



Select Victims' Rights – Virginia

USING THIS RESOURCE

This resource is intended to provide a base of knowledge regarding crime victims' rights in Virginia 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 Virginia, see the companion resource: *Law Enforcement-Based Victim Services in Virginia: 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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TABLE OF CONTENTS AND INDEX OF RIGHTS¹

Using This Resource 1

Select Definitions 4

Select Crime Victims’ Rights 10

Right to Confer 10–11, 21

Right to Courtroom Accommodations

Alternative Means of Testifying 23

Interpreter 22

Support Person Presence 33–34

Right to Compensation 13, 35–36, 36–37

Right to Due Process, Fairness, Dignity and Respect 10–11, 11–12

Right to Employment-Related Rights 11–12, 14–15, 37–38

Right to be Heard 10–11, 11–12, 17–18, 18–19, 20, 34–35

Right to Information About Victims’ Rights 10–11, 11–12, 12, 32–33, 35–36

Right to Notice 10–11, 15, 16, 17, 17–18, 18, 21,
23–24, 29–30, 31–32, 33–34, 35–36

Right to be Present 11–12, 19, 20, 33–34


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.

Right to Privacy11–12, 13, 17–18, 21–22, 25–26,
32–33, 34–35, 39–40, 40–44

Right to Protection10–11, 12, 13, 16, 17, 18, 23–24,
25–26, 32–33, 39–40, 40–44

Right to Return of Property.....13

Right to Restitution.....10–11, 14

<p>SELECT DEFINITIONS</p>	<p>Virginia Statutes</p>
<p>Crime Victim and Witness Rights Act; Definition of Victim.</p> <p>For purposes of this chapter, “victim” means (i) a person who has suffered physical, psychological, or economic harm as a direct result of the commission of (a) a felony, (b) assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, a violation of a protective order in violation of § 16.1-253.2 or 18.2-60.4, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or maiming or driving while intoxicated in violation of § 18.2-51.4 or 18.2-266, or (c) a delinquent act that would be a felony or a misdemeanor violation of any offense enumerated in clause (b) if committed by an adult; (ii) a spouse or child of such a person; (iii) a parent or legal guardian of such a person who is a minor; (iv) for the purposes of subdivision A 4 only, a current or former foster parent or other person who has or has had physical custody of such a person who is a minor, for six months or more or for the majority of the minor’s life; or (v) a spouse, parent, sibling, or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, “victim” does not mean a parent, child, spouse, sibling, or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i).</p> <p> This definition applies to the Crime Victims and Witness Rights Act, Va. Code Ann. §§ 19.2-11.01 through 19.2-11.4. These statutory provisions are included below in the section “Select Crime Victims’ Rights.”</p>	<p>Va. Code Ann. § 19.2-11.01(B).</p>
<p>Physical Evidence Recovery Kits Definitions.</p> <p>As used in this chapter, unless the context requires a different meaning:</p> <p>“Anonymous physical evidence recovery kit” means a physical evidence recovery kit that is collected from a victim of sexual assault through a forensic medical examination where the</p>	<p>Va. Code Ann. § 19.2-11.5.</p>

victim elects, at the time of the examination, not to report the sexual assault offense to a law-enforcement agency.

“Department” means the Virginia Department of Forensic Science.

“Division” means the Division of Consolidated Laboratory Services of the Virginia Department of General Services.

“Health care provider” means any hospital, clinic, or other medical facility that provides forensic medical examinations to victims of sexual assault.

“Law-enforcement agency” means the state or local law-enforcement agency with the primary responsibility for investigating an alleged sexual assault offense case and includes the employees of that agency.


“Physical evidence recovery kit” means any evidence collection kit supplied by the Department to health care providers for use in collecting evidence from victims of sexual assault during forensic medical examinations or to the Office of the Chief Medical Examiner for use during death investigations to collect evidence from decedents who may be victims of sexual assault.

“Sexual assault offense” means a violation or attempted violation of any offense enumerated in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 or of any offense specified in § 18.2-361, 18.2-370, or 18.2-370.1.


“Victim of sexual assault” means any person who undergoes a forensic medical examination for the collection of a physical evidence recovery kit connected to a sexual assault offense.




These definitions apply to the statutory provisions governing physical evidence recovery kits, Va. Code Ann. §§ 19.2-11.5 through § 19.2-11.12. Some of these statutory provisions are included below in the section “Select Crime Victims’ Rights.”


<p>Crime Victim Compensation Definitions.</p> <p>For the purpose of this chapter:</p> <p>“Claimant” means the person filing a claim pursuant to this chapter.</p> <p>“Commission” means the Virginia Workers’ Compensation Commission.</p> <p>“Crime” means an act committed by any person in the Commonwealth of Virginia which would constitute a crime as defined by the Code of Virginia or at common law. However, no act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purpose of this chapter unless the injuries (i) were intentionally inflicted through the use of such vehicle or (ii) resulted from a violation of § 18.2-51.4 or 18.2-266 or from a felony violation of § 46.2-894.</p> <p>“Family,” when used with reference to a person, means (i) any person related to such person within the third degree of consanguinity or affinity, (ii) any person residing in the same household with such person, or (iii) a spouse.</p> <p>“Sexual abuse” means sexual abuse as defined in subdivision 6 of § 18.2-67.10 and acts constituting rape, sodomy, object sexual penetration or sexual battery as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2.</p> <p>“Victim” means a person who suffers personal physical injury or death as a direct result of a crime including a person who is injured or killed as a result of foreign terrorism or who suffers personal emotional injury as a direct result of being the subject of a violent felony offense as defined in subsection C of § 17.1-805, or stalking as described in § 18.2-60.3, or attempted robbery or abduction.</p> <p> These definitions apply to the statutory provisions governing crime victim compensation, Va. Code Ann. §§ 19.2-368.1 through 19.2-368.18. Some of these statutory provisions are included below in the section “Select Crime Victims’ Rights.”</p>	<p>Va. Code Ann. § 19.2-368.2.</p>
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<p>Victims' Right to Leave Work to Attend Criminal Proceedings Definitions.</p> <p>“Criminal proceedings” means a proceeding at which the victim has the right or opportunity to appear involving a crime against the victim, including:</p> <ol style="list-style-type: none"> 1. The initial appearance of the person suspected of committing the criminal offense against the victim; 2. Any proceeding in which the court considers the post-arrest release of the person accused of committing a criminal offense against the victim or the conditions of that release; 3. Any proceeding in which a negotiated plea for the person accused of committing the criminal offense against the victim will be presented to the court; 4. Any sentencing proceeding; 5. Any proceeding in which postconviction release from confinement is considered; 6. Any probation revocation disposition proceeding or any proceeding in which the court is requested to terminate the probation of a person who is convicted of committing a criminal offense against the victim; or 7. Any proceeding in which the court is requested to modify the terms of probation or intensive probation of a person if the modification will substantially affect the person’s contact with or safety of the victim or if the modification involves restitution or incarceration status. <p>“Undue hardship” means a significant difficulty and expense to a business and includes the consideration of the size of the employer’s business and the employer’s critical need of the employee.</p> <p>“Victim” has the same meaning ascribed to the term in § 19.2-11.01.</p>	<p>Va. Code Ann. § 40.1-28.7:2(A).</p>
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 <p>These definitions apply to the statutory provision affording victims the right to leave work to attend criminal proceedings, Va. Code Ann. § 40.1-28.7:2. This statutory provision is included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Address Confidentiality Program Definitions.</p> <p>As used in this section:</p> <p>“Address” means a residential street address, school address, or work address of a person as specified on the person’s application to be a program participant.</p> <p>“Applicant” means a person who is a victim of domestic violence, stalking, or sexual violence or is a parent or guardian of a minor child or incapacitated person who is the victim of domestic violence, stalking, or sexual violence.</p> <p>“Domestic violence” means an act as defined in § 38.2-508 and includes threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law-enforcement officers. Such threat must be a threat of force which would place any person in reasonable apprehension of death or bodily injury.</p> <p>“Program participant” means a person certified by the Office of the Attorney General as eligible to participate in the Address Confidentiality Program.</p> <p>“Sexual or domestic violence programs” means public and not-for-profit agencies the primary mission of which is to provide services to victims of sexual or domestic violence, or stalking. Such programs may also include specialized services for victims of human trafficking.</p> <p>“Sexual violence” means conduct that is prohibited under clause (ii), (iii), (iv), or (v) of § 18.2-48, or § 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.5, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, or 18.2-</p>	<p>Va. Code Ann. § 2.2-515.2(A).</p>



<p>368, regardless of whether the conduct has been reported to a law-enforcement officer or the assailant has been charged with or convicted of the alleged violation.</p> <p>“Stalking” means conduct that is prohibited under § 18.2-60.3, regardless of whether the conduct has been reported to a law-enforcement officer or the assailant has been charged with or convicted for the alleged violation.</p> <p> These definitions apply to Virginia’s address confidentiality program, Va. Code Ann. § 2.2-515.2. This statutory provision is included below in the section “Select Crime Victims’ Rights.”</p>	
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<p>SELECT CRIME VICTIMS' RIGHTS</p>	<p>Virginia Constitutional Provisions and Statutes</p>
<p>Constitutional Rights of Crime Victims; Right to be Treated with Fairness, Dignity and Respect; Additional Rights as Provided by the General Assembly, Including Rights to Notice, be Heard, Information, Restitution, Protection, Confer and Access to Meaningful Role in the Criminal Justice System.</p> <p>That in criminal prosecutions, the victim shall be accorded fairness, dignity and respect by the officers, employees and agents of the Commonwealth and its political subdivisions and officers of the courts and, as the General Assembly may define and provide by law, may be accorded rights to reasonable and appropriate notice, information, restitution, protection, and access to a meaningful role in the criminal justice process. These rights may include, but not be limited to, the following:</p> <ol style="list-style-type: none"> 1. The right to protection from further harm or reprisal through the imposition of appropriate bail and conditions of release; 2. The right to be treated with respect, dignity and fairness at all stages of the criminal justice system; 3. The right to address the circuit court at the time sentence is imposed; 4. The right to receive timely notification of judicial proceedings; 5. The right to restitution; 6. The right to be advised of release from custody or escape of the offender, whether before or after disposition; and 7. The right to confer with the prosecution. 	<p>Va. Const. art. 1, § 8-A.</p>

<p>This section does not confer upon any person a right to appeal or modify any decision in a criminal proceeding, does not abridge any other right guaranteed by the Constitution of the United States or this Constitution, and does not create any cause of action for compensation or damages against the Commonwealth or any of its political subdivisions, any officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.</p> <p> Virginia extends these constitutional rights to victims through various statutory provisions. These statutory victims' rights provisions are included below.</p>	
<p>Crime Victim and Witness Rights Act: Purpose; Law Enforcement's Duty to Provide Victims with Information and Form Regarding Their Rights.</p> <p>In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity; and that their privacy is protected to the extent permissible under law. It is the further purpose of this chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law. Unless otherwise stated and subject to the provisions of § 19.2-11.1, it shall be the responsibility of a locality's crime victim and witness assistance program to provide the information and assistance required by this chapter, including verification that the standardized form listing the specific rights afforded to crime victims has been received by the victim.</p> <p>As soon as practicable after identifying a victim of a crime, the investigating law-enforcement agency shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the</p>	<p>Va. Code Ann. § 19.2-11.01(A).</p>

<p>victim can receive further information and assistance in securing the rights afforded crime victims, the name, address and telephone number of the office of the attorney for the Commonwealth, the name, address and telephone number of the investigating law-enforcement agency, and a summary of the victim's rights under § 40.1-28.7:2.</p> <p> Va. Code Ann. § 19.2-11.01(A) extends a number of statutory rights to crime victims. These rights are listed individually below.</p> <p> Va. Code Ann. § 40.1-28.7:2 provides crime victims with the right to leave work to attend criminal proceedings. This statutory provision is included below.</p> <p> A promising practice is to have a policy and procedure in place regarding how and when victims will be provided with the information described in this statutory provision. 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' Right to Protection; Law Enforcement's Duty to Provide Information.</p> <p>In order that victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information as to the level of protection which may be available pursuant to § 52-35 or to any other federal, state or local program providing protection, and shall be assisted in obtaining this protection from the appropriate authorities.</p> <p> A promising practice is to have a policy and procedure in place regarding how and when victims will be provided with the information and assistance described in this statutory provision. 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>Va. Code Ann. § 19.2-11.01(A)(1)(a).</p>

<p>Victims' Right to Separate Waiting Area.</p> <p>Victims and witnesses shall be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation, and that does not place the victim in close proximity to the defendant or the defendant's family.</p>	<p>Va. Code Ann. § 19.2-11.01(A)(1)(b).</p>
<p>Victims' Right to Information Regarding Available Financial Assistance and Social Services.</p> <p>Victims shall be informed of financial assistance and social services available to them as victims of a crime, including information on their possible right to file a claim for compensation from the Crime Victims' Compensation Fund pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) and on other available assistance and services.</p> <p> A promising practice is to have a policy and procedure in place regarding how and when victims will be provided with the information described in this statutory provision. 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>Va. Code Ann. § 19.2-11.01(A)(2)(a).</p>
<p>Victims' Right to Prompt Return of Property.</p> <p>Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary purposes returned promptly in accordance with § 19.2-270.1 [return of property used as evidence in prosecutions for burglary and larceny] and 19.2-270.2 [return of moneys and securities used as evidence in prosecutions for grand larceny and other crimes].</p> <p> A promising practice is to have a policy and procedure in place that clearly defines what "promptly" means in the context of the victim's right to return of property. Instructions should be ready and available to provide to victims, explaining how they may promptly</p>	<p>Va. Code Ann. § 19.2-11.01(A)(2)(b).</p>

<p>obtain their property, and including the name of a person they may contact to check the status of the return.</p>	
<p>Victims' Right to Restitution.</p> <p>Victims shall be advised that restitution is available for damages or loss resulting from an offense and shall be assisted in seeking restitution in accordance with § 19.2-305, 19.2-305.1, Chapter 21.1 (§ 19.2-368.1 et seq.), Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and other applicable laws of the Commonwealth.</p> <p> Additional portions of Virginia's code govern the scope of, and procedures related to, a victim's right to restitution. <i>See, e.g.,</i> Va. Code Ann. § 19.2-305 (probationer's restitution obligations); <i>id.</i> at § 19.2-305.1 (restitution for property damage or loss); <i>see generally id.</i> at §§ 19.2-368.1 through 19.2-368.18 (crime victim compensation); <i>id.</i> at §§ 58.1-520 through 58.1-353 (setoff debt collection).</p> <p> Victims should be informed that they are entitled to 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>Va. Code Ann. § 19.2-11.01(A)(2)(c).</p>
<p>Victims' Right to Employer Intercession Services.</p> <p>Victims and witnesses shall be (i) provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii) advised that pursuant to § 18.2-465.1 it is unlawful for an employer to penalize an employee for appearing in court pursuant to a summons or subpoena.</p>	<p>Va. Code Ann. § 19.2-11.01(A)(3)(a).</p>

<p> Va. Code Ann. § 18.2-465.1 provides that an employer commits a misdemeanor when the employer penalizes a crime victim for attending court appearances.</p> <p> Va. Code Ann. § 40.1-28.7:2 provides crime victims with the right to leave work to attend criminal proceedings. This statutory provision is included below.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, of their employment-related rights.</p> <p> A promising practice is to have a policy and procedure in place to provide employers with this information.</p>	
<p>Victims' Right to Notification Regarding Judicial Proceedings.</p> <p>Victims shall receive advance notification when practicable from the attorney for the Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of any change in court dates in accordance with § 19.2-265.01 if they have provided their names, current addresses and telephone numbers.</p> <p> Va. Code Ann. § 19.2-265.01 guarantees victims the right to be present at any court proceedings where the defendant is permitted. This right may be infringed upon if “court determines, in its discretion, the presence of the victim would impair the conduct of a fair trial.” Va. Code Ann. § 19.2-265.01. Under this provision, the prosecutor must give the victim prior notice of trial and attendant proceedings, as well as any changes in the scheduling thereof, “at the address or telephone number, or both, provided in writing by [the victim].” <i>Id.</i></p>	<p>Va. Code Ann. § 19.2-11.01(A)(3)(b).</p>

Victims' Right to Notice Regarding Filing and Disposition of Appeal or Habeas Corpus Proceeding.

Va. Code Ann. § 19.2-11.01(A)(3)(c).




Victims shall receive notification, if requested, subject to such reasonable procedures as the Attorney General may require pursuant to § 2.2-511, from the Attorney General of the filing and disposition of any appeal or habeas corpus proceeding involving their case.









The Attorney General has the authority to institute or conduct criminal prosecutions in certain cases; in other criminal cases, the Attorney General may not appear or participate until a petition for appeal or writ of error has been granted. Va. Code Ann. § 2.2-511(A). In cases where the Attorney General is representing the Commonwealth on an appeal or habeas corpus proceeding, “[t]he Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.” *Id.* at § 2.2-511(B).



A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that they must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights. Victims should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.

<p>Victims' Right to Notice of Offender's Escape, Change of Name, Transfer, Release or Discharge.</p> <p>Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent (i) in whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to the provisions of § 53.1-133.02 and 53.1-160 or (ii) when an accused is released on bail, if they have provided their names, current addresses and telephone numbers in writing. Such notification may be provided through the Virginia Statewide VINE (Victim Information and Notification Everyday) System or other similar electronic or automated system.</p> <p> Va. Code Ann. § 53.1-133.02 governs the procedures for notifying victims of a prisoner's release, escape, transfer and other changes in status.</p> <p> Va. Code Ann. § 53.1-160 governs the procedures for notifying victims of an offender's release or discharge from prison.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that they must "request" the exercise of certain rights. Agencies should carefully document a victim's request to exercise rights. Victims should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	<p>Va. Code Ann. § 19.2-11.01(A)(3)(d).</p>
<p>Victims' Current Contact Information with Agencies; Victims' Right to Confidentiality.</p> <p>Victims shall be advised that, in order to protect their right to receive notices and offer input, all agencies and persons having such duties must have current victim addresses and telephone numbers given by the victims. Victims shall also be advised that any such</p>	<p>Va. Code Ann. § 19.2-11.01(A)(3)(e).</p>

<p>information given shall be confidential as provided by § 19.2-11.2.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, of the importance of keeping their contact information current.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that they must request the exercise of certain rights by providing certain agencies with their contact information. Agencies should carefully document a victim's request to exercise rights.</p>	
<p>Victims' Right to Notice of Civilly Committed Offender's Release.</p> <p>Upon the victim's request, the victim shall be notified by the Commissioner of Behavioral Health and Developmental Services or his designee of the release of a defendant (i) who was found to be unrestorably incompetent and was committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, or certified pursuant to § 37.2-806 or (ii) who was acquitted by reason of insanity and committed pursuant to § 19.2-182.3.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that they must "request" the exercise of certain rights. Agencies should carefully document a victim's request to exercise rights. Victims should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	<p>Va. Code Ann. § 19.2-11.01(A)(3)(g).</p>
<p>Victims' Right to Prepare Written Impact Statement.</p> <p>Victims shall be given the opportunity, pursuant to § 19.2-299.1, to prepare a written victim impact statement prior to sentencing of a defendant and may provide information to any</p>	<p>Va. Code Ann. § 19.2-11.01(A)(4)(a).</p>

<p>individual or agency charged with investigating the social history of a person or preparing a victim impact statement under the provisions of § 16.1-273 and 53.1-155 or any other applicable law.</p> <p> Va. Code Ann. § 19.2-299.1 requires that, with the consent of the victim, a victim impact statement be prepared in all cases. In cases involving capital murder, the impact statement must be prepared and submitted in accordance with the provisions of Va. Code Ann. § 19.2-264.5. <i>Id.</i> at § 19.2-299.1. Section 19.2-299.1 also requires that a victim impact statement be kept confidential. <i>Id.</i></p>	
<p>Victims' Right to Remain in the Courtroom During Trial.</p> <p>Victims shall have the right to remain in the courtroom during a criminal trial or proceeding pursuant to the provisions of § 19.2-265.01.</p> <p> Va. Code Ann. § 19.2-265.01 guarantees victims the right to be present at any court proceedings where the defendant is permitted. This right may be infringed upon if “court determines, in its discretion, the presence of the victim would impair the conduct of a fair trial.” Va. Code Ann. § 19.2-265.01. Under this provision, the prosecutor must give the victim prior notice of trial and attendant proceedings, as well as any changes in the scheduling thereof, “at the address or telephone number, or both, provided in writing by [the victim].” <i>Id.</i></p> <p> Victims' right to be present should provide for the victims' presence during the entirety of the trial. Even if the victim is to be a witness and the court concludes that the victim's testimony would be materially altered if the victim hears other testimony, consider discussing with the prosecutor the possibility of the victim testifying first to best ensure the victim's right to be present during the entirety of the trial.</p>	<p>Va. Code Ann. § 19.2-11.01(A)(4)(b).</p>

Victims' Right to Testify at Sentencing Regarding Impact of the Offense.

Va. Code Ann. § 19.2-11.01(A)(4)(c).

On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant to § 19.2-264.4 [capital sentencing] and 19.2-295.3, to testify prior to sentencing of a defendant regarding the impact of the offense.




Under Va. Code Ann. § 19.2-264.4, in capital cases, the court must allow the victim, “upon the motion of the attorney for the Commonwealth, and with the consent of the victim, to testify in the presence of the accused regarding the impact of the offense upon the victim. The court shall limit the victim’s testimony to the factors set forth in clauses (i) through (vi) of subsection A of § 19.2-299.1.” Va. Code Ann. § 19.2-264.4(A1).











Under Va. Code Ann. § 19.2-295.3, in felony cases, the court must allow the victim, “upon motion of the attorney for the Commonwealth, to testify in the presence of the accused regarding the impact of the offense upon the victim. The court shall limit the victim’s testimony to the factors set forth in clauses (i) through (vi) of subsection A of § 19.2-299.1. In the case of trial by jury, the court shall permit the victim to testify at the sentencing hearing conducted pursuant to § 19.2-295.1 or in the case of trial by the court or a guilty plea, the court shall permit the victim to testify before the court prior to the imposition of a sentence.” Va. Code Ann. § 19.2-295.3.




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>Victims' Right to Confer with the Prosecution.</p> <p>In a felony case, the attorney for the Commonwealth, upon the victim's written request, shall consult with the victim either verbally or in writing (i) to inform the victim of the contents of a proposed plea agreement and (ii) to obtain the victim's views about the disposition of the case, including the victim's views concerning dismissal, pleas, plea negotiations and sentencing. However, nothing in this section shall limit the ability of the attorney for the Commonwealth to exercise his discretion on behalf of the citizens of the Commonwealth in the disposition of any criminal case. The court shall not accept the plea agreement unless it finds that, except for good cause shown, the Commonwealth has complied with clauses (i) and (ii). Good cause shown shall include, but not be limited to, the unavailability of the victim due to incarceration, hospitalization, failure to appear at trial when subpoenaed, or change of address without notice.</p> <p>Upon the victim's written request, the victim shall be notified in accordance with subdivision A 3 b of any proceeding in which the plea agreement will be tendered to the court.</p> <p>The responsibility to consult with the victim under this subdivision shall not confer upon the defendant any substantive or procedural rights and shall not affect the validity of any plea entered by the defendant.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that they must "request" the exercise of certain rights. Agencies should carefully document a victim's request to exercise rights. Victims should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	<p>Va. Code Ann. § 19.2-11.01(A)(3)(d).</p>
<p>Victims' Right to Nondisclosure of Certain Personal information.</p> <p>Victims and witnesses shall be informed that their addresses, any telephone numbers, and email addresses may not be disclosed, pursuant to the provisions of § 19.2-11.2 and 19.2-</p>	<p>Va. Code Ann. § 19.2-11.01(A)(5)(a).</p>

<p>269.2, except when necessary for the conduct of the criminal proceeding.</p> <p> Va. Code Ann. § 19.2-11.2 bars the disclosure of certain crime victims' identifying information, subject to limitations. The text of this statutory provision is included below.</p> <p> Va. Code Ann. § 19.2-269.2 authorizes courts to prohibit testimony regarding a victims' contact information upon finding that such information is not material to the case. The text of this statutory provision is included below.</p> <p> A promising practice is to have a policy and procedure in place ensuring that victims are informed that their contact information will not be disclosed, subject to limitations.</p>	
<p>Victims' Right to an Interpreter.</p> <p>Victims and witnesses shall be advised that they have the right to the services of an interpreter in accordance with § 19.2-164 and 19.2-164.1.</p> <p> Va. Code Ann. § 19.2-164 provides non-English-speaking victims with the right to have an interpreter appointed, "unless the court finds that the person does not require the services of a court-appointed interpreter."</p> <p> Va. Code Ann. § 19.2-164.1 provides deaf victims with the right to have an interpreter appointed, "unless the court finds that the deaf person does not require the services of a court-appointed interpreter."</p>	<p>Va. Code Ann. § 19.2-11.01(A)(5)(b).</p>

<p>Certain Sex Offense Victims' Right to be Advised of the Possibility of a Closed Preliminary Hearing and Use of Closed-Circuit Television for Child-Victim Testimony.</p> <p>Victims and witnesses of certain sexual offenses shall be advised that there may be a closed preliminary hearing in accordance with § 18.2-67.8 and, if a victim was 14 years of age or younger on the date of the offense and is 16 or under at the time of the trial, or a witness to the offense is 14 years of age or younger at the time of the trial, that two-way closed-circuit television may be used in the taking of testimony in accordance with § 18.2-67.9.</p> <p> Va. Code Ann. § 18.2-67.8 authorizes the court, by its own motion or at the request of the Commonwealth, the victim, the defendant or their counsel to “exclude from the courtroom all persons except officers of the court and persons whose presence, in the judgment of the court, would be supportive of the complaining witness or the accused and would not impair the conduct of a fair hearing.”</p> <p> Va. Code Ann. § 18.2-67.9 governs the use of closed-circuit television to take the testimony of child-victims.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that they must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights.</p>	<p>Va. Code Ann. § 19.2-11.01(A)(5)(c).</p>
<p>Victims' Right to Post-Trial Information, Assistance and Notification.</p> <p>a. Within 30 days of receipt of a victim’s written request after the final trial court proceeding in the case, the attorney for the Commonwealth shall notify the victim in writing, of (i) the disposition of the case, (ii) the crimes of which the defendant was convicted, (iii) the defendant’s right to appeal, if known, and (iv) the telephone number of offices to contact in</p>	<p>Va. Code Ann. § 19.2-11.01(A)(6).</p>

<p>the event of nonpayment of restitution by the defendant.</p> <p>b. If the defendant has been released on bail pending the outcome of an appeal, the agency that had custody of the defendant immediately prior to his release shall notify the victim as soon as practicable that the defendant has been released.</p> <p>c. If the defendant's conviction is overturned, and the attorney for the Commonwealth decides to retry the case or the case is remanded for a new trial, the victim shall be entitled to the same rights as if the first trial did not take place.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that they must "request" the exercise of certain rights. Agencies should carefully document a victim's request to exercise rights. Victims should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Responsibility of Law Enforcement Agencies and Others Whose Work Relates to the Criminal Justice System to Inform Themselves About Victims' Rights; No Liability or Cause of Action.</p> <p>Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and services to which they may be entitled under applicable law, provided that no liability or cause of action shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.</p>	<p>Va. Code Ann. § 19.2-11.01(C).</p>

Victims' Right to Nondisclosure of Certain Personal Information; Sex Offense Victims' Rights to Nondisclosure of Identifying Information and to be Identified by Initials.

Va. Code Ann. § 19.2-11.2.




Upon request of any witness in a criminal prosecution under § 18.2-46.2, 18.2-46.3, or 18.2-248 or of any violent felony as defined by subsection C of § 17.1-805, or any crime victim, neither a law-enforcement agency, the attorney for the Commonwealth, the counsel for a defendant, a court nor the Department of Corrections, nor any employee of any of them, may disclose, except among themselves, the residential address, any telephone number, email address, or place of employment of the witness or victim or a member of the witness' or victim's family, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for law-enforcement purposes or preparation for court proceedings, or (iv) permitted by the court for good cause.

Except with the written consent of the victim of any crime involving any sexual assault, sexual abuse, or family abuse or the victim's next of kin if the victim is a minor and the victim's death results from any crime, a law-enforcement agency may not disclose to the public information that directly or indirectly identifies the victim of such crime except to the extent that disclosure is (a) of the site of the crime, (b) required by law, (c) necessary for law-enforcement purposes, or (d) permitted by the court for good cause. In addition, at the request of the victim to the Court of Appeals of Virginia or the Supreme Court of Virginia hearing, on or after July 1, 2007, the case of a crime involving any sexual assault or sexual abuse, no appellate decision shall contain the first or last name of the victim.





Nothing herein shall limit the right to examine witnesses in a court of law or otherwise affect the conduct of any criminal proceeding.



Virginia Supreme Court Rule 3A:11(c) provides a procedure for redacting victims' personal identifying information from materials or evidence that is subject to the state's discovery obligations. Va. Sup. Ct. R. 3A:11(c). The rule also governs situations where a defendant challenges such redactions. *Id.*

<p> Virginia Supreme Court Rule 3A:12(k) governs the issuance of a subpoena duces tecum and provides that “[w]here the confidentiality provisions of Virginia Code § 19.2-11.2 apply, any material produced pursuant to a subpoena duces tecum shall be treated in accordance with the provisions of that statute.” Va. Sup. Ct. R. 3A:12(k).</p> <p> To ensure compliance with this law, a promising practice is to have policies and procedures in place to ensure that victims’ locating and identifying information is redacted when law enforcement compiles or reports victim information.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that they must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights.</p>	
<p>Victim-Offender Reconciliation Program.</p> <p>A. Any Crime Victim and Witness Assistance Program may establish a victim-offender reconciliation program to provide an opportunity after conviction for a victim, at his request and upon the subsequent agreement of the offender, to:</p> <ol style="list-style-type: none"> 1. Meet with the offender in a safe, controlled environment in accordance with the policies established pursuant to subsection B of § 53.1-30; 2. Give to the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim or the victim’s family; and 3. Discuss a proposed restitution agreement which may be submitted for consideration by the sentencing court for damages incurred by the victim as a result of the offense. <p>B. If the victim chooses to participate in a victim-offender reconciliation program under this section, the victim shall execute a waiver releasing the Crime Victim and Witness Assistance Program, attorney for the offender and the attorney for the Commonwealth from civil and criminal liability for actions taken by the victim or offender as a result of participation by the victim or the offender in a victim-offender reconciliation program.</p>	<p>Va. Code Ann. § 19.2-11.4</p>

<p>C. A victim shall not be required to participate in a victim-offender reconciliation program under this section.</p> <p>D. The failure of any person to participate in a reconciliation program pursuant to this section shall not be used directly or indirectly at sentencing.</p>	
<p>Sexual Assault Victims' Rights Regarding Anonymous Physical Evidence Recovery Kits; Hospitals' Duty to Inform Sexual Assault Victims of These Rights.</p> <p>A. When a victim of sexual assault who undergoes a forensic medical examination elects not to report the offense to law enforcement, the health care provider shall inform the victim that the physical evidence recovery kit shall be forwarded to the Division for storage as an anonymous physical evidence recovery kit. The health care provider shall further inform the victim of the length of time the anonymous physical evidence recovery kit will be stored by the Division, the victim's right to object to the destruction of the anonymous physical evidence recovery kit, and how the victim can have the anonymous physical evidence recovery kit released to a law-enforcement agency at a later date. The health care provider shall forward the anonymous physical evidence recovery kit to the Division in accordance with the policies and procedures established by the Division.</p> <p>B. The Division shall store any anonymous physical evidence recovery kit received for a minimum of two years. The Division shall store the anonymous physical evidence recovery kit for an additional period of 10 years following the receipt of a written objection to the destruction of the anonymous physical evidence recovery kit from the victim. After the initial two years or any additional 10-year storage period, the Division, in the absence of the receipt of a written objection from the victim in the most recent 10-year period, may destroy the anonymous physical evidence recovery kit or, in its discretion or upon request of the victim or the law-enforcement agency, may elect to retain the anonymous physical evidence recovery kit for a longer period of time. Upon notification from either the law-enforcement agency or the attorney for the Commonwealth that the victim has elected to report the offense to the law-enforcement agency, the Division shall release the anonymous physical evidence</p>	<p>Va. Code Ann. § 19.2-11.6.</p>

<p>recovery kit to the law-enforcement agency.</p> <p> Va. Code Ann. § 19.2-11.5 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> Sexual assault victims may not be charged for the cost of collecting or storing a physical evidence recovery kit or an anonymous physical evidence recovery kit. Va. Code Ann. § 19.2-11.12.</p> <p> A promising practice is to have a policy and procedure in place to notify victims of their right to submit a written objection to the destruction of an anonymous physical evidence recovery kit.</p>	
<p>Law Enforcement Taking Possession of Physical Evidence Recovery Kits.</p> <p>A. A health care provider that has collected a physical evidence recovery kit from a victim of sexual assault who has elected to report the offense shall forthwith notify the law-enforcement agency that such kit has been collected.</p> <p>B. A law-enforcement agency that receives notice from a health care provider that a physical evidence recovery kit has been collected shall forthwith take possession of the physical evidence recovery kit.</p> <p> Va. Code Ann. § 19.2-11.5 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Va. Code Ann. § 19.2-11.7.</p>




Law Enforcement's Submission of Physical Evidence Recovery Kits to the Virginia Department of Forensic Science.

Va. Code Ann. § 19.2-11.8.

A. A law-enforcement agency that receives a physical evidence recovery kit shall submit the physical evidence recovery kit to the Department for analysis within 60 days of receipt, except under the following circumstances: (i) it is an anonymous physical evidence recovery kit that shall be forwarded to the Division for storage; (ii) the physical evidence recovery kit was collected by the Office of the Chief Medical Examiner as part of a routine death investigation, and the medical examiner and the law-enforcement agency agree that analysis is not warranted; (iii) the physical evidence recovery kit is connected to an offense that occurred outside of the Commonwealth; (iv) the physical evidence recovery kit was determined by the law-enforcement agency not to be connected to a criminal offense; or (v) another law-enforcement agency has taken over responsibility for the investigation related to the physical evidence recovery kit.

B. Upon completion of analysis, the Department shall return the physical evidence recovery kit to the submitting law-enforcement agency. Upon receipt of the physical evidence recovery kit from the Department, the law-enforcement agency shall store the physical evidence recovery kit for a period of 10 years or until 10 years after the victim reaches the age of majority if the victim was a minor at the time of collection, whichever is longer. The law-enforcement agency shall store the physical evidence recovery kit for a period of 10 years following the receipt of a written objection to the destruction of the kit from the victim. After the mandatory retention period or any additional 10-year storage period has lapsed, the law-enforcement agency shall, unless the victim has made a written request not to be contacted for this purpose, make a reasonable effort to notify the victim of the intended destruction of the physical evidence recovery kit no less than 60 days prior to the intended date of such destruction. In the absence of a response from the victim, or with the consent of the victim, the law-enforcement agency may destroy the physical evidence recovery kit or, in its discretion, may elect to retain the physical evidence recovery kit for a longer period of time.

C. The DNA profiles developed from physical evidence recovery kits submitted to the

<p>Department for analysis pursuant to this section shall be uploaded into any local, state, or national DNA data bank only if eligible as determined by Department procedures and in accordance with state and federal law.</p> <p> Va. Code Ann. § 19.2-11.5 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy and procedure in place to notify victims of their right to submit a written objection to the destruction of a physical evidence recovery kit.</p>	
<p>Effect of Law Enforcement’s and Other’s Lack of Compliance with Procedures Governing Physical Evidence Recovery Kits.</p> <p>The failure of a law-enforcement agency to take possession of a physical evidence recovery kit as provided in this chapter or to submit a physical evidence recovery kit to the Department within the time period prescribed under this chapter does not alter the authority of the law-enforcement agency to take possession of the physical evidence recovery kit or to submit the physical evidence recovery kit to the Department under this chapter or the authority of the Department to accept and analyze the physical evidence recovery kit or to maintain or upload any developed DNA profiles from the physical evidence recovery kit into any local, state, or national DNA data bank if eligible as determined by Department procedures and in accordance with state and federal law.</p> <p>A person accused or convicted of committing a crime against a sexual assault victim has no standing to object to any failure to comply with the requirements of this chapter, and the failure to comply with the requirements of this chapter is not grounds for challenging the admissibility of the evidence or setting aside the conviction or sentence.</p> <p> Va. Code Ann. § 19.2-11.5 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Va. Code Ann. § 19.2-11.9.</p>



Sexual Assault Victims' Right to Request Notification of Scientific Analysis Information Regarding Physical Evidence Recovery Kits.


Va. Code Ann. § 19.2-11.11.



A. In addition to the rights provided under Chapter 1.1 (§ 19.2-11.01 et seq.), a victim of sexual assault, a parent or guardian of a victim of a sexual assault who was a minor at the time of the offense, or the next of kin of a deceased victim of sexual assault shall have the right to request and receive information from the law-enforcement agency regarding (i) the submission of any physical evidence recovery kit for forensic analysis that was collected from the victim during the investigation of the offense; (ii) the status of any analysis being performed on any evidence that was collected during the investigation of the offense; (iii) the results of any analysis; and (iv) the time frame for how long the kit will be held in storage and the victim's rights regarding such storage, unless disclosing this information would interfere with the investigation or prosecution of the offense, in which case the victim, parent, guardian, or next of kin shall be informed of the estimated date on which the information may be disclosed, if known.



B. In the case of a physical evidence recovery kit that was received by a law-enforcement agency prior to July 1, 2016, and that has subsequently been submitted for analysis, the victim, a parent or guardian of a minor victim, or the next of kin of a deceased victim shall be notified by the law-enforcement agency of the completion of the analysis and shall, upon request, receive information from the law-enforcement agency regarding the results of any analysis, unless disclosing this information would interfere with the investigation or prosecution of the offense, in which case the victim, parent, guardian, or next of kin shall be informed of the estimated date on which the information may be disclosed, if known. A good faith attempt to locate the victim, a parent or guardian of a minor victim, or the next of kin of a deceased victim shall be made if a current address for the victim, a parent or guardian of a minor victim, or the next of kin of a deceased victim is unavailable.




C. The victim, parent, guardian, or next of kin who requests to be notified under subsection A shall provide a current address and telephone number to the attorney for the Commonwealth and to the law-enforcement agency that is investigating the offense and keep such information updated.



<p>The victim, parent, guardian, or next of kin who requests to be notified under subsection B may provide a current address and telephone number to the attorney for the Commonwealth and to the law-enforcement agency that is investigating the offense and keep such information updated.</p> <p>D. Nothing contained in this section shall require a law-enforcement agency to disclose any information regarding the results of any analysis to a parent or guardian of a minor victim or to the next of kin of a deceased victim if such parent, guardian, or next of kin is the alleged perpetrator of the offense.</p> <p> Va. Code Ann. § 19.2-11.5 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that they must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights. Victims should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Victims’ Rights and Law Enforcement’s Duties Regarding Use of Truth-Telling Devices.</p> <p>A. For offenses not specified in subsection B, if a complaining witness is requested to submit to a polygraph examination during the course of a criminal investigation, such witness shall be informed in writing prior to the examination that (i) the examination is voluntary, (ii) the results thereof are inadmissible as evidence and (iii) the agreement of the complaining witness to submit thereto shall not be the sole condition for initiating or continuing the criminal investigation.</p>	<p>Va. Code Ann. § 19.2-9.1.</p>

<p>B. No law-enforcement officer, attorney for the Commonwealth, or other government official shall ask or require a victim of an alleged sex offense to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an offense. If a victim is requested to submit to a polygraph examination during the course of a criminal investigation, such victim shall be informed in writing of the provisions of subsection A and that the refusal of a victim to submit to such an examination shall not prevent the investigation, charging, or prosecution of the offense.</p> <p>C. A “sex offense,” for the purposes of this section, shall mean any offense set forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2.</p> <p> A promising practice is to have a policy and procedure in place to ensure that law enforcement officers are aware that a victim’s agreement to submit to a polygraph cannot be made a condition for initiating or continuing with a criminal investigation, and that victims are informed in writing of this fact.</p>	
<p>Victims’ and Certain Family Members’ and Support Persons’ Right to Not be Excluded from Court Proceedings.</p> <p>During the trial of every criminal case and in all court proceedings attendant to trial, whether before, during or after trial, including any proceedings occurring after an appeal by the defendant or the Commonwealth, at which attendance by the defendant is permitted, whether in a circuit or district court, any victim as defined in § 19.2-11.01 may remain in the courtroom and shall not be excluded unless the court determines, in its discretion, the presence of the victim would impair the conduct of a fair trial. In any case involving a minor victim, the court may permit an adult chosen by the minor to be present in the courtroom during any proceedings in addition to or in lieu of the minor’s parent or guardian.</p> <p>The attorney for the Commonwealth shall give prior notice when practicable of such trial and attendant proceedings and changes in the scheduling thereof to any known victim and to any known adult chosen in accordance with this section by a minor victim, at the address or telephone number, or both, provided in writing by such person.</p>	<p>Va. Code Ann. § 19.2-265.01.</p>

<p> Va. Code Ann. § 19.2-11.01(A)(4)(b) guarantees victims “the right to remain in the courtroom during a criminal trial or proceeding pursuant to the provisions of § 19.2-265.01.”</p> <p> Victims’ right to be present should provide for the victims’ presence during the entirety of the trial. Even if the victim is to be a witness and the court concludes that the victim’s testimony would be materially altered if the victim hears other testimony, consider discussing with the prosecutor the possibility of the victim testifying first to best ensure the victim’s right to be present during the entirety of the trial.</p>	
<p>Victim Impact Statements: When Required; Confidentiality; Victims’ Right to Submit Impact Statement.</p> <p>The presentence report prepared pursuant to § 19.2-299 shall, with the consent of the victim, as defined in § 19.2-11.01, in all cases involving offenses other than capital murder, include a Victim Impact Statement. Victim Impact Statements in all cases involving capital murder shall be prepared and submitted in accordance with the provisions of § 19.2-264.5.</p> <p>A Victim Impact Statement shall be kept confidential and shall be sealed upon entry of the sentencing order. If prepared by someone other than the victim, it shall (i) identify the victim, (ii) itemize any economic loss suffered by the victim as a result of the offense, (iii) identify the nature and extent of any physical or psychological injury suffered by the victim as a result of the offense, (iv) detail any change in the victim’s personal welfare, lifestyle or familial relationships as a result of the offense, (v) identify any request for psychological or medical services initiated by the victim or the victim’s family as a result of the offense, and (vi) provide such other information as the court may require related to the impact of the offense upon the victim.</p> <p>If the court does not order a presentence investigation and report, the attorney for the Commonwealth shall, at the request of the victim, submit a Victim Impact Statement. In any event, a victim shall be advised by the local crime victim and witness assistance program</p>	<p>Va. Code Ann. § 19.2-299.1.</p>

<p>that he may submit in his own words a written Victim Impact Statement prepared by the victim or someone the victim designates in writing.</p> <p>The Victim Impact Statement may be considered by the court in determining the appropriate sentence. A copy of the statement prepared pursuant to this section shall be made available to the defendant or counsel for the defendant without court order at least five days prior to the sentencing hearing. The statement shall not be admissible in any civil proceeding for damages arising out of the acts upon which the conviction was based. The statement, however, may be utilized by the Virginia Workers' Compensation Commission in its determinations on claims by victims of crimes pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) of this title.</p> <p> Va. Code Ann. § 19.2-11.01(A)(4)(a) provides victims with the right to prepare a written impact statement prior to sentencing, pursuant to this statutory provision.</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>Crime Victim Compensation Public Information Program; Law Enforcement's Duty to Notify Victim of Right to File a Claim for Compensation.</p> <p>The Commission shall establish and conduct a public information program to assure extensive and continuing publicity and public awareness of the provisions of this chapter. The public information program shall include brochures, posters and public service advertisements for television, radio and print media for dissemination to the public of information regarding the right to compensation for innocent victims of crime, including</p>	<p>Va. Code. Ann. § 19.2-368.17.</p>


<p>information on the right to file a claim, the scope of coverage, and the procedures to be utilized incident thereto.</p> <p>Whenever a crime which directly resulted in personal physical injury to, or death of, an individual is reported within the time required by § 19.2-368.10, the law-enforcement agency to which the report is made shall make reasonable efforts, where practicable, to notify the victim or other potential claimant in writing on forms prepared by the Commission of his or her possible right to file a claim under this chapter. In any event, no liability or cause of action shall arise from the failure to so notify a victim of crime or other potential claimant.</p> <p> Va. Code Ann. § 19.2-368.2 defines the terms used in this statutory provision. These definitions are included above in the section “Select Crime Victims’ Rights.”</p> <p> For additional information on crime victim compensation, <i>see generally</i> Va. Code Ann. §§ 19.2-368.1 through 19.2-368.18.</p> <p> A promising practice is to have a policy and procedure in place regarding how and when victims will be provided with the compensation information described in this statutory provision. Consideration should be given to providing this information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p>Limitations on Crime Victim Compensation Related to Victim Reporting and Cooperation with Law Enforcement.</p> <p>No award shall be made unless the Commission finds that:</p> <ol style="list-style-type: none"> 1. A crime was committed; 2. Such crime directly resulted in an individual becoming a victim as defined in § 19.2-368.2, on whose behalf a claim is filed; and 	<p>Va. Code Ann. § 19.2-368.10.</p>


<p>3. Police records show that such crime was promptly reported to the proper authorities. In no case may an award be made where the police records show that such report was made more than 120 hours after the occurrence of such crime, unless the Commission, for good cause shown, finds the delay to have been justified. The provisions of this subdivision shall not apply to claims of sexual abuse that occurred while the victim was a minor.</p> <p>The Commission, upon finding that any claimant or award recipient has not fully cooperated with all law-enforcement agencies, may deny, reduce or withdraw any award, as the case may be.</p> <p> Va. Code Ann. § 19.2-368.2 defines the terms used in this statutory provision. These definitions are included above in the section “Select Crime Victims’ Rights.”</p> <p> For additional information on crime victim compensation, <i>see generally</i> Va. Code Ann. §§ 19.2-368.1 through 19.2-368.18.</p>	
<p>Victims’ Right to Leave Work to Attend Criminal Proceedings.</p> <p>A. [Definitions, included above in “Select Definitions.”]</p> <p>B. Every employer shall allow an employee who is a victim of a crime to leave work to be present at all criminal proceedings relating to a crime against the employee, as long as the employee has provided the employer with a copy of the form provided to the employee by the law-enforcement agency pursuant to subsection A of § 19.2-11.01 and, if applicable, provided the employer a copy of the notice of each scheduled criminal proceeding that is provided to the employee as victim. However, an employer may limit the leave provided under this section if the employee’s leave creates an undue hardship to the employer’s business.</p> <p>C. An employer shall not dismiss an employee who is a victim of a crime because the</p>	<p>Va. Code Ann. § 40.1-28.7:2.</p>


employee exercises the right to leave work pursuant to subsection B.


D. An employer is not required to compensate an employee who is a victim of a crime when the employee leaves work pursuant to subsection B.


E. An employer shall not refuse to hire or employ, to bar or to discharge from employment, or to discriminate against, an individual in compensation or other terms, conditions, or privileges of employment because the individual leaves work to attend a criminal proceeding pursuant to this section.

 Va. Code Ann. § 40.1-28.7:2(A) defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”

 Va. Code Ann. § 18.2-465.1 provides that an employer commits a misdemeanor when the employer penalizes a crime victim for attending court appearances.

 Va. Code Ann. § 19.2-11.01(A)(3)(a) provides victims with the right to employer intercession services.

 A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, of their employment-related rights.

 A promising practice is to have a policy and procedure in place to provide employers with this information.

<p>Confidentiality of Records of Persons Receiving Domestic and Sexual Violence Services.</p> <p>A. In order to ensure the safety of adult and child victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, and their families, programs and individuals providing services to such victims shall protect the confidentiality and privacy of persons receiving services.</p> <p>B. Except as provided in subsections C and D, programs and individuals providing services to victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, shall not:</p> <ol style="list-style-type: none"> 1. Disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through programs for victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; or 2. Reveal individual client information without the informed, written, reasonably time-limited consent of the person about whom information is sought; the minor and his parent or legal guardian, in cases in which the client is an unemancipated minor; or the guardian of an incapacitated person as defined in § 64.2-2000, whether for this program or any other Federal, State, tribal, or territorial grant program. However, consent for release may not be given by the abuser or alleged abuser of the minor or incapacitated person, or the abuser or alleged abuser of the other parent of the minor. <p>C. If release of information described in subsection B is compelled by statutory or court mandate, the program or individual providing services shall:</p> <ol style="list-style-type: none"> 1. Make reasonable attempts to provide notice to victims affected by the disclosure of information; and 2. Take steps necessary to protect the privacy and safety of the persons affected by the release of the information. 	<p>Va. Code Ann. § 63.2-104.1.</p>
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<p>D. Programs and individuals providing services to victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, may share:</p> <ol style="list-style-type: none"> 1. Nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements; 2. Court generated information and law-enforcement generated information contained in secure, governmental registries for protection order enforcement purposes; and 3. Information necessary for law enforcement and prosecution purposes. <p>For purposes of this section, “programs” shall include public and not-for-profit agencies the primary mission of which is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking, or victims of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1.</p> <p>E. For the purposes of this section, a person may be a victim of domestic violence, dating violence, sexual assault, or stalking, or a victim of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, regardless of whether any person has been charged with or convicted of any offense.</p>	
<p>Address Confidentiality Program.</p> <p>A. [Definitions, included above in “Select Definitions.”]</p> <p>B. The Statewide Facilitator for Victims of Domestic Violence shall establish a program to be known as the “Address Confidentiality Program” to protect victims of domestic violence, stalking, or sexual violence by authorizing the use of designated addresses for such victims. An individual who is at least 18 years of age, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of an incapacitated person, or an emancipated minor may apply in person at (i) sexual or domestic violence programs that have been accredited by the Virginia Sexual and Domestic Violence Program Professional Standards Committee established pursuant to § 9.1-116.3 and are qualified to (a) assist the eligible person in determining whether the address confidentiality program should be part of such person’s</p>	<p>Va. Code Ann. § 2.2-515.2</p>

overall safety plan, (b) explain the address confidentiality program services and limitations, (c) explain the program participant's responsibilities, and, (d) assist the person eligible for participation with the completion of application materials or (ii) crime victim and witness assistance programs. The Office of the Attorney General shall approve an application if it is filed in the manner and on the form prescribed by the Attorney General and if the application contains the following:

1. A sworn statement by the applicant declaring to be true and correct under penalty of perjury that the applicant has good reason to believe that:
 - a. The applicant, or the minor or incapacitated individual on whose behalf the application is made, is a victim of domestic violence, sexual violence, or stalking;
 - b. The applicant fears further acts of violence, stalking, retribution, or intimidation from the applicant's assailant, abuser, or trafficker; and
 - c. The applicant is not on active parole or probation supervision requirements under federal, state, or local law.
2. A designation of the Office of the Attorney General as agent for the purpose of receiving mail on behalf of the applicant;
3. The applicant's actual address to which mail can be forwarded and a telephone number where the applicant can be called;
4. A listing of any minor children residing at the applicant's actual address, each minor child's date of birth, and each minor child's relationship to the applicant; and
5. The signature of the applicant and any person who assisted in the preparation of the application and the date.

C. Upon approval of a completed application, the Office of the Attorney General shall certify the applicant as a program participant. An applicant shall be certified for three years following the date of the approval, unless the certification is withdrawn or invalidated before that date. A program participant may apply to be recertified every three years.

D. Upon receipt of first-class mail addressed to a program participant, the Attorney General or his designee shall forward the mail to the actual address of the program participant. The actual address of a program participant shall be available only to the Attorney General and to those employees involved in the operation of the Address Confidentiality Program and to law-enforcement officers. A program participant's actual address may be entered into the

Virginia Criminal Information Network (VCIN) system so that it may be made known to law-enforcement officers accessing the VCIN system for law-enforcement purposes.

E. The Office of the Attorney General may cancel a program participant's certification if:

1. The program participant requests withdrawal from the program;
2. The program participant obtains a name change through an order of the court and does not provide notice and a copy of the order to the Office of the Attorney General within seven days after entry of the order;
3. The program participant changes his residence address and does not provide seven days' notice to the Office of the Attorney General prior to the change of address;
4. The mail forwarded by the Office of the Attorney General to the address provided by the program participant is returned as undeliverable;
5. Any information contained in the application is false;
6. The program participant has been placed on parole or probation while a participant in the address confidentiality program; or
7. The applicant is required to register as a sex offender pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

For purposes of the address confidentiality program, residents of temporary housing for 30 days or less are not eligible to enroll in the address confidentiality program until a permanent residential address is obtained.

The application form shall contain a statement notifying each applicant of the provisions of this subsection.

F. A program participant may request that any state or local agency use the address designated by the Office of the Attorney General as the program participant's address, except when the program participant is purchasing a firearm from a dealer in firearms. The agency shall accept the address designated by the Office of the Attorney General as a program participant's address, unless the agency has received a written exemption from the Office of the Attorney General demonstrating to the satisfaction of the Attorney General that:

1. The agency has a bona fide statutory basis for requiring the program participant to disclose to it the actual location of the program participant; and

2. The disclosed confidential address of the program participant will be used only for that statutory purpose and will not be disclosed or made available in any way to any other person or agency.


A state agency may request an exemption by providing in writing to the Office of the Attorney General identification of the statute or administrative rule that demonstrates the agency's bona fide requirement and authority for the use of the actual address of an individual. A request for a waiver from an agency may be for an individual program participant, a class of program participants, or all program participants. The denial of an agency's exemption request shall be in writing and include a statement of the specific reasons for the denial. Acceptance or denial of an agency's exemption request shall constitute final agency action.

Any state or local agency that discloses the program participant's confidential address provided by the Office of the Attorney General shall be immune from civil liability unless the agency acted with gross negligence or willful misconduct.

A program participant's actual address shall be disclosed pursuant to a court order.

G. Records submitted to or provided by the Office of the Attorney General in accordance with this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) to the extent such records contain information identifying a past or current program participant, including such person's name, actual and designated address, telephone number, and any email address. However, access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of a program participant in cases where the program participant is a minor child or an incapacitated person, except when the parent or legal guardian is named as the program participant's assailant.

H. Neither the Office of the Attorney General, its officers or employees, or others who have a responsibility to a program participant under this section shall have any liability nor shall any cause of action arise against them in their official or personal capacity from the failure of a program participant to receive any first class mail forwarded to him by the Office of the Attorney General pursuant to this section. Nor shall any such liability or cause of action arise from the failure of a program participant to timely receive any first class mail forwarded by the Office of the Attorney General pursuant to this section.

 Va. Code Ann. § 2.2-515.2(A) defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”	
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