary of corrections, the report shall be sent to the secretary and, in accordance with K.S.A. 75-5220, and amendments thereto, to the warden of the state correctional institution to which the defendant is conveyed.</p>	<p>Kan. Stat. Ann. § 21-6813(b)(3), (c).</p>
<p>Victims’ Rights Regarding Restitution; Restitution for Victims of Human Trafficking; Victims’ Right to be Present and Heard at Sentencing.</p> <p>(a) The judgment shall be rendered and sentence imposed in open court.</p>	<p>Kan. Stat. Ann. § 22-3424.</p>

(b) If the verdict or finding is not guilty, judgment shall be rendered immediately and the defendant shall be discharged from custody and the obligation of the defendant's appearance bond.

(c) If the verdict or finding is guilty, judgment shall be rendered and sentence pronounced without unreasonable delay, allowing adequate time for the filing and disposition of post-trial motions and for completion of such presentence investigation as the court may require.

(d)(1) If the verdict or finding is guilty, upon request of the victim or the victim's family and before imposing sentence, the court shall hold a hearing to establish restitution. The defendant may waive the right to the hearing and accept the amount of restitution as established by the court. If the court orders restitution to be paid to the victim or the victim's family, the order shall be enforced as a judgment of restitution pursuant to K.S.A. 60-4301 through 60-4304, and amendments thereto.

(2)(A) The court shall order a person convicted of human trafficking or aggravated human trafficking, K.S.A. 21-3446 or 21-3447, prior to their repeal, or K.S.A. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, K.S.A. 21-6422, and amendments thereto, to pay restitution to the victim of the offense for:

(i) Expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including reasonable attorney fees and costs; and



(ii) an amount equal to three times the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim:


(a) The gross income to the defendant for, or the value to the defendant of, the victim's labor or services or sexual activity;


(b) the amount the defendant contracted to pay the victim; or

(c) the value of the victim's labor or services or sexual activity, calculated under the minimum wage and overtime provisions of the federal fair labor standards act, 29 U.S.C. § 201 et seq., or under K.S.A. 44-1203, and amendments thereto, whichever is higher, even if the provisions do not apply to the victim's labor or services or sexual activity.

(B) The court shall order restitution under subsection (d)(2) even if the victim is unavailable to accept payment of restitution.

<p>(C) If the victim does not claim restitution ordered under subsection (d)(2) for five years after entry of the order, the restitution must be paid to the human trafficking victim assistance fund created by K.S.A. 75-758, and amendments thereto, to help victims.</p> <p>(e) Before imposing sentence the court shall: (1) Allow the prosecuting attorney to address the court, if the prosecuting attorney so requests; (2) afford counsel an opportunity to speak on behalf of the defendant; (3) allow the victim or such members of the victim’s family as the court deems appropriate to address the court, if the victim or the victim’s family so requests; and (4) address the defendant personally and ask the defendant if the defendant wishes to make a statement on the defendant’s own behalf and to present any evidence in mitigation of punishment.</p> <p>(f) After imposing sentence in a case which has gone to trial on a plea of not guilty, the court shall advise the defendant of the defendant’s right to appeal and of the right of a person who is unable to pay the costs of an appeal to appeal in forma pauperis.</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, when promptly informing victims about restitution, 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 Notice of Right to be Present at Hearing to Consider Imposition of a Departure Sentence; Court’s Obligation to Review Victim Impact Statement.</p> <p>Whenever a person is convicted of a felony, the court upon motion of either the defendant or the state, shall hold a hearing to consider imposition of a departure sentence other than an upward durational departure sentence. The motion shall state the type of departure sought and the reasons and factors relied upon. The hearing shall be scheduled so that the parties</p>	<p>Kan. Stat. Ann. § 21-6817(a)(1).</p>



<p>have adequate time to prepare and present arguments regarding the issues of departure sentencing. The county or district attorney shall notify the victim of a crime or the victim's family of the right to be present at the hearing. The parties may submit written arguments to the court prior to the date of the hearing and may make oral arguments before the court at the hearing. The court shall review the victim impact statement. Prior to the hearing, the court shall transmit to the defendant or the defendant's attorney and the prosecutor copies of the presentence investigation report.</p>	
<p>Right of Victims of Alcohol or Drug-Related Offenses that Resulted in Bodily Injury or Death to Give Impact Statement; Restitution.</p> <p>(a) As used in this section, "alcohol or drug-related offense" means: (1) A violation of K.S.A. 8-1567, and amendments thereto, or any ordinance of a city or resolution of a county prohibiting the acts prohibited by that statute; or (2) any other offense arising out of the operation or attempted operation of a motor vehicle while under the influence of alcohol or drugs, or both.</p> <p>(b) Prior to the sentencing of a person convicted of an alcohol or drug-related offense which resulted in serious bodily injury to a person or the death of a person, the court shall cause reasonable attempts to be made to notify the victim or the victim's family, who shall be given an opportunity to make a victim impact statement as to the impact of the offense on the victim's life or the lives of the victim's family members.</p> <p>(c) Any court sentencing a person convicted of an alcohol or drug-related offense which resulted in personal injury to a person, the death of a person or injury to a person's property may require, in addition to any other penalty provided by law, that the convicted person pay restitution as a condition of probation or parole.</p> <p> A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your jurisdiction's law, victims may choose to: (1) read or speak their impact statement aloud at the sentencing proceeding, or have another person do it for them; (2) submit a written victim</p>	<p>Kan. Stat. Ann. § 8-1019.</p>



<p>impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.</p>	
<p>Victims' Right to Notice of Pardon or Commutation of Sentence.</p> <p>Except as otherwise provided, no pardon or commutation of sentence shall be granted until more than 30 days after written notice of the application therefor has been given to: (1) The prosecuting attorney and the judge of the court in which the defendant was convicted; and (2) any victim of the person's crime or the victim's family, if the person was convicted of a crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments thereto. Notice of such application for pardon or commutation of sentence shall be given by the secretary of corrections to the victim who is alive and whose address is known to the secretary of corrections, or if the victim is deceased, to the victim's family if the family's address is known to the secretary of corrections. Notice of the receipt of such application shall be given by publication in the official county paper of the county of conviction. The form of notice shall be prescribed by the board. If the applicant executes a poverty affidavit, the cost of one publication of the notice during a 12-month period shall be paid by the state. If more than one notice of application is published during any 12-month period the additional cost of publication shall be paid by the applicant. Subject to the provisions of subsection (d), if written notification is not given to such victim who is alive and whose address is known to the secretary of corrections or, if the victim is deceased, to the victim's family if the family's address is known to the secretary of corrections, the governor shall not grant or deny such application until a time at least 30 days after notification is given by publication as provided in this section.</p> <p> A promising practice is to have a procedure in place that reminds victims of their responsibility to keep their contact information current with the secretary of corrections and that enables victims to make any necessary updates easily.</p>	<p>Kan. Stat. Ann. § 22-3701(c).</p>



Victims' Right to Notice of Public Comment Session Related to Parole Hearing; Requirement that Parole Board Consider Comments from the Victim Made in Person, Contemporaneous or Pre-Recorded.


Kan. Stat. Ann. § 22-3717(h).


The prisoner review board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least one month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony, the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of


<p>the victim and the victim’s family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate’s incarceration; and capacity of state correctional institutions.</p> <p> A promising practice is to have a procedure in place that reminds victims of their responsibility to keep their contact information current with the county or district attorney or secretary of corrections and that enables victims to make any necessary updates to their contact information easily.</p> <p> A promising practice is to make victims aware of the various ways in which they can communicate their comments to the parole board: in person, contemporaneous or pre-recorded.</p>	
<p>Victims’ Right to Notice of Release on Parole, Conditional Release or Expiration of Sentence.</p> <p>Upon release, an inmate who has served the inmate’s maximum term or terms, less such work and good behavior credits as have been earned, shall be subject to such written rules and conditions as the prisoner review board may impose, until the expiration of the maximum term or terms for which the inmate was sentenced or until the inmate is otherwise discharged. If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of release pursuant to this section, the board may set aside restitution as a condition of release payment of restitution, if the board finds compelling circumstances which would render a plan of restitution unworkable. If the court which sentenced an inmate specified reimbursement of all or part of the expenditures by the state board of indigents’ defense services as a condition of release, the board may set aside such reimbursement, if the board finds compelling circumstances which would render a plan of reimbursement unworkable. Prior to the release of any inmate</p>	<p>Kan. Stat. Ann. § 22-3718.</p>


<p>on parole, conditional release or expiration of sentence, if an inmate is released into the community under a program under the supervision of the secretary of corrections, the secretary shall give written notice of such release to any victim or victim's family as provided in K.S.A. 22-3727, and amendments thereto.</p>	
<p>Victims' Right to Notice of Offender's Release, Escape or Death.</p> <p>(a) Prior to the release of any inmate on parole, conditional release, expiration of sentence or postrelease supervision, if an inmate is released into the community under a program under the supervision of the secretary of corrections, or after the escape of an inmate or death of an inmate while in the secretary of corrections' custody, the secretary of corrections shall give written notice of such release, escape or death to any victim of the inmate's crime who is alive and whose address is known to the secretary or, if the victim is deceased, to the victim's family if the family's address is known to the secretary. Such notice shall be required to be given to the victim or the victim's family only if the inmate was convicted of any crime in article 33, 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments thereto. Except for notifications of releases due to a court order, escape or death, notification shall be given at least 14 working days prior to the release of such inmate. Failure to notify the victim or the victim's family as provided in this section shall not be a reason for postponement of parole, conditional release or other forms of release.</p> <p> Kan. Stat. Ann. § 22-3727(b) defines the term "victim's family" for the purposes of this provision. This definition is included above in the section "Select Definitions."</p> <p> A promising practice is to have a procedure in place that reminds victims of their responsibility to keep their contact information current with the secretary of corrections and that enables victims to make any necessary updates easily.</p>	<p>Kan. Stat. Ann. § 22-3727(a).</p>

<p>Victims' Right to Notice of Escape or Death of Certain Committed Defendants or Inmates.</p> <p>(a) The county or district attorney shall, as soon as practicable, provide notification as provided in K.S.A. 22-3303, 22-3305, 22-3428, 22-3428a, 22-3430 and 22-3431, and amendments thereto, and upon the escape or death of a committed defendant while in the custody of the secretary for aging and disability services, to any victim of the defendant's crime whose address is known to the county or district attorney, and the victim's family, if so requested and the family's addresses are known to the county or district attorney. Such notice shall be required to be given only if the defendant was charged with any crime in article 33, 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments thereto.</p> <p> Kan. Stat. Ann. § 22-3727a(b) defines the term "victim's family" for the purposes of this provision. This definition is included above in the section "Select Definitions."</p> <p> A promising practice is to have a procedure in place that reminds victims of their responsibility to keep their contact information current with the county or district attorney and that enables victims to make any necessary updates easily.</p>	<p>Kan. Stat. Ann. § 22-3727a(a).</p>
<p>Victims' Right to Notice of Functional Incapacitation Release.</p> <p>(1) Upon application of the secretary of corrections, the prisoner review board may grant release to any person deemed to be functionally incapacitated, upon such terms and conditions as prescribed in the order granting such release.</p> <p>(2) The secretary of corrections shall adopt rules and regulations governing the prisoner review board's procedure for initiating, processing, reviewing and establishing criteria for review of applications filed on behalf of persons deemed to be functionally incapacitated.</p>	<p>Kan. Stat. Ann. § 22-3728(a).</p>


<p>Such rules and regulations shall include criteria and guidelines for determining whether the functional incapacitation precludes the person from posing a threat to the public.</p> <p>(3) Subject to the provisions of subsections (a)(4) and (a)(5), a functional incapacitation release shall not be granted until at least 30 days after written notice of the application has been given to: (A) The prosecuting attorney and the judge of the court in which the person was convicted; and (B) any victim of the person's crime or the victim's family. Notice of such application shall be given by the secretary of corrections to the victim who is alive and whose address is known to the secretary, or if the victim is deceased, to the victim's family if the family's address is known to the secretary. Subject to the provisions of subsection (a)(4), if there is no known address for the victim, if alive, or the victim's family, if deceased, the board shall not grant or deny such application until at least 30 days after notification is given by publication in the county of conviction. Publication costs shall be paid by the department of corrections.</p> <p>(4) All applications for functional incapacitation release shall be referred to the board. The board shall examine each case and may approve such application and grant a release. An application for release shall not be approved unless the board determines that the person is functionally incapacitated and does not represent a future risk to public safety. The board shall determine whether a hearing is necessary on the application. The board may request additional information or evidence it deems necessary from a medical or mental health practitioner.</p> <p> A promising practice is to have a procedure in place that reminds victims of their responsibility to keep their contact information current with the secretary of corrections and that enables victims to make any necessary updates easily.</p>	
<p>Victims' Right to Notice of Terminal Medical Release.</p> <p>The secretary [of corrections] shall give notice of the granting of a terminal medical condition release to: (1) The prosecuting attorney and the judge of the court in which the</p>	<p>Kan. Stat. Ann. § 22-3729(c).</p>


<p>person was convicted; and (2) any victim of the person’s crime if alive or the victim’s family if the victim is deceased, whose address is known by the secretary.</p> <p> A promising practice is to have a procedure in place that reminds victims of their responsibility to keep their contact information current with the department of corrections and that enables victims to make any necessary updates easily.</p>	
<p>Victims’ Right to Notice of Commitment of Incompetent Defendant; Victims’ Right to Notice of Competency Hearing.</p> <p>(1) A defendant who is charged with a crime and is found to be incompetent to stand trial shall be committed for evaluation and treatment to any appropriate state, county, private institution or facility. At the time of such commitment the institution of commitment shall notify the county or district attorney of the county in which the criminal proceedings are pending for the purpose of providing victim notification. Any such commitment shall be for a period not to exceed 90 days. Within 90 days after the defendant’s commitment to such institution, the chief medical officer of such institution shall certify to the court whether the defendant has a substantial probability of attaining competency to stand trial in the foreseeable future. If such probability does exist, the court shall order the defendant to remain in an appropriate state, county, private institution or facility until the defendant attains competency to stand trial or for a period of six months from the date of the original commitment, whichever occurs first. If such probability does not exist, the court shall order the secretary for aging and disability services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony, or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719, prior to their repeal, or K.S.A. 21-5505 (b), 21-5506(b), 21-5508(b), 21-5604(b) or 21-5812(b), and amendments thereto, and commitment proceedings have commenced, for such proceeding, “mentally ill person subject to involuntary commitment for care and treatment” means a mentally ill person, as defined in K.S.A. 59-2946(e), and amendments thereto, who is likely to cause harm to self and others, as defined in K.S.A. 59-</p>	<p>Kan. Stat. Ann. § 22-3303(1), (3).</p>


<p>2946(f)(3), and amendments thereto. The other provisions of K.S.A. 59-2946(f), and amendments thereto, shall not apply.</p> <p>...</p> <p>(3) When reasonable grounds exist to believe that a defendant who has been adjudged incompetent to stand trial is competent, the court in which the criminal case is pending shall conduct a hearing in accordance with K.S.A. 22-3302, and amendments thereto, to determine the person's present mental condition. Such court shall give reasonable notice of such hearings to the prosecuting attorney, the defendant and the defendant's attorney of record, if any. The prosecuting attorney shall provide victim notification. If the court, following such hearing, finds the defendant to be competent, the proceedings pending against the defendant shall be resumed.</p> <p> A promising practice is to have a procedure in place that reminds victims of their responsibility to keep their contact information current with the county or district attorney and that enables victims to make any necessary updates easily.</p>	
<p>Victims' Right to Notice of Result of Involuntary Commitment Proceedings; Victims' Right to Notice of Discharge from Treatment Facility.</p> <p>(1) Whenever involuntary commitment proceedings have been commenced by the secretary for aging and disability services as required by K.S.A. 22-3303, and amendments thereto, and the defendant is not committed to a treatment facility as a patient, the defendant shall remain in the institution where committed pursuant to K.S.A. 22-3303, and amendments thereto. The secretary for aging and disability services shall promptly notify the court and the county or district attorney of the county in which the criminal proceedings are pending for the purpose of providing victim notification, of the result of the involuntary commitment proceeding.</p> <p>(2) Whenever involuntary commitment proceedings have been commenced by the secretary for aging and disability services as required by K.S.A. 22-3303, and amendments thereto, and the defendant is committed to a treatment facility as a patient but thereafter is to be</p>	<p>Kan. Stat. Ann. § 22-3305.</p>

<p>discharged pursuant to the care and treatment act for mentally ill persons, the defendant shall remain in the institution where committed pursuant to K.S.A. 22-3303, and amendments thereto, and the head of the treatment facility shall promptly notify the court and the county or district attorney of the county in which the criminal proceedings are pending for the purpose of providing victim notification, that the defendant is to be discharged.</p> <p>When giving notification to the court and the county or district attorney pursuant to subsection (1) or (2), the treatment facility shall include in such notification an opinion from the head of the treatment facility as to whether or not the defendant is now competent to stand trial. Upon request of the county or district attorney, the court may set a hearing on the issue of whether or not the defendant has been restored to competency. If such hearing request is granted, the county or district attorney shall provide victim notification regarding the hearing date. If no such request is made within 14 days after receipt of notice pursuant to subsection (1) or (2), the court shall order the defendant to be discharged from commitment and shall dismiss without prejudice the charges against the defendant, and the period of limitation for the prosecution for the crime charged shall not continue to run until the defendant has been determined to have attained competency in accordance with K.S.A. 22-3302, and amendments thereto. The county or district attorney shall provide victim notification regarding the discharge order.</p> <p> A promising practice is to have a procedure in place that reminds victims of their responsibility to keep their contact information current with the county or district attorney and that enables victims to make any necessary updates easily.</p>	
<p>Law Enforcement Must Adopt Written Policies Regarding Obligation to Provide Domestic Violence Victims with Specific Information.</p> <p>(a) All law enforcement agencies in this state shall adopt written policies regarding domestic violence calls as provided in subsections (b) and (c). These policies shall be made available to all officers of such agency.</p> <p>(b) Such written policies shall include, but not be limited to, the following:</p>	<p>Kan. Stat. Ann. § 22-2307.</p>

<p>...</p> <p>(10) a statement that the law enforcement agency shall provide the following information to victims, in writing:</p> <ul style="list-style-type: none">(A) Availability of emergency and medical telephone numbers, if needed;(B) the law enforcement agency's report number;(C) the address and telephone number of the prosecutor's office the victim should contact to obtain information about victims' rights pursuant to K.S.A. 74-7333 and 74-7335, and amendments thereto;(D) the name and address of the crime victims' compensation board and information about possible compensation benefits;(E) advise the victim that the details of the crime may be made public;(F) advise the victim of such victims' rights under K.S.A. 74-7333 and 74-7335, and amendments thereto; and(G) advise the victim of known available resources which may assist the victim; . . . <p>(c) Such written policies shall provide that when an arrest is made for a domestic violence offense as defined in K.S.A. 21-5111, and amendments thereto, including an arrest for violation of a protection order as defined in K.S.A. 21-5924, and amendments thereto, the officer shall provide the victim information related to:</p> <ul style="list-style-type: none">(A) The fact that in some cases the person arrested can be released from custody in a short amount of time;(B) the fact that in some cases a bond condition may be imposed on the person arrested that prohibits contact with the victim for 72 hours, and that if the person arrested contacts the victim during that time, the victim should notify law enforcement immediately; and(C) any available services within the jurisdiction to monitor custody changes of the person being arrested, including, but not limited to, the Kansas victim information and notification everyday service if available in such jurisdiction. <p>(d) All law enforcement agencies shall provide training to law enforcement officers about the policies adopted pursuant to this section.</p>	
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 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>Law Enforcement Must Adopt Written Policies Regarding Obligation to Provide Stalking Victims with Specific Information.</p> <p>(a) All law enforcement agencies in this state shall adopt written policies regarding allegations of stalking as provided in subsection (b). These policies shall be made available to all officers of such agency.</p> <p>(b) Such written policies shall include, but not be limited to, the following: . . .</p> <p>(8) a statement that the law enforcement agency shall provide the following information to victims, in writing:</p> <ul style="list-style-type: none"> (A) Availability of emergency and medical telephone numbers, if needed; (B) the law enforcement agency's report number; (C) the address and telephone number of the prosecutor's office the victim should contact to obtain information about victims' rights pursuant to K.S.A. 74-7333 and 74-7335, and amendments thereto; (D) the name and address of the crime victims' compensation board and information about possible compensation benefits; (E) advise the victim that the details of the crime may be made public; (F) advise the victim of such victims' rights under K.S.A. 74-7333 and 74-7335, and amendments thereto; and (G) advise the victim of known available resources which may assist the victim; and <p>(9) whether an arrest is made or not, a standard offense report shall be completed on all such incidents and sent to the Kansas bureau of investigation.</p> <p>(c) No law enforcement agency or employee of such agency acting within the scope of employment shall be liable for damages resulting from the adoption or enforcement of any</p>	<p>Kan. Stat. Ann. § 22-2310.</p>


<p>policy adopted under this section.</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>Employment Rights of Victims of Domestic Violence and Sexual Assault; Confidentiality.</p> <p>(a) An employer may not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence or a victim of sexual assault for taking time off from work to:</p> <ul style="list-style-type: none"> (1) Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order or other injunctive relief to help ensure the health, safety or welfare of the victim or the victim’s child or children; (2) seek medical attention for injuries caused by domestic violence or sexual assault; (3) obtain services from a domestic violence shelter, domestic violence program or rape crisis center as a result of domestic violence or sexual assault; or (4) make court appearances in the aftermath of domestic violence or sexual assault. <p>(b)(1) As a condition of taking time off for a purpose set forth in subsection (a), the employee shall give the employer reasonable advance notice of the employee’s intention to take time off, unless such advance notice is not feasible. Within 48 hours after returning from the requested time off, the employee shall provide documentation which may include, but is not limited to, that described in subsection (b)(2) to support taking time off for a purpose set forth in subsection (a).</p> <p>(2) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within 48 hours after the beginning of the unscheduled absence, provides a certification to the employer in the form of any of the following:</p> <ul style="list-style-type: none"> (A) A police report indicating that the employee was a victim of domestic violence or sexual assault; (B) a court order protecting or separating the employee from the perpetrator of an act of 	<p>Kan. Stat. Ann. § 44-1132.</p>


<p>domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court; or (C) documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence or sexual assault.</p> <p>(c) To the extent allowed by law, the employer shall maintain the confidentiality of any employee requesting leave under subsection (a), as well as the confidentiality of any supporting documentation provided by the employee to the employer relating to a purpose set forth in subsection (a).</p> <p>(d) An employee may use any accrued paid leave or, if paid leave is unavailable to the employee, unpaid leave, not to exceed a total of eight days per calendar year, as time off for a purpose specified in subsection (a), unless a longer period of time is otherwise available to an employee under the applicable terms of employment or is provided by a collective bargaining agreement. The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.</p> <p> A promising practice is to have a policy and procedure in place to inform victims of domestic violence and sexual assault, at the first opportunity, of their employment-related rights regarding participation in the criminal justice process.</p>	
<p>Sexual Assault Victims' Rights Regarding Medical Examinations; Costs Associated with Medical Examinations to be Paid by the County.</p> <p>(a) Upon the request of any law enforcement officer and with the written consent of the reported victim, or upon the request of the victim, any physician, a licensed physician assistant, who has been specially trained in performing sexual assault evidence collection, or a registered professional nurse, who has been specially trained in performing sexual assault evidence collection, on call or on duty at a medical care facility of this state, as defined by K.S.A. 65-425(h), and amendments thereto, shall examine persons who may be</p>	<p>Kan. Stat. Ann. § 65-448.</p>

victims of sexual offenses cognizable as violations of K.S.A. 21-5503, 21-5504, 21-5506 or 21-5604, and amendments thereto, using Kansas bureau of investigation sexual assault evidence collection kits or similar kits approved by the Kansas bureau of investigation, for the purposes of gathering evidence of any such crime. If an examination has taken place solely upon the request of the victim, the medical care facility shall not notify any law enforcement agency without the written consent of the victim, unless otherwise required by law. If the physician, licensed physician assistant or registered professional nurse refuses to perform such physical examination the prosecuting attorney is hereby empowered to seek a mandatory injunction against such physician, licensed physician assistant or registered professional nurse to enforce the provisions of this act. Any refusal by a physician, licensed physician assistant or registered professional nurse to perform an examination which has been requested pursuant to this section shall be reported by the county or district attorney to the state board of healing arts or the board of nursing, whichever is applicable, for appropriate disciplinary action. The department of health and environment, in cooperation with the Kansas bureau of investigation, shall establish procedures for gathering evidence pursuant to this section. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The hospital or medical facility shall give written notice to the parent or guardian of a minor that such an examination has taken place, except when: (1) The hospital or medical facility has information that a parent, guardian or family or household member is the subject of a related criminal investigation; or (2) the physician, licensed physician assistant or registered professional nurse, after consultation with law enforcement, reasonably believes that the child will be harmed if such notice is given.

(b) All sexual assault kits collected that are not released to law enforcement shall be sealed by either the sexual assault nurse examiner program or the facility that provided the examination and kept for five years in the evidence storage facilities of the Kansas bureau of investigation. After five years, such kits shall be destroyed by the Kansas bureau of investigation.

(c) The fee chargeable for conducting an examination of a victim as herein provided shall be established by the department of health and environment. Such fee, including the cost of

<p>the sexual assault evidence collection kit shall be charged to and paid by the county where the alleged offense was committed, and refusal of the victim to report the alleged offense to law enforcement shall not excuse or exempt the county from paying such fee. The fee for conducting an examination of a victim as herein provided shall not be charged or billed to the victim or to the victim's insurance carrier. Such county shall be reimbursed such fee upon the costs being paid by the defendant as court costs assessed pursuant to K.S.A. 28-172a, and amendments thereto.</p> <p>(d) No medical care facility shall incur any civil, administrative or criminal liability as a result of notifying or failing to notify any law enforcement agency if an examination has taken place solely upon the request of the victim and such notification is not otherwise required by law.</p> <p>(e) The Kansas bureau of investigation may adopt rules and regulations as deemed necessary to implement the provisions of this section.</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>Victims' Right to Employ Attorney to Assist Prosecutor.</p> <p>That the prosecuting witness in any criminal action or proceeding may, at his own expense, employ an attorney or attorneys to assist the county attorney to perform his duties in any criminal action or proceeding under any of the laws of the state of Kansas, and such attorney or attorneys shall be recognized by the county attorney and court as associate counsel in such action or proceeding, and no prosecution shall be dismissed over the objection of such associate counsel until the reason of the county attorney for such dismissal, together with the objections thereto of such associate counsel, shall have been filed in writing, argued by counsel, and fully considered by the court.</p>	<p>Kan. Stat. Ann. § 19-717.</p>

 <p>A promising practice is to ensure that victims have notice of their right to hire an attorney as early as possible in the victims' involvement with the criminal justice system. Notifying victims of this right should include an explanation of the different roles of the prosecuting attorney and the attorney hired by the victim to represent their interests and assert their rights..</p>	
<p>Order of Protection for Victims of Stalking, Sexual Assault or Human Trafficking; No Docket Fee Charged.</p> <p>(a) A person may seek relief under the protection from stalking, sexual assault or human trafficking act by filing a verified petition with any judge of the district court or clerk of the court. A verified petition must allege facts sufficient to show the following:</p> <ol style="list-style-type: none"> (1) The name of the stalking victim, sexual assault victim or human trafficking victim; (2) the name of the defendant; (3) the dates on which the alleged stalking, sexual assault or human trafficking behavior occurred; and (4) the acts committed by the defendant that are alleged to constitute stalking, sexual assault or human trafficking. <p>(b) The following persons may seek relief under the protection from stalking, sexual assault or human trafficking act on behalf of a minor child by filing a verified petition with the judge of the district court or with the clerk of the court in the county where the stalking, sexual assault or human trafficking occurred: (1) A parent of the minor child; (2) an adult residing with the minor child; or (3) the child's court-appointed legal custodian or court-appointed legal guardian.</p> <p>(c) The following persons may seek relief for a minor child who is alleged to be a human trafficking victim under the protection from stalking, sexual assault or human trafficking act on behalf of the minor child by filing a verified petition with any district judge or with the clerk of the court alleging acts committed by an individual that are alleged to constitute human trafficking: (1) A parent of the minor child; (2) an adult residing with the minor child; (3) the child's court-appointed legal custodian or court-appointed legal guardian; (4) a</p>	<p>Kan. Stat. Ann. § 60-31a04.</p>

<p>county or district attorney; or (5) the attorney general.</p> <p>(d) The clerk of the court shall supply the forms for the petition and orders, which shall be prescribed by the judicial council.</p> <p>(e) Service of process served under this section shall be by personal service. No docket fee shall be required for proceedings under the protection from stalking, sexual assault or human trafficking act.</p> <p>(f) The victim's address and telephone number shall not be disclosed to the defendant or to the public, but only to authorized court or law enforcement personnel and to the commission on judicial performance in the discharge of the commission's duties pursuant to article 32 of chapter 20 of the Kansas Statutes Annotated, and amendments thereto.</p>	
<p>Victims' Right to Request Infectious Disease Test for Arrested or Convicted Offender and Counseling; Victims' Right to Access Test Results.</p> <p>(a) At the time of an appearance before a magistrate under K.S.A. 22-2901, and amendments thereto, the magistrate shall inform any person arrested and charged with a crime in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved of the availability of infectious disease tests and shall cause the alleged victim of such a crime, if any, to be notified that infectious disease tests and counseling are available. If the victim of the crime or the county or district attorney requests the court to order infectious disease tests of the alleged offender or if the person arrested and charged with a crime stated to the law enforcement officer making such arrest that the person arrested and charged with the crime has an infectious disease or is infected with an infectious disease, or used words of like effect, the court shall order the arrested person to submit to infectious disease tests. Testing for infectious disease shall occur not later than 48 hours after the alleged offender appears before a magistrate under K.S.A. 22-2901, and amendments thereto. The results of any test obtained under this section shall be inadmissible in any criminal or civil proceeding. The court shall also order the arrested person to submit to follow-up tests for infectious diseases as may be medically appropriate.</p>	<p>Kan. Stat. Ann. § 65-6009.</p>

(b) Upon conviction of a person for any crime which the court determines from the facts of the case involved or was likely to have involved the transmission of body fluids from one person to another, the court: (1) May order the convicted person to submit to infectious disease tests; or (2) shall order the convicted person to submit to infectious disease tests if the victim of the crime or the parent or legal guardian of the victim, if the victim is a minor, requests the court to issue such order. If infectious disease tests are ordered under this subsection, the victim of the crime, if any, who is not a minor, shall designate a health care provider or counselor to receive such information on behalf of the victim. If the victim is a minor, the parent or legal guardian of the victim shall designate the health care provider or counselor to receive such information.

(c) The results of any infectious disease test ordered under subsection (a) shall be disclosed to the law enforcement officer making such arrest, the person arrested, the victim, the parent or legal guardian of the victim and such other persons as the court determines have a legitimate need to know the test result in order to provide for their protection. The results of any infectious disease test ordered under subsection (b) shall be disclosed to the court which ordered the test, the convicted person and to the person designated under subsection (b) by the victim or victims of the crime or by the parent or legal guardian of a victim if the victim is a minor. If an infectious disease test ordered under this section results in a positive reaction, the results shall be reported to the secretary of health and environment and to the secretary of corrections.

(d) As used in this section, infectious disease includes HIV and hepatitis B.



(e) The costs of any counseling and testing provided under this section shall be paid from amounts appropriated to the department of health and environment for that purpose. The court shall order the adjudicated person to pay restitution to the department of health and environment for the costs of any counseling provided under this section and the costs of any test ordered or otherwise performed under this section.



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>carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p>Certain Victims’ Right to Address Confidentiality.</p> <p>(a) An adult person, an adult family member residing with the victim, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, may apply by and through an enrolling agent 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. Program participants shall not apply directly to the secretary of state. 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 signed by the applicant and enrolling agent under penalty of perjury and providing:</p> <p>(1) A statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, human trafficking or stalking and:</p> <p>(i) That the applicant fears for the applicant’s safety or the applicant’s children’s safety or the safety of the minor or incapacitated person on whose behalf the application is made; or</p> <p>(ii) that by virtue of living with an enrolled program participant, the applicant fears that the knowledge or publication of the applicant’s whereabouts will put the enrolled participant in danger.</p> <p>(2) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail.</p> <p>(3) The confidential 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.</p> <p>(4) The confidential address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, human trafficking or stalking.</p> <p>(5) Evidence that the applicant or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, human trafficking or stalking, or is an adult family member residing with the victim. This evidence may include any of the following:</p>	<p>Kan. Stat. Ann. § 75-453.</p>

- (A) Law enforcement, court or other federal, state or local government records or files.
 - (B) Documentation from a public or private entity that provides assistance to victims of domestic violence, sexual assault, human trafficking or stalking.
 - (C) Documentation from a religious, medical or other professional from whom the applicant has sought assistance in dealing with the alleged domestic violence, sexual assault, human trafficking or stalking.
 - (D) Other forms of evidence as determined by the secretary of state.
 - (6) A statement of whether there are any existing court orders involving the applicant for child support, child custody or child visitation and whether there are any active court actions involving the applicant for child support, child custody or child visitation, the name and address of legal counsel of record and the last known address of the other parent or parents involved in those court orders or court actions.
 - (7) The signature of the applicant and of any individual or representative of any enrolling agent who assisted in the preparation of the application, and the date on which the applicant signed the application.
- (b) Applications shall be filed in accordance with procedures prescribed by 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 and regulation establish a renewal procedure.
- (d) Upon certification in the program, in any case where there are court orders or court actions identified in subsection (a)(6), the secretary of state shall, within 10 days, notify the other parent or parents of the address designated by the secretary of state for the program participant and the designation of the secretary of state as agent for purpose of service of process. 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.

<p>(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 the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, shall be punishable under K.S.A. 21-5824, and amendments thereto, or other applicable statutes.</p> <p> Further details about the operation of Kansas’s address confidentiality program can be found elsewhere in the code. <i>See, e.g.</i>, Kan. Stat. Ann. § 75-451 (purpose); <i>id.</i> at § 75-452 (definitions); <i>id.</i> at § 75-454 (program cancellation; address change; use of false information); <i>id.</i> at § 75-455 (use of substitute address); <i>id.</i> at § 75-457 (exceptions warranting release of substitute address); <i>see also</i> https://sos.kansas.gov/services/safe-at-home/.</p>	
<p>Law Enforcement Officers or Other Government Officials May Not Ask or Require Victims of Sexual Assault, Human Trafficking or Incest to Submit to a Polygraph Examination or Similar Device as a Condition for Proceeding with the Investigation, Charging or Prosecution of Such Offenses.</p> <p>No law enforcement officer, government official or prosecutor shall request or require any person who is alleged to be a victim of an offense described in article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 21-6419 through 21-6422, and amendments thereto, human trafficking or aggravated human trafficking as defined in K.S.A. 21-5426, and amendments thereto, or incest or aggravated incest as defined in K.S.A. 21-5604, and amendments thereto, to submit to a polygraph examination or similar truth telling device as a condition for proceeding with an investigation, or charging or prosecuting such an offense.</p> <p> A promising practice is to ensure that officers who work with victims of sexual offenses, human trafficking and incest are aware that victims cannot be subjected to truth-telling examinations or devices as a condition for proceeding with the investigation or prosecution of such offenses.</p>	<p>Kan. Stat. Ann. § 22-4614.</p>

<p>Inadmissibility of Evidence of Sexual Assault Victims' Prior Sexual Conduct; Exceptions.</p> <p>(a) The provisions of this section shall apply only in a prosecution for:</p> <ul style="list-style-type: none"> (1) Rape, as defined in K.S.A. 21-5503, and amendments thereto; (2) indecent liberties with a child, as defined in K.S.A. 21-5506(a), and amendments thereto; (3) aggravated indecent liberties with a child, as defined in K.S.A. 21-5506(b), and amendments thereto; (4) criminal sodomy, as defined in K.S.A. 21-5504(a)(3) and (4), and amendments thereto; (5) aggravated criminal sodomy, as defined in K.S.A. 21-5504(b), and amendments thereto; (6) aggravated indecent solicitation of a child, as defined in K.S.A. 21-5508(b), and amendments thereto; (7) sexual exploitation of a child, as defined in K.S.A. 21-5510, and amendments thereto; (8) aggravated sexual battery, as defined in K.S.A. 21-5505(b), and amendments thereto; (9) incest, as defined in K.S.A. 21-5604(a), and amendments thereto; (10) aggravated incest, as defined in K.S.A. 21-5604(b), and amendments thereto; (11) indecent solicitation of a child, as defined in K.S.A. 21-5508(a), and amendments thereto; (12) aggravated assault, as defined in K.S.A. 21-5412(b), and amendments thereto, with intent to commit any crime specified above; (13) sexual battery, as defined in K.S.A. 21-5505(a), and amendments thereto; (14) unlawful voluntary sexual relations, as defined in K.S.A. 21-5507, and amendments thereto; (15) aggravated human trafficking, as defined in K.S.A. 21-5426(b)(2), (4) and (5), and amendments thereto; (16) commercial sexual exploitation of a child, as defined in K.S.A. 21-6422, and amendments thereto; (17) electronic solicitation, as defined in K.S.A. 21-5509, and amendments thereto; (18) internet trading in child pornography, as defined in K.S.A. 21-5514(a), and amendments thereto; (19) aggravated internet trading in child pornography, as defined in K.S.A. 21-5514(b), and amendments thereto; or 	<p>Kan. Stat. Ann. § 21-5502.</p>
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(20) attempt, as defined in K.S.A. 21-5301, and amendments thereto, or conspiracy, as defined in K.S.A. 21-5302, and amendments thereto, to commit any crime specified above.


(b) Except as provided in subsection (c), in any prosecution to which this section applies, evidence of the complaining witness' previous sexual conduct with any person including the defendant shall not be admissible, and no reference shall be made thereto in any proceeding before the court, except under the following conditions: The defendant shall make a written motion to the court to admit evidence or testimony concerning the previous sexual conduct of the complaining witness. The motion shall be made at least seven days before the commencement of the proceeding unless that requirement is waived by the court. The motion shall state the nature of such evidence or testimony and its relevancy and shall be accompanied by an affidavit in which an offer of proof of the previous sexual conduct of the complaining witness is stated. The motion, affidavits and any supporting or responding documents of the motion shall not be made available for examination without a written order of the court except that such motion, affidavits and supporting and responding documents or testimony when requested shall be made available to the defendant or the defendant's counsel and to the prosecutor. The defendant, defendant's counsel and prosecutor shall be prohibited from disclosing any matters relating to the motion, affidavits and any supporting or responding documents of the motion. The court shall conduct a hearing on the motion in camera. At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the previous sexual conduct of the complaining witness is relevant and is not otherwise inadmissible as evidence, the court may make an order stating what evidence may be introduced by the defendant and the nature of the questions to be permitted. The defendant may then offer evidence and question witnesses in accordance with the order of the court.


(c) In any prosecution for a crime designated in subsection (a), the prosecutor may introduce evidence concerning any previous sexual conduct of the complaining witness, and the complaining witness may testify as to any such previous sexual conduct. If such evidence or testimony is introduced, the defendant may cross-examine the witness who gives such testimony and offer relevant evidence limited specifically to the rebuttal of such evidence or testimony introduced by the prosecutor or given by the complaining witness.


<p>(d) As used in this section, “complaining witness” means the alleged victim of any crime designated in subsection (a), the prosecution of which is subject to this section.</p>	
<p>Crime Victim Compensation: No Privilege Other than Attorney-Client; Compensation Board May Order Mental or Physical Examination of Victim; Confidentiality of Records.</p> <p>(a) There shall be no privilege, except privileges arising from the attorney-client relationship, as to communications or records relevant to an issue of the physical, mental or emotional conditions of the claimant or victim in a proceeding under this act in which such condition is an element.</p> <p>(b) If the mental, physical or emotional condition of a victim or claimant is material to a claim, the board may order the victim or claimant to submit to a mental or physical examination by a physician or psychologist, and may order an autopsy of a deceased victim. The order may be made for good cause shown upon notice to the person to be examined and to all persons who have appeared. The order shall specify the time, place, manner, conditions and scope of the examination or autopsy and the person by whom it is to be made; and the order shall require the person to file with the board a detailed written report of the examination or autopsy. The report shall set out the findings of the person making the report, including results of all tests made, diagnoses, prognosis and other conclusions and reports of earlier examinations of the same conditions.</p> <p>(c) On request of the person examined, the board shall furnish a copy of the report to such person. If the victim is deceased, the board, on request, shall furnish to the claimant a copy of the report.</p> <p>(d) The board may require the claimant to supplement the application with any reasonably available medical or psychological reports relating to the injury for which compensation is claimed.</p>	<p>Kan. Stat. Ann. § 74-7308.</p>

(e) All records and information given to the board and the crime victims compensation division created by K.S.A. 75-773, and amendments thereto, to process a claim on behalf of a crime victim shall be confidential. Such exhibits, medical records, psychological records, counseling records, work records, criminal investigation records, criminal court case records, witness statements, telephone records and other records of any type or nature whatsoever gathered for the purpose of evaluating whether to compensate a victim shall not be obtainable by any party to any action, civil or criminal, through any discovery process except:

- (1) In the event of an appeal under the Kansas administrative procedure act from a decision of the board and then only to the extent narrowly and necessarily to obtain court review;
- (2) upon a strict showing to the court in a separate civil or criminal action that particular information or documents are not obtainable after diligent effort from any independent source, and are known to exist otherwise only in board records, the court may inspect in camera such records to determine whether the specific requested information exists. If the court determines the specific information sought exists in the board records, the documents may then be released only by court order if the court finds as part of its order that the documents will not pose any threat to the safety of the victim or any other person whose identity may appear in board records; or
- (3) by any board order granting or denying compensation to a crime victim.

 For the purposes of this section and other statutes governing non-property crime compensation, the term “victim” “means a person who suffers personal injury or death as a result of: (1) Criminally injurious conduct; (2) the good faith effort of any person to prevent criminally injurious conduct; or (3) the good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct.” Kan. Stat. § 74-7301. Victims of property crimes are not eligible for compensation under the crime victim compensation act, but local compensation boards may address victim losses stemming from property crimes. Kan. Stat. Ann. § 19-4803.

 If a victim refuses to comply with an order for evidence or asserts a privilege other than that arising from the attorney-client relationship to withhold evidence related to a compensation claim, “the board may make any just order, including denial of the claim, but

<p>may not find the person in contempt. If necessary to carry out any of its powers and duties, the board may petition the district court for an appropriate order, but the court may not find a person in contempt for refusal to submit to a medical or physical examination.” Kan. Stat. Ann. § 74-7309.</p>	
<p>Property Crime Compensation: Law Enforcement’s Obligation to Notify Victim Compensation Coordinator and to Provide Victim with Specific Information.</p> <p>(a) Within seven days after the initial contact between the victim of a reported crime and the law enforcement agency investigating the crime, such agency shall notify the victim compensation coordinator¹ of the report of the crime and the name and address of the victim or victims.</p> <p>(b) A law enforcement agency shall provide the following information to the victim:</p> <ol style="list-style-type: none"> (1) The availability of emergency and medical services numbers, if needed; (2) the police report number, in writing; (3) the address and telephone number of the prosecutor’s office that the victim should contact to obtain information about victims’ rights pursuant to K.S.A. 74-7333 and 74-7335, and amendments thereto; (4) the name, address and telephone number of the local board and information about victim compensation benefits, if any local board has been appointed in the county; (5) advise the victim that the details of the crime may be made public; and (6) advise the victim of such victim’s rights under K.S.A. 74-7333 and 74-7335, and amendments thereto. <p>(c) A law enforcement agency may adopt any procedure to transmit such information which substantially complies with the provisions of this section.</p> <p>¹ So in enrolled bill; probably intended to read “property crime compensation coordinator”.</p> <p> For the purposes of this section and other statutes governing property crime compensation, the term “victim” “means an individual who suffers loss as a result of the</p>	<p>Kan. Stat. Ann. § 19-4808.</p>

<p>commission of a crime, loss due to the good faith effort of any individual person to prevent a crime or loss due to the good faith effort of any individual person to apprehend a person suspected of engaging in a crime; where the context so requires, “victim” includes those persons filing a claim at the request of and on behalf of the victim, or the actual owner of property interests which were the subject of the crime.” Kan. Stat. Ann.§ 19-4802(h). For the definitions of other relevant terms, <i>see generally</i> Kan. Stat. Ann. § 19-4802.</p>	
<p>Public Records Requests: Exceptions to Disclosure Requirement.</p> <p>(a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:</p> <p>(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 75-4315d, and amendments thereto, or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 75-4315d, and amendments thereto, to restrict or prohibit disclosure.</p> <p>(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.</p> <p>(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.</p> <p>(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.</p> <p>...</p> <p>(10) Criminal investigation records, except as provided herein. The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such</p>	<p>Kan. Stat. Ann. § 45-221.</p>

records, subject to such conditions as the court may impose, if the court finds that disclosure:

- (A) Is in the public interest;
- (B) would not interfere with any prospective law enforcement action, criminal investigation or prosecution;
- (C) would not reveal the identity of any confidential source or undercover agent;
- (D) would not reveal confidential investigative techniques or procedures not known to the general public;
- (E) would not endanger the life or physical safety of any person; and
- (F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of paragraphs (A) through (F) that necessitate closure of that public record.

...

(29) Correctional records pertaining to an identifiable inmate or release, except that:

- (A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;
- (B) the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;
- (C) the information provided to the law enforcement agency pursuant to the sex offender

registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

...


(47) Information that would reveal the location of a shelter or a safehouse or similar place where persons are provided protection from abuse or the name, address, location or other contact information of alleged victims of stalking, domestic violence or sexual assault.


...


(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.


...

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the

<p>Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.</p>	
<p>Offender Registry Open to Public; Exception for Nondisclosure of Victims' Identifying Information.</p> <p>(a) Except as prohibited by subsections (c), (d), (e) and (f) of this section and subsections (f) and (g) of K.S.A. 22-4906, and amendments thereto, the statements or any other information required by the Kansas offender registration act shall be open to inspection by the public at the registering law enforcement agency, at the headquarters of the Kansas bureau of investigation and on any internet website sponsored or created by a registering law enforcement agency or the Kansas bureau of investigation that contains such statements or information, and specifically are subject to the provisions of the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.</p> <p>...</p> <p>(f) Notwithstanding subsection (a), the following information shall not be disclosed other than to law enforcement agencies:</p> <p>(1) The name, address, telephone number or any other information which specifically and individually identifies the identity of any victim of a registerable offense . . .</p> <p> This information is also protected from disclosure pursuant to a public records request. Kan. Stat. Ann. § 45-221(a)(29)(C).</p>	<p>Kan. Stat. Ann. § 22-4909(a), (f)(1).</p>
<p>Social Worker-Client Privilege.</p> <p>(a) No licensed social work associate or licensed baccalaureate social worker, secretary, stenographer or clerk of a licensed social work associate or licensed baccalaureate social worker or anyone who participates in delivery of social work services or anyone working under supervision of a licensed social worker may disclose any information such person may</p>	<p>Kan. Stat. Ann. § 65-6315.</p>

<p>have acquired from persons consulting such person in the person’s professional capacity or be compelled to disclose such information except:</p> <p>(1) With the written consent of the client, or in the case of death or disability, of the personal representative of the client, other person authorized to sue or the beneficiary of an insurance policy on the client’s life, health or physical condition;</p> <p>(2) when the person is a child under the age of 18 years and the information acquired by the licensed social worker indicated that the child was the victim or subject of a crime, the licensed social worker may be required to testify fully in relation thereto upon any examination, trial or other proceeding in which the commission of such a crime is a subject of inquiry;</p> <p>(3) when the person waives the privilege by bringing charges against the licensed social worker but only to the extent that such information is relevant under the circumstances.</p> <p>(b) The confidential relations and communications between a licensed master social worker’s or a licensed specialist clinical social worker’s client are placed on the same basis as provided by law for those between an attorney and an attorney’s client.</p> <p>(c) Nothing in this section or in this act shall be construed to prohibit any licensed social worker from testifying in court hearings concerning matters of adult abuse, adoption, child abuse, child neglect, or other matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors, or both, on behalf of the client. There is no privilege under this section for information which is required to be reported to a public official.</p> <p> As stated in the text of this provision, social worker-client communications “are placed on the same basis as provided by law for those between an attorney and an attorney’s client.” The full text of the attorney-client privilege, Kan. Stat. Ann. § 60-426, appears below.</p>	
<p>Counselor-Client Privilege.</p> <p>(a) The confidential relations and communications between a licensed professional counselor and such counselor’s client are placed on the same basis as provided by law for</p>	<p>Kan. Stat. Ann. § 65-5810.</p>

<p>those between an attorney and an attorney’s client.</p> <p>(b) The confidential relations and communications between a licensed clinical professional counselor and such counselor’s client are placed on the same basis as provided by law for those between an attorney and an attorney’s client.</p> <p>(c) Nothing in this section or in this act shall be construed to prohibit any licensed professional counselor or licensed clinical professional counselor from testifying in court hearings concerning matters of adult abuse, adoption, child abuse, child neglect, or other matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors, or both, on behalf of the client. There is no privilege under this section for information which is required to be reported to a public official.</p> <p> As stated in the text of this provision, counselor-client communications “are placed on the same basis as provided by law for those between an attorney and an attorney’s client.” The full text of the attorney-client privilege, Kan. Stat. Ann. § 60-426, appears below.</p>	
<p>Attorney-Client Privilege.</p> <p>(a) <i>General rule.</i> Subject to K.S.A. 60-437, and amendments thereto, and except as otherwise provided by subsection (b), communications found by the judge to have been between an attorney and such attorney’s client in the course of that relationship and in professional confidence, are privileged, and a client has a privilege: (1) If such client is the witness, to refuse to disclose any such communication; (2) to prevent such client’s attorney from disclosing it; and (3) to prevent any other witness from disclosing such communication if it came to the knowledge of such witness (i) in the course of its transmittal between the client and the attorney, (ii) in a manner not reasonably to be anticipated by the client or (iii) as a result of a breach of the attorney-client relationship. The privilege may be claimed by the client in person or by such client’s attorney, or if an incapacitated person, by either such person’s guardian or conservator, or if deceased, by such person’s personal representative.</p>	<p>Kan. Stat. Ann. § 60-426(a)–(b).</p>

<p>(b) <i>Exceptions.</i> Such privileges shall not extend to a communication: (1) If the judge finds that sufficient evidence, aside from the communication, has been introduced to warrant a finding that the legal service was sought or obtained in order to enable or aid the commission or planning of a crime or a tort; (2) relevant to an issue between parties all of whom claim through the client, regardless of whether the respective claims are by testate or intestate succession or by inter vivos transaction; (3) relevant to an issue of breach of duty by the attorney to such attorney’s client, or by the client to such client’s attorney; (4) relevant to an issue concerning an attested document of which the attorney is an attesting witness; or (5) relevant to a matter of common interest between two or more clients if made by any of them to an attorney whom they have retained in common when offered in an action between any of such clients.</p> <p> Kan. Stat. Ann. § 60-426(c) defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Physician-Patient Privilege.</p> <p>(b) Except as provided by subsections (c), (d), (e) and (f), a person, whether or not a party, has a privilege in a civil action or in a prosecution for a misdemeanor, other than a prosecution for a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or a city ordinance or county resolution which prohibits the acts prohibited by those statutes, to refuse to disclose, and to prevent a witness from disclosing, a communication, if the person claims the privilege and the judge finds that: (1) The communication was a confidential communication between patient and physician; (2) the patient or the physician reasonably believed the communication necessary or helpful to enable the physician to make a diagnosis of the condition of the patient or to prescribe or render treatment therefor; (3) the witness (i) is the holder of the privilege, (ii) at the time of the communication was the physician or a person to whom disclosure was made because reasonably necessary for the transmission of the communication or for the accomplishment of the purpose for which it was transmitted or (iii) is any other person who obtained knowledge or possession of the communication as the result of an intentional breach of the physician’s duty of nondisclosure by the physician</p>	<p>Kan. Stat. Ann. § 60-427(b)–(h).</p>

or the physician's agent or servant; and (4) the claimant is the holder of the privilege or a person authorized to claim the privilege for the holder of the privilege.




(c) There is no privilege under this section as to any relevant communication between the patient and the patient's physician: (1) Upon an issue of the patient's condition in an action to commit the patient or otherwise place the patient under the control of another or others because of alleged incapacity or mental illness, in an action in which the patient seeks to establish the patient's competence or in an action to recover damages on account of conduct of the patient which constitutes a criminal offense other than a misdemeanor; (2) upon an issue as to the validity of a document as a will of the patient; or (3) upon an issue between parties claiming by testate or intestate succession from a deceased patient.

(d) There is no privilege under this section in an action in which the condition of the patient is an element or factor of the claim or defense of the patient or of any party claiming through or under the patient or claiming as a beneficiary of the patient through a contract to which the patient is or was a party.

(e) There is no privilege under this section: (1) As to blood drawn at the request of a law enforcement officer pursuant to K.S.A. 8-1001, and amendments thereto; and (2) as to information which the physician or the patient is required to report to a public official or as to information required to be recorded in a public office, unless the statute requiring the report or record specifically provides that the information shall not be disclosed.

(f) No person has a privilege under this section if the judge finds that sufficient evidence, aside from the communication has been introduced to warrant a finding that the services of the physician were sought or obtained to enable or aid anyone to commit or to plan to commit a crime or a tort, or to escape detection or apprehension after the commission of a crime or a tort.

(g) A privilege under this section as to a communication is terminated if the judge finds that any person while a holder of the privilege has caused the physician or any agent or servant of the physician to testify in any action to any matter of which the physician or the physician's agent or servant gained knowledge through the communication.

<p>(h) Providing false information to a physician for the purpose of obtaining a prescription-only drug shall not be a confidential communication between physician and patient and no person shall have a privilege in any prosecution for unlawfully obtaining or distributing a prescription-only drug under K.S.A. 21-5708, and amendments thereto.</p> <p> Kan. Stat. Ann. § 60-427(a) defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> The physician-patient privilege does not apply in felony or DUI cases. Kan. Stat. Ann. § 60-427(b).</p>	
<p>Psychologist-Client and Psychotherapist-Client Privileges.</p> <p>(a) The confidential relations and communications between a licensed masters level psychologist and such psychologist’s client are placed on the same basis as provided by law for those between an attorney and an attorney’s client.</p> <p>(b) The confidential relations and communications between a licensed clinical psychotherapist and such psychotherapist’s client are placed on the same basis as provided by law for those between an attorney and an attorney’s client.</p> <p>(c) Nothing in this section or in this act shall be construed to prohibit any licensed masters level psychologist or licensed clinical psychotherapist from testifying in court hearings concerning matters of adult abuse, adoption, child abuse, child neglect, or other matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors, or both, on behalf of the client. There is no privilege under this section for information which is required to be reported to a public official.</p> <p> As stated in the text of this provision, psychologist-client and psychotherapist-client</p>	<p>Kan Stat. Ann. § 74-5372.</p>

<p>communications “are placed on the same basis as provided by law for those between an attorney and an attorney’s client.” The full text of the attorney-client privilege, Kan. Stat. Ann. § 60-426, appears above.</p>	
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