

## **RHODE ISLAND VICTIMS' RIGHTS LAWS<sup>1</sup>**

### **Constitution**

#### **Article 1, § 23 - Rights of victims of crime**

A victim of crime shall, as a matter of right, be treated by agents of the state with dignity, respect and sensitivity during all phases of the criminal justice process. Such person shall be entitled to receive, from the perpetrator of the crime, financial compensation for any injury or loss caused by the perpetrator of the crime, and shall receive such other compensation as the state may provide. Before sentencing, a victim shall have the right to address the court regarding the impact which the perpetrator's conduct has had upon the victim.

### **Statutes**

#### **Title 12, Criminal Procedure; Chapter 28, Victim's Rights**

##### **§ 12-28-1 – Short title**

This chapter may be cited as the "Victim's Bill of Rights"

##### **§ 12-28-2 – Legislative purpose**

In recognition of the responsibility of the community to the victims of crime, the general assembly declares its intent to ensure:

- (1) That all crime victims are treated with dignity, respect, and sensitivity at all phases of the criminal justice process;
- (2) That whenever possible they receive financial compensation for their injury or loss from the perpetrator of the crime; and
- (3) That the full impact of the crime upon the victim is brought to the attention of the court.

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

### § 12-28-3 – General rights

- (a) Each victim of a criminal offense who makes a timely report of the crime and who cooperates with law enforcement authorities in the investigation and prosecution of the offense shall have the following rights:
- (1) To be notified no less frequently than every three (3) months by law enforcement authorities of the status of the investigation, until the time that the alleged perpetrator is apprehended or the investigation closed. In the case of a criminal offense that results in the victim's death, the law enforcement authorities shall provide notification to a designated family member of the victim;
  - (2) To be notified by law enforcement authorities of the arraignment of the alleged perpetrator before a court empowered to set bail; and to be informed of the release of the alleged perpetrator on bail or personal recognizance;
  - (3) To receive protection from harm and threats of harm arising out of the victim's cooperation with law enforcement and prosecution efforts, and to be provided with information as to the means of protection available;
  - (4) To be notified of all court proceedings at which the victim's presence is required in a reasonable amount of time prior to the proceeding, and to be notified of the cancellation of any scheduled court proceeding in sufficient time to prevent an unnecessary appearance at the courthouse;
  - (5) To be provided, whenever feasible, with a secure waiting area during court proceedings that does not require the victim to be in close proximity to the defendant and the family and friends of the defendant;
  - (6) To be informed of the procedure to be followed in order to apply for and receive any witness fee to which the victim is entitled;
  - (7) To be provided with appropriate employer intercession services to ensure that the employer of the victim will cooperate with the criminal justice process in order to minimize the employee's loss of pay and other benefits resulting from court appearances;
  - (8) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence;
  - (9) To be informed of financial assistance and other social services available to crime victims and the manner of applying for them. All eligible victims shall be informed of the existence of the criminal injuries compensation fund and the manner of applying for it;
  - (10) To be consulted by the administrator of probation and parole in the course of his or her preparation of the presentence report on felony cases and to have included in that report a statement regarding the impact which the defendant's criminal conduct has had upon the victim;
  - (11) To be afforded the right to address the court prior to sentencing in those cases where the defendant has been adjudicated guilty following a trial;

- (12) To be informed of the disposition of the case against the alleged offender;
- (13) To be notified in felony cases whenever the defendant or perpetrator is released from custody at the adult correctional institutions. When release is ordered prior to final conviction, the department of corrections shall notify the attorney general who in turn shall give notice to the victim. When release is granted by parole, the notice to the victim shall be given by the parole board. In all other cases when release is granted, the notice to the victim shall be given by the department of corrections. Victims who wish to be notified by the department of corrections shall register their names and the addresses they wish the notices to be sent with the department of corrections. Department of corrections notification shall also include furlough, transfer out of state, escape and death;
- (14) To be afforded the opportunity to make a statement, in writing and signed, regarding the impact which the defendant's criminal conduct had upon the victim. The statement shall be inserted into the case file maintained by the attorney general or prosecutor and shall be presented to the court for its review prior to the acceptance of any plea negotiation. The statement shall be submitted to the parole board for inclusion in its records regarding the defendant's conduct against the victim; and
- (15) To be informed by the prosecuting officer of the right to request that restitution be an element of the final disposition of a case.
- (b) The rights afforded to the victim of a crime by this section shall be afforded as well to the immediate families of homicide victims.
- (c) Unless otherwise specified, in felony cases it shall be the responsibility of the attorney general and the victims' services unit as described in § 12-28-9 to make certain that the victim receives the notification that is required by this section. In misdemeanor cases, it shall be the responsibility of the law enforcement agency making the arrest and of the victims' service unit as described in § 12-28-9 to make certain that the victim receives the notification that is required by this section.

#### **§ 12-28-4 – Right to address court prior to sentencing**

- (a) Prior to the imposition of sentence upon a defendant who has been adjudicated guilty of a crime in a trial, the victim of the criminal offense shall be afforded the opportunity to address the court regarding the impact which the defendant's criminal conduct has had upon the victim. The victim shall be permitted to speak prior to counsel for the state and the defendant making their sentencing recommendations to the court and prior to the defendant's exercise of his or her right to address the court.
- (b) For the purposes of this section, "victim" is one who has sustained personal injury or loss of property directly attributable to the felonious conduct of which the defendant has been convicted. In homicide cases, a member of the immediate family of the victim shall be afforded the right created by this section.
- (c) "Community impact statement" means a written statement providing information about the financial, emotional and physical effects of a crime on a community. "Community" means a society or body of people living in the same place or neighborhood sharing common interests arising from social, business, religious, governmental, scholastic or recreational associations.

- (d) In addition to the right of a victim as identified in subsection (b) of this section, if the crime has an impact on the community where the incident took place, any person, association or other group of persons may file a community impact statement with the court prior to the imposition of sentence on a defendant.

#### **§ 12-28-4.1 – Right to address court regarding plea negotiations**

- (a) Prior to acceptance by the court of a plea negotiation and imposition of sentence upon a defendant who has pleaded nolo contendere or guilty to a crime, the victim of the criminal offense shall, upon request, be afforded the opportunity to address the court regarding the impact which the defendant's criminal conduct has had upon the victim. The victim shall be permitted to speak prior to counsel for the state and the defendant making their sentencing recommendations to the court and prior to the defendant's exercise of his or her right to address the court.
- (b) For the purposes of this section, "victim" is one who has sustained personal injury or loss of property directly attributable to the criminal conduct of which the defendant has been charged. In homicide cases, a member of the immediate family of the victim shall be afforded the right created by this section.

#### **§ 12-28-4.2 – Representatives of incapacitated victim**

A member of the immediate family of a victim who is under the age of twelve (12) at the time of sentencing, or who is personally unable to exercise the rights established by this chapter due to physical incapacity resulting from the crime, shall, upon request, be afforded the opportunity to exercise those rights on the victim's behalf.

#### **§ 12-28-4.3 – Pretrial conferences – Misdemeanors in district court**

- (a) In all misdemeanor cases heard before the district court, the victim of the alleged criminal offense shall be afforded the opportunity to address the court during the pretrial conference, unless the judge determines, based on the facts of the particular case, that the presence of the victim would substantially interfere with the court's ability to administer justice. At the pretrial conference, the victim shall be afforded the opportunity to explain the impact which the defendant's criminal conduct has had upon the victim and to comment on the proposed disposition of the case.
- (b) For the purposes of this section, "victim" is one who has sustained personal injury or loss of property directly attributable to the criminal conduct with which the defendant has been charged.

#### **§ 12-28-5 – Civil judgment against defendant**

- (a) Upon his or her final conviction of a felony after a trial by jury, a civil judgment shall automatically be entered by the trial court against the defendant conclusively establishing his or her liability to the victim for any personal injury and/or loss of property that was sustained by the victim as a direct and proximate cause of the felonious conduct of which the defendant has been convicted. The court shall notify the victim at his or her last known address of the entry of the civil judgment in his or her favor and inform him or her that he or she must establish proof of

damages in an appropriate judicial proceeding in order to recover for his or her injury or loss. This section shall not apply to crimes set forth in title 31 arising from the operation of a motor vehicle.

- (b) For the purposes of this section, "victim" is one who has sustained personal injury or loss of property directly attributable to the felonious conduct of which the defendant has been convicted. In homicide cases, judgment shall enter for the benefit of those parties eligible to commence a wrongful death action pursuant to chapter 7 of title 10.

#### **§ 12-28-5.1 – Restitution**

When the court orders a defendant to make financial restitution to the victim of a crime of which the defendant has been convicted or to which the defendant has pleaded guilty or nolo contendere, a civil judgment shall automatically be entered by the trial court against the defendant on behalf of the victim for that amount. If payment is not made by the defendant within the period set by the court, the civil judgment for the amount of the restitution ordered, plus interest at the statutory amount from the date of the offense, plus costs of suit, including reasonable attorney's fees, shall be enforceable by any and all means presently available in law for the collection of delinquent judgments in civil cases generally.

#### **§ 12-28-6 – Right to address parole board**

- (a) Prior to acting upon the petition or any continuance of the petition of an inmate at the adult correctional institutions or the women's reformatory, the parole board shall notify the victim, if he or she is identified and his or her residence is known, of the criminal conduct for which the inmate has been incarcerated and of the pendency of the proceedings before the board. The victim shall upon request be afforded the opportunity to address the board regarding the impact of the crime upon the victim; provided, that the board may, in its discretion, permit the parent and/or legal guardian of a victim who is a minor at the time of the hearing to address the board on behalf of the minor.
- (b) Should the parole board be unable to locate the victim, the board shall seek the assistance of the local police department of the city or town where the victim was last known to have resided. The police department shall make every effort to locate the victim and shall, no later than thirty (30) days from the date its assistance was sought, send a written report to the parole board detailing its efforts to locate the victim.
- (c) Whenever the parole board shall seek the assistance of any police department in locating a victim, the board shall not act upon the inmate's petition until it has reviewed the written report from the assisting police department.
- (d) For the purposes of this section, "victim" is one who has sustained personal injury or loss of property directly attributable to the criminal conduct for which the inmate has been incarcerated. In homicide cases, a member of the immediate family of the victim shall be afforded the right created by this section.
- (e) The board shall also make a reasonable effort to notify the victim of the crime committed by the prisoner, or, in homicide cases, the victim's next of kin, and/or, in cases where the victim is a

minor, the victim's parent and/or legal guardian, not less than thirty (30) days prior to the meeting, of his or her right to provide a victim impact statement to the board.

As used in this chapter, "victim impact statement" means a statement providing information about the financial, emotional, and physical effects of a crime on the victim and the victim's family, and specific information about the victim, the circumstances surrounding the crime, and the manner in which it was perpetrated.

#### **§ 12-28-7 – Noncompliance not affecting validity of conviction, sentence, or parole**

Failure to afford the victim of a felony offense any of the rights established by this chapter shall not constitute grounds for vacating an otherwise lawful conviction, or for voiding an otherwise lawful sentence or parole determination.

#### **§ 12-28-8 – Child victims**

- (a) The general assembly finds that it is necessary to provide child victims and witnesses in family, district or superior court with special consideration and treatment beyond that usually afforded to adults. It is the intent of this section to provide these children with additional rights and protection during their involvement with the criminal justice system.
- (b) As used in this section, "child" is anyone who is less than fifteen (15) years of age.
- (c) Child victims of felony offenses, or offenses which would be considered felony offenses if committed by adults, shall have the following rights in addition to those set forth elsewhere in this chapter:
  - (1) To have explanations, in language understandable to a child of the victim's age, of all investigative and judicial proceedings in which the child will be involved;
  - (2) To be accompanied at all investigative and judicial proceedings by a relative, guardian, or other person who will contribute to the child's sense of well being, unless it is determined by the party conducting the proceeding that the presence of the particular person would substantially impede the investigation or prosecution of the case;
  - (3) To have all investigative and judicial proceedings in which the child's participation is required arranged so as to minimize the time when the child must be present;
  - (4) To be permitted to testify at all judicial proceedings in the manner which will be least traumatic to the child, consistent with the rights of the defendant;
  - (5) To be provided information about and referrals to appropriate social service programs to assist the child and the child's family in coping with the emotional impact of the crime and the subsequent proceedings in which the child is involved.

### **§ 12-28-9 – Victims’ services unit**

- (a) There is created within the state court system a victims' services unit which shall be responsible for assisting victims of crimes adjudicated in the superior, family, and district courts in the exercise of their rights as set forth in this chapter, and it shall be administered by the state court administrator through the administrative office of the state courts. The state court administrator may in his or her discretion contract for any services to be provided to victims of crimes pursuant to this chapter or pursuant to § 12- 25-29. Services provided to victims of crimes shall include, but not be limited to, the following:
- (1) Identification of and outreach to victims to inform them of their rights and of the services available to them;
  - (2) Counseling and support, including referral to specialized counseling resources;
  - (3) Assistance in seeking return of property, restitution, and in filing claims for compensation under the violent crimes indemnity fund or under the criminal royalties fund;
  - (4) Assistance in preparing for and making court appearances and in making victim impact statements;
  - (5) Notification about the status of their cases in coordination with representatives of the attorney general or the relevant law enforcement agency; and
  - (6) Any other assistance that may further the rights of victims.
- (b) In determining the allocation of resources available to implement this section, victims who have suffered personal injury and the immediate families of homicide victims shall be given priority over victims who have suffered only loss of property.
- (c) The state court administrator shall report annually on the services provided through this unit.

### **§ 12-28-10 – Victims of domestic abuse – Employment discrimination**

- (a) No employer, employment agency or licensing agency shall refuse to hire any applicant for employment, or discharge an employee or discriminate against him or her with respect to any matter related to employment, solely by reason of his or her seeking or obtaining a protective order pursuant to chapter 15 of title 15 or chapter 8.1 of title 8 or refusing to seek or obtain a protective order.
- (b) In any civil action alleging a violation of this chapter, the court may:
- (1) Award to a prevailing applicant or employee actual damages, and reasonable attorneys' fees and costs, and, where the challenged conduct is shown to be motivated by malice or ill will, punitive damages; provided, punitive damages shall not be available against the state or its political subdivisions; and
  - (2) Afford injunctive relief against any employer, employment agency or licensing agency who commits or proposes to commit a violation of this chapter.

### **§ 12-28-11 – Notification to immediate family members of homicide victims**

- (a) For purposes of this section, "immediate family members" means a spouse and any dependent children of the victim as well as a person who is related to the victim whether by blood, adoption or marriage, as any of the following: father, mother, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, stepgrandmother or stepgrandfather.
- (b) In addition to any other rights given to victims of crimes under this title, the immediate family members of the victim of any homicide shall be afforded reasonable written or oral notification from the office of the attorney general of the pendency of a bail hearing, pretrial, trial or disposition relating to a party accused of the homicide, and that notice shall be provided at least forty-eight (48) hours prior to the hearing, pretrial, trial or disposition. The notification provided by this section shall be required only as to those immediate family members who have filed a request with a court which has asserted jurisdiction over the accused/defendant. The attorney general shall promulgate forms to effect the request.

### **§ 12-28-12 – Severability**

If any provision of this chapter or its application to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of the chapter are declared to be severable.

### **§ 12-28-13 – Victim's economic security and safety**

- (a) Every employer in the state, with fifty (50) or more employees, shall allow an employee who is a victim of a crime to leave work to attend court proceedings related to the crime.
- (b) An employer may not dismiss an employee who is a victim of a crime because the employee exercises the right to leave work pursuant to subsection (a) of this section.
- (c) An employer is not required to compensate an employee who is a victim of a crime when the employee leaves work pursuant to subsection (a) of this section.
- (d) If an employee leaves work pursuant to subsection (a) of this section the employee may elect to use or an employer may require the employee to use the employee's accrued paid vacation, personal leave or sick leave.
- (e) An employee who is a victim of a crime shall not lose seniority or precedence while absent from employment pursuant to subsection (a) of this section.
- (f) Before an employee may leave work pursuant to subsection (a) of this section, the employee shall provide the employer with a copy of notification of court proceedings provided pursuant to § 12-28-3.
- (g) An employer may limit the leave provided under this section if the employee's leave creates an undue hardship to the employer's business.