

THE RIGHTS OF CRIME VICTIMS IN FLORIDA



OFFICE OF THE ATTORNEY GENERAL
JAMES UTHMEIER

OFFICER'S NAME & ID NUMBER:

CASE NUMBER:





As a victim of a crime, you have guaranteed rights under the Florida Constitution. My office is committed to ensuring you know your rights as the state pursues justice on your behalf.
- Attorney General James Uthmeier

VICTIMS' RIGHTS BROCHURE

YOUR RIGHTS AS A VICTIM OR WITNESS:

We realize that for many persons being a victim or witness to a crime is their first experience with the criminal justice and juvenile justice systems. As a victim or witness, you have certain rights within the system. This brochure is being provided to assist with questions you may have regarding those rights.

Not all processes or rights described herein involve the Office of the Attorney General (Department of Legal Affairs), particularly if the Office of Statewide Prosecution or another office within the Department of Legal Affairs is not prosecuting or investigating the crime of which you were a victim. For information regarding the processes and rights listed herein, please contact the State Attorney's Office or the appropriate law enforcement agency handling your case.

Office of the Attorney General of the State of Florida
(850) 414-3300

WHO IS A VICTIM?

“A victim is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. **The term victim includes the victim’s lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim, except upon a showing that the interest of such individual would be in actual or potential conflict with the interests of the victim.** *The term “victim” does not include the accused.*” Article I, Section 16(e), Florida Constitution.



This brochure provides an overview of the criminal justice process and your rights within this process. The person providing you this brochure may only handle a portion of the process. The last page of this brochure provides contact information for agencies that can assist you.

Under Article 1, Section 16(b), of the Florida Constitution, victims of crime have the following rights at the time of victimization.

You have the right:

- to receive due process from the courts.
- to be treated with fairness and respect for your dignity
- to be free from intimidation, harassment, or abuse.
- within the judicial process, to be reasonably protected from the accused and anyone acting on behalf of the accused. However, this is not intended to create a special relationship between the crime victim and any law enforcement agency or office absent a special relationship or duty as defined by Florida law.
- to have the safety and welfare of you and your family considered when the court considers setting bail or pretrial release conditions that could affect you or your family.
- to prevent disclosure of information or records that could be used to locate or harass you or your family or that could disclose confidential or privileged information about you.
- to the prompt return of your property when no longer needed as evidence.
- to full and timely restitution in every case and from each offender convicted of the crime for all losses suffered, both directly and indirectly, as the result of the criminal conduct.
- to the occurrence of required proceedings free from unreasonable delay and to a prompt and final conclusion of the case and any related post-judgment proceedings. (In appropriate cases, the prosecutor may file a good faith demand for a speedy trial, allowing the case to be tried within sixty days, assuming the defendant's due process rights can be met by such, and advancement in the trial date. In non-capital cases, all state-level appeals and post-conviction proceedings must be complete within two years for non-capital cases and five years for capital cases, unless the court enters an order with specific findings concerning why the court was unable to do so and the circumstances causing the delay).
- to be informed of these rights, and to be informed that you can seek the advice of an attorney with respect to these rights.

Also, where **you make a specific request**, you have these additional rights:

- to reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing, or adjudication, even if you are a witness at the proceeding. (For this purpose, consider providing the prosecutor an address, e-mail address, or telephone number at which you can quickly be reached and update it during the pendency of the case).
- to reasonable, accurate, and timely notice of any release or escape of the defendant or delinquent and of any proceeding during which a right of yours as the victim is implicated.
- to be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of yours is implicated.
- to confer with the prosecuting attorney concerning any plea agreements, participation in pretrial diversion programs, release, restitution, sentencing, or any other disposition of the case.
- to provide information to anyone conducting or compiling a presentence investigation regarding the crime's impact on you or your family, and to have such information considered by the court.
- to receive a copy of any presentence report, and any other report or record relevant to the exercise of a victim's rights, except for such portions made confidential or exempt by law.
- to be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of a convicted offender, his or her release date, or the date of the offender's escape from custody.
- to participate in and be informed of all post-conviction processes and procedures, provide information to the release authority to be considered before any release decision is made, and be notified of release authority shall extend the right to be heard to any person harmed by the offender.
- to be informed of any clemency or expungement procedures in which the offender engages, to provide information to the release authority and to have that information considered by the authority before a decision about release is made, and to be notified of that authority's decision before the offender's release.

ALL RIGHTS AFFORDED BY THE CONSTITUTION ARE ENFORCEABLE

Article 1, Section 16(c), Florida Constitution

The victim, the retained attorney of the victim, a lawful representative of the victim, or the office of the state attorney upon request of the victim, may assert and seek enforcement of these rights and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding the disposition of your right shall be clearly stated on the record.



The following provides a broad overview of the stages of the criminal or juvenile justice process. If you have specific questions about the information below, contact the assigned prosecuting attorney or law enforcement personnel assigned to your case.

STAGES IN THE ADULT CRIMINAL JUSTICE PROCESS

PRETRIAL

After committing a crime:

- An offender may be arrested by a law enforcement officer.
- A court can issue an arrest warrant.
- The Office of Statewide Prosecution may file an Information; or
- A grand jury may recommend charges by returning an Indictment or Presentment.

FIRST APPEARANCE (FOLLOWING THE ARREST) - If the defendant cannot post bond within hours of the arrest or has been arrested on a no bond offense, or committed a crime which requires a first appearance, the court holds a “first appearance” hearing. The Judge decides whether the defendant can be released and, if so, what conditions are necessary to protect you and the witnesses and the public.

INTAKE - If probable cause is found, the Office of Statewide Prosecution may choose to file charges and summons the suspect into court. You may be required to meet with personnel from the Office of Statewide Prosecution. Law enforcement, prosecuting attorneys or any other government official cannot ask or require a victim of a sexual offense to submit to a polygraph examination or truth telling device as a condition of the investigation.

FILING OF FORMAL CHARGES - The Office of Statewide Prosecution may file formal charges after reviewing law enforcement arrest reports, and within 21 days in certain circumstances. The Office of Statewide Prosecution must inform any victims regarding its decision to prosecute or not prosecute the alleged perpetrator(s).

ARRAIGNMENT - The accused is formally charged and enters a plea of guilty, not guilty, or no contest. The Office of Statewide Prosecution will notify you of the arraignment date. Each victim has the right to be present at the arraignment. In some cases, there will not be a formal arraignment hearing in court.

RELEASE HEARING (SETTING BOND) - If the defendant was unable to post a bond after the initial arrest, or if bond was not set, the defendant is entitled to a bond hearing. If you have requested notification, the Office of Statewide Prosecution can notify you of the scheduled hearing and you can have an opportunity to speak regarding the defendant’s release and conditions or have the Statewide Prosecutor make known your wishes.

PRE-TRIAL CONFERENCE - There may be numerous pre-trial conferences (including case status conferences) that allow the court to ensure the case is progressing in a timely manner. You, as a victim, will receive notice of the dates of all such conferences and hearings. You are not required to attend these hearings, unless subpoenaed, but you have a right to be present and a victim advocate or your attorney can accompany you or attend these proceedings on your behalf, if you choose.

DISCOVERY (PREPARATION FOR TRIAL)

Subpoenas - You may receive a subpoena for trial, a deposition, or other hearings. A subpoena summons a person to appear at the time, date, and location specified.

Depositions - The defendant's attorney may issue a subpoena for you to appear for a deposition. You have the right to request the attendance of a victim advocate from the government or non-profit sector to attend the deposition with you. You have the right, as a victim who is not incarcerated, to not be required to attend discovery depositions in any correctional facility.

PLEA NEGOTIATIONS - Many cases are settled through a plea negotiation where the defendant pleads guilty or no contest without a trial. Upon the victim's request, the Office of Statewide Prosecution must confer with the victim before finalizing the plea agreement with the defendant. Absent a request, the Statewide Prosecutor may inform the victim of a negotiated settlement.

PRE-TRIAL INTERVENTION/DIVERSION PROGRAM - According to their discretion and office policy, the Office of Statewide Prosecution may agree to utilize pretrial intervention or diversion programs.

Pre-Trial Intervention Program - Defendants who are charged with any misdemeanor or any third-degree felony and who were previously convicted of not more than one nonviolent misdemeanor, are eligible for release to the pretrial intervention program on approval of the administrator of the program and the consent of the victim, the Statewide Prosecutor, and the judge. Successful completion of the program results in the dismissal of the charges.

Diversion Program - Diversion is similar to probation where the defendant accepts responsibility for the offense and is released under supervision for six months to a year. During the program, the probation office or diversionary program supervises the defendant. You have a right to provide the Statewide Prosecutor with your opinion on the defendant's participation in the pretrial diversion program.

TRIAL

Generally, the prosecutor presents evidence to either the judge or a jury about the case. The defendant may be found guilty or not guilty. The process ends if the defendant is found not guilty. You, as a victim, may be called to testify.

The Office of Statewide Prosecution will assist you during this process. Subject to some exceptions, you are generally permitted to be present in any hearing, trial or proceeding relating to the offense. Your rights involving the trial stage are listed in this brochure.

SENTENCING

PRESENTENCE INVESTIGATION (PSI) - You have the right upon request to provide information regarding the impact of the offender's conduct on you and your family to the individual responsible for conducting and/or compiling the presentence investigation. You have a right to review the non-confidential portions of the presentence investigation prior to the sentencing hearing.

SENTENCING HEARING - If the defendant is found or pleads guilty, the judge reviews sentencing guidelines, plea agreements, and other factors and determines what type of sentence the defendant should receive. You have a right to provide an oral and/or written victim impact statement (VIS) to the Office of Statewide Prosecution at any time before the court imposes the sentence.

STAGES IN THE JUVENILE JUSTICE PROCESS

The Office of Statewide Prosecution typically does not prosecute offenders in juvenile court. That duty is generally afforded to the State Attorney's Office of the applicable judicial circuit.

INTAKE - The process of determining where a child under the age of 18 will be placed until the case is resolved. There are three forms of detention status: home, non-secure or secure.

DIVERSION PROGRAMS - This is an alternative to trial where the juvenile is placed in a community-based program such as juvenile arbitration, a juvenile alternative services program (JASP), or a treatment plan. If a juvenile successfully completes the diversion program, then the charges are generally dismissed.

FORMAL CHARGES - The filing of a petition in court by the State Attorney's Office. The charge may be filed in either juvenile court or adult court, depending upon the crime and age of the offender.

ARRAIGNMENT - The accused is formally charged and enters a plea of guilty, not guilty, or no contest.

DISCOVERY - The discovery process for cases in the Juvenile Justice System is like that of the adult system, described above. This means juvenile witnesses can be subject to deposition.

ADJUDICATORY HEARING - The trial of the juvenile, conducted in front of a judge. The judge will decide whether the juvenile committed the charged offense(s).

DISPOSITIONAL HEARING (SENTENCING) - When a juvenile is found to have committed a delinquent act, the court will hold a dispositional hearing to determine which sanctions to impose on the juvenile. The sanctions could range from community-based sanctions like probation and community services up to residential commitment.

JUVENILES TRIED AS ADULTS - Juveniles who commit very serious crimes may be tried as adults. Juveniles who are prosecuted as adults may be sentenced to adult or juvenile sanctions.

NOTE: If the victim and the offender attend the same school, the victim's parents have the right to attend the sentencing or disposition of the offender and request that the offender be required to attend a different school. (*sec. 960.001(1)(s), Florida Statutes*)

This is not an exhaustive overview of the criminal justice process. Each court and case could have unique components. You may contact your Statewide Prosecutor or law enforcement agency for more information regarding the stages of the adult criminal justice process. You may contact the State Attorney's Office or law enforcement agency for information regarding the stages of the juvenile justice processes.

ADDITIONAL VICTIMS' RIGHTS AND OBLIGATIONS UNDER FLORIDA STATUTES

Not all processes or rights described herein involve the Office of the Attorney General (Department of Legal Affairs), particularly if the Office of Statewide Prosecution or another office within the Department of Legal Affairs is not prosecuting or investigating the crime of which you were a victim. For information regarding the processes and rights listed herein, please contact the State Attorney's Office or the appropriate law enforcement agency handling your case.

- The right to employ private counsel.
- The right to receive information on available crisis intervention services and local community services to include counseling, shelter, legal assistance, or other types of help, depending on the particular circumstances. Telephone numbers of these services are provided at the end of this brochure. In some cases, you (or relatives where the victim is deceased) may be eligible for financial compensation from the State of Florida. Information regarding

eligibility may be obtained from the State Attorney's Office, a local Witness Coordination Office (where available), a law enforcement agency, or from the Bureau of Victim Compensation, Office of the Attorney General - 1-800-226-6667, website: <https://www.myfloridalegal.com/victim-compensation>. (*sec. 960.001(1)(a)1, Florida Statutes*)

- The right to receive information regarding the stages of the criminal justice or juvenile justice processes and the way information about such stages may be obtained. (*sec. 960.001(1)(a)4, Florida Statutes*)
- The right, upon request and if the victim is incarcerated, to be informed and to submit written statements at all stages of the criminal and juvenile proceedings. (*sec. 960.001(1)(a)6, Florida Statutes*)
- The right to receive information on the steps available to law enforcement and the State Attorney's Office to protect you from intimidation and/or harassment. It is a third-degree felony to knowingly use intimidation or physical force; threaten another person or attempt to do so; engage in misleading conduct toward another person; or offer pecuniary benefit or gain to another person in order to induce that person to take certain actions, such as withholding testimony or testifying untruthfully. If you are being threatened or intimidated, please contact the appropriate agency or any law enforcement officer. (*sec. 960.001(1)(c), Florida Statutes*) (*sec. 914.22, Florida Statutes*)
- The right of the victim of domestic violence to be informed of the address confidentiality program administered through the Attorney General's Office. You may contact the Attorney General's Office at 1-800-226-6667. The State Attorney's Office may assist with this paperwork if necessary. (*sec. 960.001(1)(c), Florida Statutes*)
- The right of each victim or witness who has been scheduled to attend a criminal or juvenile justice proceeding to be notified as soon as possible by the agency or person scheduling his/her appearance of any change in scheduling which will affect the victim's or witness's appearance. (*sec. 960.001(1)(d), Florida Statutes*)
- The right to receive advance notification of judicial and post judicial proceedings relating to the case, including all proceedings or hearings relating to:
 - o The arrest of the accused.
 - o The release of the accused pending judicial proceedings, and any modification of release condition to include release to community control or work release.

- o Proceedings in the prosecution or petition for delinquency of the accused, including the filing of the accusatory instrument; the arraignment; disposition of the accusatory instrument; trial or adjudicatory hearing, sentencing or disposition hearing; appellate review; subsequent modification of sentence; collateral attack of a judgment; and when a term of imprisonment, detention, or involuntary commitment is imposed, the release of the defendant or juvenile offender from such imprisonment, detention, or residential commitment by expiration of sentence or parole and any meeting held to consider such release. (*sec. 960.001(1)(e), Florida Statutes*)
- The right, if you are a victim of a felony involving physical or emotional injury or trauma or a family member or guardian of a victim in cases in which the victim is a minor child or in a case involving a homicide, to be notified of sec. 921.143, Florida Statutes, and to be consulted by the State Attorney in order to obtain your views about the disposition of any criminal or juvenile case brought about as a result of such crime, including your views about:
 - o The release of the accused pending judicial proceedings.
 - o Plea Agreements.
 - o Participation in pretrial diversion programs.
 - o Sentencing of the accused. (*sec. 960.001(1)(g), Florida Statutes*)
- The right to request that the State Attorney or law enforcement agency help you explain to employers and creditors that you may face additional burdens by taking time off from work to assist law enforcement and you may undergo serious financial strain either because of the crime or by cooperating with authorities. (*sec. 960.001(1)(i), Florida Statutes*)
- The right to be informed by law enforcement agencies and the State Attorney of your right to request and receive restitution and of your rights of enforcement in the event an offender does not pay. The State Attorney will seek your assistance in the documentation of your losses for the purpose of requesting and receiving restitution. If an order of restitution is converted to a civil lien or civil judgment against the defendant, the Clerk of Court's office will make available at their office, as well as on their website, information provided by the Secretary of State, the court, or The Florida Bar on enforcing the civil lien or judgment. The State Attorney will inform you if and when restitution

is ordered. (sec. 960.001(1)(j), *Florida Statutes*)

- The right to receive reasonable consideration and assistance from employees of the Office of Statewide Prosecution, Sheriff's Office, or Police Department. When requested, you will be assisted in locating accessible transportation and parking and shall be directed to separate pretrial waiting areas when such facilities are available. When requested, you shall receive assistance in attempting to locate translators when practicable. (sec. 960.001(1)(n), *Florida Statutes*)
- The right of the victim of a sexual offense to have the courtroom cleared, with certain exceptions during his or her testimony, regardless of the victim's age or mental capacity. (sec. 960.001(1)(q), *Florida Statutes*)
- The right to request, in certain circumstances, that the offender be required to attend a different school than the victim or siblings of the victim. If the victim of an offense committed by a juvenile is a minor, the victim or any sibling of the victim attends or is eligible to attend the same school as that of the offender, the Department of Juvenile Justice or the Department of Corrections shall notify the victim's parent or legal guardian of the right to attend the sentencing or disposition of the offender and request that the offender be required to attend a different school. (sec. 960.001(1)(s), *Florida Statutes*)
- The right of the victim who is not incarcerated to not be required to attend discovery depositions in any correctional facility. (sec. 960.001(6), *Florida Statutes*)
- The statutory obligation of the victim, parent/guardian of a minor victim, or next of kin of a homicide victim, that any information gained pursuant to Chapter 960, Florida Statutes, regarding any case handled in juvenile court, must not be revealed to any outside party, except as reasonably necessary in pursuit of legal remedies. (sec. 960.001(8), *Florida Statutes*)
- The right to know in certain cases and at the earliest possible opportunity, if the person charged with an offense has tested positive for hepatitis or human immunodeficiency virus (HIV) infection. In such cases, upon request of the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, the court shall order such person to undergo hepatitis and HIV testing within 48 hours after the charging document is filed or 48 hours from the date of request. (Section 960.003, *Florida Statutes*)

- The right of a victim of a sexual offense to request the presence of a victim advocate during the forensic medical examination. An advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination. (*sec. 960.001(1)(u), Florida Statutes*)
- The right, if a victim has been diagnosed with autism or an autism spectrum disorder, for the victim or the victim's parent or guardian, to request that a public safety official make a good faith effort to ensure that a related professional, such as a mental health counselor, special education instructor or clinical social worker be present for all interviews of the victim. All expenses related to the attendance of the professional at the interviews are the responsibility of the requesting victim, parent or guardian; however, the defendant shall reimburse the victim for all expenses related to the attendance of the professional at the interviews, in addition to restitution and penalties provided by law. (*sec. 943.0439, Florida Statutes*)
- The right, if contacted to obtain information relating to a criminal proceeding by an attorney, investigator, or any other agent acting on behalf of the criminal defendant, to be informed of (1) the person's name and employer and (2) the fact that such person is acting on behalf of the defendant. (*sec. 960.001(1)(w), Florida Statutes*)



This brochure is provided to assist you with any questions you may have regarding your role and rights as a victim, what may be expected of you and what you can expect during this process. This brochure is for informational purposes only and is not intended as legal advice. If you need legal advice, consult an attorney. If you have questions, please contact the Victim Services department at the Office of Statewide Prosecution and/or the appropriate law enforcement agency (LEA) handling your case. For more information regarding your rights and victim services that may be available to you, visit the Florida Attorney General Office's Victim Services page at www.myfloridalegal.com.



REFERRAL NUMBERS

Report Elderly
or Child Abuse
1-800-962-2873

Crimes Compensation
(Florida Attorney General)
1-800-226-6667

www.myfloridalegal.com/pages.nsf

Florida Bar
Lawyer Referral Service
1-800-342-8060

Victim Programs
and Services Directory
1-800-226-6667
www.myfloridalegal.com/directory

VINE

1-877-846-3435

www.vinelink.com

VINE provides custody status and
criminal case information.
Registration is required for this service.

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