

Victims' Rights

What Are Victims' Rights?

All states and the federal government have passed laws to establish a set of victims' rights. In general, these laws require that victims have certain information, protections, and a limited role in the criminal justice process. Victims' rights depend on the laws of the jurisdiction where the crime is investigated and prosecuted: state, federal or tribal government, or military installation.

Who May Exercise Victims' Rights?

A victim is usually defined as a person who has been directly harmed by a crime that was committed by another person. In some states, victims' rights apply only to victims of felonies (more serious crimes) while other states also grant legal rights to victims of misdemeanors (less serious crimes). Some states allow a family member of a homicide victim or the parent or guardian of a minor, incompetent person, or person with a disability to exercise these rights on behalf of the victims.

Overview of Victims' Rights

Below is a list of basic victims' rights provided by law in most jurisdictions. These rights vary, depending on federal, state, or tribal law.

1. Right to Be Treated with Dignity, Respect, and Sensitivity

Victims generally have the right to be treated with courtesy, fairness, and care by law enforcement and other officials throughout the entire criminal justice process. This right is included in the constitutions of most states that have victims' rights amendments and in the statutes of more than half the states.¹ This right encourages victims to participate fully and persevere through all stages of the criminal justice process, which may be difficult and frustrating for victims.

2. Right to Attend Criminal Proceedings

The right to attend criminal proceedings allows victims to see for themselves the inner workings of the criminal justice process. Victims usually have the right to attend the offender's trial, sentencing, and parole hearing. The right to attend the trial is not absolute, however. If a victim is a witness in the case, he or she may not be allowed to be present at the trial. Some states have passed laws to ensure that victims attending trials may bring a family member or victim advocate to court with them for support. Because victims may have to miss work when they attend criminal proceedings, some states also have laws to protect victims' employment when they exercise this right.

¹For more information on victims' rights and protections, visit www.victimlaw.info.

3. Right to Be Heard

In all states, victims have the right to make a victim impact statement to the court.² Victim impact statements allow crime victims, during the decision-making process on sentencing or parole, to describe to the court or parole board the impact of the crime on their lives. The victim impact statement may include a description of psychological, financial, physical, or emotional harm the victim experienced as a result of the crime. A judge may use information from these statements to help determine an offender's sentence; a parole board may use such information to help decide whether to grant a parole and what conditions to impose in releasing an offender. Many victims have reported that making victim impact statements improved their satisfaction with the criminal justice process and helped them recover from the crime.

In some states, the prosecutor is required to confer with the victim before making important decisions. In all states, however, the prosecutor (and not the victim) makes decisions about the case.

4. Right to Be Informed

The purpose of this right is to make sure that victims have the information they need to exercise their rights and to seek services and resources that are available to them. Victims generally have the right to receive information about victims' rights, victim compensation (see "Right to Apply for Compensation," below), available services and resources, how to contact criminal justice officials, and what to expect in the criminal justice system. Victims also usually have the right to receive notification of important events in their cases. Although state laws vary, most states require that victims receive notice of the following events:

- the arrest and arraignment of the offender
- bail proceedings
- pretrial proceedings
- dismissal of charges
- plea negotiations
- trial
- sentencing
- appeals
- probation or parole hearings
- release or escape of the offender

States have different ways of providing such information to victims. Usually, information about court proceedings is mailed to the victim. Some states have an automated victim notification system that automatically calls or e-mails the victim with updates on the status of the offender, while others require the victim to telephone the authorities to receive such updates.

5. Right to Protection

In many states, victims have the right to protection from threats, intimidation, or retaliation during criminal proceedings. Depending on the jurisdiction, victims may receive the following types of protection:

- police escorts
- witness protection programs
- relocation
- restraining orders

Some states also have laws to protect the employment of victims who are attending criminal proceedings (see "Right to Attend Criminal Proceedings," above).

² Survivors of homicide victims or the parent or guardian of a minor or victim with a disability may also present a victim impact statement.

6. Right to Apply for Compensation

All states provide crime victim compensation to reimburse victims of violent crime for some of the out-of-pocket expenses that resulted from the crime. The purpose of compensation is to recognize victims' financial losses and to help them recover some of these costs.

All states have a cap on the total compensation award for each crime, and not all crime-related expenses are covered. To be eligible for compensation, victims must submit an application, usually within a certain period of time, and show that the losses they are claiming occurred through no fault of their own. Some types of losses that are usually covered include:

- medical and counseling expenses
- lost wages
- funeral expenses

Compensation programs seldom cover property loss or pain and suffering. Also, victim compensation is a payer of last resort; compensation programs will not cover expenses that can be paid by some other program, such as health insurance or workman's compensation.

7. Right to Restitution from the Offender

In many states, victims of crime have the right to restitution, which means the offender must pay to repair some of the damage that resulted from the crime. The purpose of this right is to hold offenders directly responsible to victims for the financial harm they caused. The court orders the offender to pay a specific amount of restitution either in a lump sum or a series of payments. Some types of losses covered by restitution include:

- medical and counseling expenses
- lost wages
- property loss
- insurance deductibles

8. Right to Prompt Return of Personal Property

Crime investigators must often seize some of the victim's property as evidence for a criminal case. In most states, authorities must return such property to the victim when it is no longer needed. To speed up the return of property, some states allow law enforcement to use photographs of the item, rather than the item itself, as evidence. The prompt return of personal property reduces inconvenience to victims and helps restore their sense of security.

9. Right to a Speedy Trial

Many states set limits on court-ordered postponements or give priority to cases that involve particularly vulnerable victims. The purpose of these limits is to prevent unreasonable delays of criminal proceedings, which may frustrate and upset victims.

10. Right to Enforcement of Victims' Rights

To be meaningful, legal rights must be enforced. States are beginning to pass laws to enforce victims' rights, and several states have created offices to receive and investigate reports of violations of victims' rights. Other states have laws that permit victims to assert their rights in court.

If You Are a Victim

To find out about victims' rights in your area, you can call the National Crime Victim Helpline (see below). The Helpline's victim advocates can explain victims' rights and refer you to agencies in your area that understand your jurisdiction's laws and can help you get the help and information you need.

Another useful information source is *VictimLaw*, a comprehensive online database on state laws affecting victims. Visit www.victimlaw.info to find information on your jurisdiction's laws.

Resources

The best way to find out about your rights as a victim is to talk to a crime victim advocate. The National Crime Victim Helpline (**1-800-FYI-CALL**) can help you understand your rights and refer you to resources in your area. Helpline services are free and confidential.

National Crime Victim Helpline

1-800-FYI-CALL (1-800-394-2255)

1-800-211-7996 TTY

8:30 a.m.– 8:30 p.m. ET weekdays

Or visit: **Help for Crime Victims:** www.ncvc.org/victimassistance

VictimLaw: www.victimlaw.info

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