

MAINE VICTIMS' RIGHTS LAWS¹

Constitution

Maine does not have a victims' rights amendment to its constitution.

Statutes

Title 15, Criminal Court Procedure; Part 8, Victims' Rights; Chapter 520, Victim Involvement

§ 6101 – Victim involvement in criminal proceedings

1. Notice to victims. Whenever practicable, the attorney for the State shall make a good faith effort to inform the victims and families of victims of crimes of domestic violence and sexual assault and crimes in which the victim or the victim's family suffered serious physical trauma or serious financial loss of:
 - A. The victim advocate and the victims' compensation fund pursuant to Title 5, chapter 316-A; (fn 1)
 - B. The victim's right to be advised of the existence of a negotiated plea agreement before that agreement is submitted to the court pursuant to Title 17-A, section 1173;
 - C. The time and place of the trial, if one is to be held;
 - D. The victim's right to make a statement or submit a written statement at the time of sentencing pursuant to Title 17-A, section 1174 upon conviction of the defendant; and
 - E. The final disposition of the charges against that defendant.
2. Notice to court. Whenever practicable, the attorney for the State shall make a good faith effort to inform the court about the following:
 - A. If there is a plea agreement, the victim's or the victim's family's position on the plea agreement; or

¹ Not intended to be exhaustive.

B. If there is no plea agreement, the victim's or the victim's family's position on sentencing.
(fn 1: 5 M.R.S.A. § 3360 et seq.).

Title 17-A, Criminal Code; Part 3, Punishments; Chapter 48, Victims' Rights
§ 1171 – Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Crime. "Crime" means a criminal offense in which, as defined, there is a victim.

2. Victim. "Victim" means:

A. A person who is the victim of a crime; and

B. The immediate family of a victim of a crime if:

(1) The underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or

(2) Due to death, age, physical or mental disease, disorder or defect, the victim is unable to participate as allowed under this chapter.

§ 1172 – Victims to be notified

1. When practicable, the attorney for the State shall make a good faith effort to inform each victim of a crime of the following:

A. The details of a plea agreement before it is submitted to the court;

B. The right to comment on the plea agreement pursuant to section 1173;

B-1. The proposed dismissal or filing of an indictment, information or complaint pursuant to the Maine Rules of Criminal Procedure, Rule 48, before that action is taken;

C. The time and place of the trial;

D. The time and place of sentencing; and

E. The right to participate at sentencing pursuant to section 1174.

2. When providing notice under subsection 1, the attorney for the State shall offer to provide the victim with a pamphlet containing this chapter, Title 5, chapter 316-A (fn1) and Title 15, sections 812 and 6101. In addition, the attorney for the State, as part of any victim and witness support program that attorney administers under Title 30-A, section 460, shall provide the victim

with a pamphlet outlining in every day language the provisions set out in this chapter, Title 5, chapter 316-A and Title 15, sections 812 and 6101. The attorney for the State may use the pamphlet printed and distributed by the Department of Corrections or another pamphlet that meets the criteria in this section. (fn 1: 5 M.R.S.A. § 3360 et seq.).

§ 1173 – Plea agreement procedure

When a plea agreement is submitted to the court pursuant to the Maine Rules of Criminal Procedure Rule 11A(b), the attorney for the State shall disclose to the court any and all attempts made to notify each victim of the plea agreement and any objection to the plea agreement by a victim. A victim who is present in court at the submission of the plea may address the court at that time.

§ 1174 – Sentencing procedure

1. The victim must be provided the opportunity to participate at sentencing by:

A. Making an oral statement in open court; or

B. Submitting a written statement to the court either directly or through the attorney for the State. A written statement must be made part of the record.

2. The court shall consider any statement made under subsection 1, along with all other appropriate factors, in determining the sentence.

3. Unlike victims defined under section 1171, family members not within that definition, close friends of the victim, community members and other interested persons do not have a right to participate at sentencing. Participation by such interested persons is a matter for the court's discretion in determining what information to consider when sentencing.

§ 1174-A – Termination or conversion procedure

When the attorney for the State receives notice of a motion seeking early termination of probation or early termination of administrative release or seeking to convert probation to administrative release, the attorney for the State shall disclose to the court any attempts made to notify each victim of the motion to terminate or convert and any objection to the motion by a victim. If a hearing is held on the motion by the court and the victim is present in court, the victim may address the court at that time.

§ 1175 – Notification of defendant's release

Upon complying with subsection 1, a victim of a crime of murder or stalking or of a Class A, Class B or Class C crime for which the defendant is committed to the Department of Corrections or to a county jail, or is placed in institutional confinement under Title 15, section 103 after

having been found not criminally responsible by reason of mental disease or defect, or is placed in institutional confinement under Title 15, section 101-B after having been found incompetent to stand trial, must receive notice of the defendant's unconditional release and discharge from institutional confinement upon the expiration of the sentence or upon discharge under Title 15, section 104-A and must receive notice of any conditional release of the defendant from institutional confinement, including probation, parole, furlough, work release, intensive supervision, supervised community confinement, home release monitoring or similar program or release under Title 15, section 104-A.

1. A victim who wishes to receive notification must file a request for notification of the defendant's release with the office of the attorney for the State. The attorney for the State shall forward this request form to the Department of Corrections, to the state mental health institute or to the county jail to which that defendant is committed.
2. The Department of Corrections, the state mental health institute or the county jail to which the defendant is committed shall keep the victim's written request in the file of the defendant and shall notify the victim by mail of any impending release as soon as the release date is set. This notice must be mailed to the address provided in the request or any subsequent address provided by the victim.
3. The notice required by this section must contain:
 - A. The name of the defendant;
 - B. The nature of the release authorized, whether it is a conditional release, including probation, parole, furlough, work release, intensive supervision, supervised community confinement, home release monitoring or a similar program or release under Title 15, section 104-A, or an unconditional release and discharge upon the expiration of a sentence or upon discharge under Title 15, section 104-A;
 - C. The anticipated date of the defendant's release from institutional confinement and any date on which the defendant must return to institutional confinement, if applicable;
 - D. The geographic area to which the defendant's release is limited, if any;
 - E. The address at which the defendant will reside; and
 - F. The address at which the defendant will work, if applicable.
4. The notice requirement under this section ends when:
 - A. Notice has been provided of an unconditional release or discharge upon the expiration of the sentence or upon discharge under Title 15, section 104-A; or
 - B. The victim has filed a written request with the Department of Corrections, the state mental health institute or the county jail to which the defendant is committed asking that no further notice be given.

5. Neither the failure to perform the requirements of this chapter nor compliance with this chapter subjects the attorney for the State, the Commissioner of Corrections, the Department of Corrections, the Commissioner of Behavioral and Developmental Services, the state mental health institute or the county jail or the employees or officers of the attorney for the State, the Commissioner of Corrections, the Department of Corrections, the Commissioner of Behavioral and Developmental Services, the state mental health institute or the county jail to liability in a civil action.

§ 1176 – Confidentiality of victim records

Records that pertain to a victim's current address or location or that contain information from which a victim's current address or location could be determined must be kept confidential and may be disclosed only to a state agency if necessary to carry out the statutory function of that agency or to a criminal justice agency if necessary to carry out the administration of criminal justice or the administration of juvenile criminal justice. In no case may a victim's request for notice of release be disclosed outside the agency to which the defendant is committed and the office of the attorney for the State with which the request was filed.

§ 1177. Certain communications by victims confidential

The following communications are privileged from disclosure.

- 1.** Communications by a victim, as described in Title 16, section 53-A, subsection 2, to a sexual assault counselor, as defined in Title 16, section 53-A, subsection 1, paragraph B, are privileged from disclosure as provided in Title 16, section 53-A, subsection 2.
- 2.** Communications by a victim, as defined in Title 16, section 53-B, subsection 1, paragraph B, to an advocate, as defined in Title 16, section 53-B, subsection 1, paragraph A, are privileged from disclosure as provided in Title 16, section 53-B, subsection 2, subject to exceptions in Title 16, section 53-B, subsection 3.
- 3.** Communications by a victim, as defined in Title 16, section 53-C, subsection 1, paragraph B, to a victim witness advocate or a victim witness coordinator, as defined in Title 16, section 53-C, subsection 1, paragraph C, are privileged from disclosure as provided in Title 16, section 53-C, subsection 2, subject to exceptions in Title 16, section 53-C, subsection 3.