



Select Victims' Rights – Florida

USING THIS RESOURCE

This resource is intended to provide a base of knowledge regarding crime victims' rights in Florida 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 Florida, see the companion resource: *Law Enforcement-Based Victim Services in Florida: 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.

This resource was developed by the National Crime Victim Law Institute (NCVLI) under 2020-V3-GX-K001, awarded to the International Association of Chiefs of Police (IACP) by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this draft publication are those of the contributors and do not necessarily represent the official position of the U.S. Department of Justice.

TABLE OF CONTENTS AND INDEX OF RIGHTS¹

Using This Resource	1
Select Definitions	4
Select Crime Victims' Rights	10
Right to Access Reports and Records	15–16, 32–33, 42, 74
Right to Accommodations	38–39, 50–52, 52–53, 53–55, 75, 75–76, 79
Right to Assert and Enforce of Rights	21–22, 22–23, 41, 50–52, 67–73, 75–76
Right to Confer	14–15, 32–33
Right to Creditor-Related Rights	34–35
Right to Due Process, Fairness, and Dignity	10
Right to Employment-Related Rights	34–35
Right to Be Heard	14, 15, 17, 17–18, 36, 74, 80–81
Right to Information About Victims' Rights	17, 21–22, 25–26, 28–29, 36, 43–44, 47, 58–60, 74, 75–76

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 Notice	13, 16–17, 17–18, 18, 26–28, 29, 29–30, 31–32, 32–34, 36–37, 40, 58–60, 81–82
Right to Be Present	13, 14, 29–30, 80–81
Right to Privacy	12, 24, 28–29, 32–33, 38–39, 39, 47–48, 48–49, 49–50, 50–52, 52–53, 53–55, 55–57, 57–58, 60–61, 61–62, 62–63, 63–64, 65, 65–66, 66, 73–74, 77–78, 79
Right to Prompt Return of Property	19, 34
Right to Prompt and Final Conclusion.....	20–21, 42–43, 78–79
Right to Protection	11, 12, 13, 16–17, 17, 17–18, 26–28, 28–29, 29–30, 31–32, 32–33, 36–37, 39, 41, 45, 50–52, 52–53, 53–55, 55–57, 58–60, 60–61, 61–62, 62–63, 63–64, 65, 65–66, 66, 75, 77–78, 81–82
Right to Restitution	35–36, 45–47, 67–73
Right to Support Person Presence	38–39, 39–40, 79

SELECT DEFINITIONS	Florida Constitutional Provisions and Statutes
<p>Constitutional Definition of “Victim”.</p> <p>As used in this section, 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. The terms “crime” and “criminal” include delinquent acts and conduct.</p> <p> This definition applies to Florida’s constitutional victims’ rights provisions, Fla. Const. art. I, § 16(b)–(d). These constitutional provisions are included below in the section “Select Crime Victims’ Rights.”</p>	Fla. Const. art. I, § 16(e).
<p>Sexual Assault Counselor-Victim Privilege Definitions.</p> <p>For purposes of this section:</p> <p>(a) A “rape crisis center” is any public or private agency that offers assistance to victims of sexual assault or sexual battery and their families.</p>	Fla. Stat. Ann. § 90.5035(1).

(b) A “sexual assault counselor” is any employee of a rape crisis center whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault or sexual battery.

(c) A “trained volunteer” is a person who volunteers at a rape crisis center, has completed 30 hours of training in assisting victims of sexual violence and related topics provided by the rape crisis center, is supervised by members of the staff of the rape crisis center, and is included on a list of volunteers that is maintained by the rape crisis center.

(d) A “victim” is a person who consults a sexual assault counselor or a trained volunteer for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by a sexual assault or sexual battery, an alleged sexual assault or sexual battery, or an attempted sexual assault or sexual battery.



These definitions apply to the sexual assault counselor-victim privilege, Fla. Stat. Ann. § 90.5035(2)-(3). This statutory provision is included below in the section “Select Crime Victims’ Rights.”

Domestic Violence Counselor-Victim Privilege Definitions.

Fla. Stat. Ann. § 90.5036(1).

For purposes of this section:

(a) A “domestic violence center” is any public or private agency that offers assistance to victims of domestic violence, as defined in s. 741.28, and their families.

(b) A “domestic violence advocate” means any employee or volunteer who has 30 hours of training in assisting victims of domestic violence and is an employee of or volunteer for a program for victims of domestic violence whose primary purpose is the rendering of advice, counseling, or assistance to victims of domestic violence.

(c) A "victim" is a person who consults a domestic violence advocate for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by an act of domestic violence, an alleged act of domestic violence, or an attempted act of domestic violence.

(d) A communication between a domestic violence advocate and a victim is "confidential" if it relates to the incident of domestic violence for which the victim is seeking assistance and if it is not intended to be disclosed to third persons other than:

1. Those persons present to further the interest of the victim in the consultation, assessment, or interview.
2. Those persons to whom disclosure is reasonably necessary to accomplish the purpose for which the domestic violence advocate is consulted.



These definitions apply to the domestic violence counselor-victim privilege, Fla. Stat. Ann. § 90.5036(2)–(3). This statutory provision is included below in the section "Select Crime Victims' Rights."

Human Trafficking Victim Advocate-Victim Privilege Definitions.

Fla. Stat. Ann. § 90.5037(1).

For purposes of this section, the term:

(a) "Anti-human trafficking organization" means a registered public or private agency that offers assistance to victims of the offense of human trafficking, as defined in s. 787.06(2).

(b) "Human trafficking victim" means a person who consults a human trafficking victim advocate or a trained volunteer for the purpose of securing advice, counseling, or services concerning a need arising from an experience of human trafficking exploitation.

(c) "Human trafficking victim advocate" means an employee of an anti-human trafficking organization whose primary purpose is to provide advice, counseling, or services to human trafficking victims and who complies with the training requirements under subsection (5).

<p>(d) "Trained volunteer" means a person who volunteers with an anti-human trafficking organization and who complies with the training requirements under subsection (5).</p> <p> These definitions apply to the human trafficking victim advocate-victim privilege, Fla. Stat. Ann. § 90.5037. This statutory provision is included below in the section "Select Crime Victims' Rights."</p>	
<p>Domestic Violence Victims' Rights Definitions.</p> <p>As used in ss. 741.28-741.31:</p> <p>(1) "Department" means the Florida Department of Law Enforcement.</p> <p>(2) "Domestic violence" means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.</p> <p>(3) "Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.</p> <p>(4) "Law enforcement officer" means any person who is elected, appointed, or employed by any municipality or the state or any political subdivision thereof who meets the minimum qualifications established in s. 943.13 and is certified as a law enforcement officer under s. 943.1395.</p>	Fla. Stat. Ann. § 741.28.

<p> These definitions apply to certain statutory provisions governing domestic violence crimes, Fla. Stat. Ann. §§ 741.28 through 741.31. Some of these statutory provisions are included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Address Confidentiality Program Definitions.</p> <p>Unless the context clearly requires otherwise, as used in ss. 741.401-741.409, the term:</p> <p>(1) “Address” means a residential street address, school address, or work address of an individual, as specified on the individual’s application to be a program participant under ss. 741.401-741.409.</p> <p>(2) “Program participant” means a person certified as a program participant under s. 741.403.</p> <p>(3) “Domestic violence” means an act as defined in s. 741.28 and includes a 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.</p> <p> These definitions apply to Florida’s Address Confidentiality Program, Fla. Stat. Ann. §§ 741.401 through 740.409. Some of these statutory provisions are included below in the section “Select Crime Victims’ Rights.”</p>	Fla. Stat. Ann. § 741.402.
<p>Victims’ Right to Restitution Definition of “Victim”.</p> <p>The term “victim” as used in this section and in any provision of law relating to restitution means:</p> <p>1. Each person who suffers property damage or loss, monetary expense, or physical injury or death as a direct or indirect result of the defendant’s offense or criminal episode, and also</p>	Fla. Stat. Ann. § 775.089(1)(c).

includes the victim's estate if the victim is deceased, and the victim's next of kin if the victim is deceased as a result of the offense. The term includes governmental entities and political subdivisions, as those terms are defined in s. 11.45, when such entities are a direct victim of the defendant's offense or criminal episode and not merely providing public services in response to the offense or criminal episode.

2. The term also includes the victim's trade association if the offense is a violation of s. 540.11(3)(a) 3. involving the sale, or possession for purposes of sale, of physical articles and the victim has granted the trade association written authorization to represent the victim's interests in criminal legal proceedings and to collect restitution on the victim's behalf. The restitution obligation in this subparagraph relating to violations of s. 540.11(3)(a) 3. applies only to physical articles and does not apply to electronic articles or digital files that are distributed or made available online. As used in this subparagraph, the term "trade association" means an organization founded and funded by businesses that operate in a specific industry to protect their collective interests.



This definition applies to all provisions relating to restitution, including: Fla. Const. art. I, § 16(b)(9) (affording victims the right to full and timely restitution); Fla. Stat. Ann. § 960.001(j) (requiring law enforcement agencies and state attorneys to inform victims of their right to request and receive restitution); *id.* at § 775.089 (governing restitution rights and procedures in the adult justice system); *id.* at § 960.295 (governing civil restitution liens). These provisions appear below in the section "Select Crime Victims' Rights Laws."

SELECT CRIME VICTIMS' RIGHTS	Florida Constitutional Provisions and Statutes
<p>Victims' Right to Have Their Rights Protected in a Manner No Less Vigorous Than Protections Afforded to Criminal Defendants.</p> <p>To preserve and protect the right of crime victims to achieve justice, ensure a meaningful role throughout the criminal and juvenile justice systems for crime victims, and ensure that crime victims' rights and interests are respected and protected by law in a manner no less vigorous than protections afforded to criminal defendants and juvenile delinquents, every victim is entitled to the following rights, beginning at the time of his or her victimization: [listing rights].</p> <p> Fla. Const. art. I, § 16(e) defines the term "victim" for the purposes of this provision. This definition is included above in the section "Select Definitions."</p>	Fla. Const. art. I, § 16(b).
<p>Victims' Right to Due Process and Fair Treatment.</p> <p>[B]eginning at the time of his or her victimization[, a victim has] . . . [t]he right to due process and to be treated with fairness and respect for the victim's dignity.</p> <p> Fla. Const. art. I, § 16(e) defines the term "victim" for the purposes of this provision. This definition is included above in the section "Select Definitions."</p>	Fla. Const. art. I, § 16(b)(1).

<p>Victims' Right to Be Free from Intimidation, Harassment and Abuse.</p> <p>[B]eginning at the time of his or her victimization[, a victim has] . . . [t]he right to be free from intimidation, harassment, and abuse.</p> <p> Fla. Const. art. I, § 16(e) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p>	Fla. Const. art. I, § 16(b)(2).
<p>Victims' Right to Reasonable Protection from the Accused and Anyone Acting on Behalf of the Accused.</p> <p>[B]eginning at the time of his or her victimization[, a victim has] . . . [t]he right, within the judicial process, to be reasonably protected from the accused and any person acting on behalf of the accused. However, nothing contained herein is 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.</p> <p> Fla. Const. art. I, § 16(e) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> Fla. Stat. Ann. § 960.001(1)(c) affords victims the right to information regarding steps that are available to law enforcement officers and state attorneys to protect victims from intimidation. This provision is included below.</p>	Fla. Const. art. I, § 16(b)(3).

<p>Victims' Right to Have Their Safety and Welfare Considered Regarding Bail and Pretrial Release.</p> <p>[B]eginning at the time of his or her victimization[, a victim has] . . . [t]he right to have the safety and welfare of the victim and the victim's family considered when setting bail, including setting pretrial release conditions that protect the safety and welfare of the victim and the victim's family.</p> <p> Fla. Const. art. I, § 16(e) defines the term "victim" for the purposes of this provision. This definition is included above in the section "Select Definitions."</p>	Fla. Const. art. I, § 16(b)(4).
<p>Victims' Right to the Nondisclosure of Information and Records that Could Be Used to Locate or Harass Them or that Could Disclose Confidential or Privileged Information.</p> <p>[B]eginning at the time of his or her victimization[, a victim has] . . . [t]he right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family, or which could disclose confidential or privileged information of the victim.</p> <p> Fla. Const. art. I, § 16(e) defines the term "victim" for the purposes of this provision. This definition is included above in the section "Select Definitions."</p> <p> Victims have numerous confidentiality and privilege protections available to them. <i>See, e.g.,</i> Fla. Stat. Ann. § 90.503 (psychotherapist-patient privilege); <i>id. at</i> § 90.5035 (sexual assault counselor-victim privilege); <i>id. at</i> § 90.5036 (domestic violence advocate-victim privilege); <i>id. at</i> § 90.5037 (human trafficking victim advocate-victim privilege); <i>id. at</i> § 490.0147 (psychologist-patient privilege). Some of these protections are included below.</p>	Fla. Const. art. I, § 16(b)(5).

<p>Victims' Rights to Be Notified of and Present at All Public Proceedings and to Notice of Defendants' Release or Escape.</p> <p>[B]eginning at the time of his or her victimization[,] . . . [a] victim shall have the following specific rights upon request: . . . The right 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 the victim will be a witness at the proceeding, notwithstanding any rule to the contrary. A victim shall also be provided reasonable, accurate, and timely notice of any release or escape of the defendant or delinquent, and any proceeding during which a right of the victim is implicated.</p> <p> Fla. Const. art. I, § 16(e) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> Fla. Stat. Ann. § 960.001(1)(e) affords victims the rights to notification and presence regarding such proceedings. This 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, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights. A request to exercise certain rights may depend upon the completion of the notification form detailed in Fla. Stat. Ann. § 960.001(1)(b). Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	Fla. Const. art. I, § 16(b)(6)(a).
--	------------------------------------

Victims' Right to Be Heard at Proceedings Regarding Release, Plea, Sentencing, Adjudication, Parole and Any Proceeding Where the Victims' Rights are Implicated.

[B]eginning at the time of his or her victimization[,] . . . [a] victim shall have the following specific rights upon request: . . . The right 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 the victim is implicated.



Fla. Const. art. I, § 16(e) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”



A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights.

Victims' Right to Confer with the Prosecution.

[B]eginning at the time of his or her victimization[,] . . . [a] victim shall have the following specific rights upon request: . . . The right 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.



Fla. Const. art. I, § 16(e) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”



Fla. Stat. Ann. § 960.001(1)(g)(1) provides certain victims with the right to be consulted about the release of the accused pending judicial proceedings; plea agreements; participation in pretrial diversion programs; and sentencing. This provision is included below.

Fla. Const. art. I, § 16(b)(6)(b).

Fla. Const. art. I, § 16(b)(6)(c).

<p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights.</p>	
<p>Victims’ Right to Provide Impact Information for a Presentence Investigation and/or Report and to Have Such Information Considered in Sentencing Recommendations.</p> <p>[B]eginning at the time of his or her victimization[,] . . . [a] victim shall have the following specific rights upon request: . . . The right to provide information regarding the impact of the offender’s conduct on the victim and the victim’s family to the individual responsible for conducting any presentence investigation or compiling any presentence investigation report, and to have any such information considered in any sentencing recommendations submitted to the court.</p>	Fla. Const. art. I, § 16(b)(6)(d).
<p> Fla. Const. art. I, § 16(e) defines the term “victim” for the purposes of this provision. This definition is 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 victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights.</p>	
<p>Victims’ Right to Receive Copy of Presentence Report and Other Records Related to Their Rights.</p> <p>[B]eginning at the time of his or her victimization[,] . . . [a] victim shall have the following specific rights upon request: . . . The right to receive a copy of any presentence report, and</p>	Fla. Const. art. I, § 16(b)(6)(e).

any other report or record relevant to the exercise of a victim's right, except for such portions made confidential or exempt by law.



Fla. Const. art. I, § 16(e) defines the term "victim" for the purposes of this provision. This definition is included above in the section "Select Definitions."



Fla. Stat. Ann. § 960.001(1)(g)(2) provides victims with the right to request access to a copy of the presentence investigation report before sentencing, subject to certain confidentiality limitations. This provision is included below.



A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully document a victim's request to exercise rights.

Victims' Right to Notice of Defendant's Conviction, Sentence, Release and Other Information.

[B]eginning at the time of his or her victimization[,] . . . [a] victim shall have the following specific rights upon request . . . The right to be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.



Fla. Const. art. I, § 16(e) defines the term "victim" for the purposes of this provision. This definition is included above in the section "Select Definitions."



A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should

--

Fla. Const. art. I, § 16(b)(6)(f).

carefully document a victim's request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.	
<p>Victims' Rights Regarding Postconviction Notice and Participation.</p> <p>[B]eginning at the time of his or her victimization[,] . . . [a] victim shall have the following specific rights upon request . . . The right to be informed of all postconviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender. The parole or early release authority shall extend the right to be heard to any person harmed by the offender.</p> <p> Fla. Const. art. I, § 16(e) defines the term "victim" for the purposes of this provision. This definition is 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 victims must "request" the exercise of certain rights. Agencies should carefully document a victim's request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	Fla. Const. art. I, § 16(b)(6)(g).
<p>Victims' Rights to Be Notified of and Heard Regarding Clemency and Expungement Procedures.</p> <p>[B]eginning at the time of his or her victimization[,] . . . [a] victim shall have the following specific rights upon request: . . . The right to be informed of clemency and expungement procedures, to provide information to the governor, the court, any clemency board, and other authority in these procedures, and to have that information considered before a clemency or</p>	Fla. Const. art. I, § 16(b)(6)(h).

expungement decision is made; and to be notified of such decision in advance of any release of the offender.



Fla. Const. art. I, § 16(e) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”



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

Certain Victims’ Rights as to Any First Appearance Proceeding are Satisfied by a Reasonable Attempt to Notify the Victim and Convey Their Views to the Court.

[B]eginning at the time of his or her victimization[,] . . . [t]he rights of the victim, as provided in subparagraph (6)a., subparagraph (6)b., or subparagraph (6)c., that apply to any first appearance proceeding are satisfied by a reasonable attempt by the appropriate agency to notify the victim and convey the victim’s views to the court.



Fla. Const. art. I, § 16(e) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”



A promising practice is to have a policy and procedure in place to define what a “reasonable attempt” means with respect to notifying the victim and conveying the victim’s views to the court.

Fla. Const. art. I, § 16(b)(7).

Victims' Right to the Prompt Return of the Victim's Property.

[B]eginning at the time of his or her victimization[, a victim has] . . . the right to the prompt return of the victim's property when no longer needed as evidence in the case.

 Fla. Const. art. I, § 16(e) defines the term "victim" for the purposes of this provision. This definition is included above in the section "Select Definitions."

 Fla. Stat. Ann. § 960.001(1)(h) requires the prompt return of a victim's property held for evidentiary purposes and authorizes the entry of appropriate orders to implement the subsection, including allowing photographs of the victim's property to be used as evidence at trial in place of the victim's property, if no substantial evidentiary issue is in dispute. This provision is included below.

 It is a promising practice to have a policy and procedure in place that clearly defines what "prompt" 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 obtain their property, in addition to the name of a person they may contact to check the status of the return.

 If the accused files a request for return of property, victims and the prosecution must be notified immediately to ensure that they are on notice and have an opportunity to be meaningfully heard on the matter.

Fla. Const. art. I, § 16(b)(8).

<p>Victims' Right to Restitution.</p> <p>[Victims have t]he right to full and timely restitution in every case and from each convicted offender for all losses suffered, both directly and indirectly, by the victim as a result of the criminal conduct.</p> <p> Fla. Const. art. I, § 16(e) defines the term “victim” for the purposes of this provision. Fla. Stat. Ann. § 775.089(1)(c) defines the term “victim” for the purposes of restitution. These definitions are included above in the section “Select Definitions.”</p> <p> Fla. Stat. Ann. § 960.001(j) requires law enforcement agencies and state attorneys to inform victims of their right to request and receive restitution. Fla. Stat. Ann. § 775.089 governs restitution rights and procedures in the adult justice system and Fla. Stat. Ann. § 985.437 governs restitution rights and procedures in the juvenile justice system. Fla. Stat. Ann. § 960.295 governs civil restitution liens. Some of these statutory provisions are included below.</p> <p> A promising practice, when informing victims about their right to restitution, is to notify victims that they should collect and organize all documentation relating to their losses. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	Fla. Const. art. I, § 16(b)(9).
<p>Victims' Rights to Proceedings Free from Unreasonable Delay and to a Prompt and Final Conclusion of the Case.</p> <p>[B]eginning at the time of his or her victimization[, a victim has] . . . [t]he right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related postjudgment proceedings.</p>	Fla. Const. art. I, § 16(b)(10).

a. The state attorney may file a good faith demand for a speedy trial and the trial court shall hold a calendar call, with notice, within fifteen days of the filing demand, to schedule a trial to commence on a date at least five days but no more than sixty days after the date of the calendar call unless the trial judge enters an order with specific findings of fact justifying a trial date more than sixty days after the calendar call.

b. All state-level appeals and collateral attacks on any judgment must be complete within two years from the date of appeal in non-capital cases and within five years from the date of appeal in capital cases, unless a court enters an order with specific findings as to why the court was unable to comply with this subparagraph and the circumstances causing the delay. Each year, the chief judge of any district court of appeal or the chief justice of the supreme court shall report on a case-by-case basis to the speaker of the house of representatives and the president of the senate all cases where the court entered an order regarding inability to comply with this subparagraph. The legislature may enact legislation to implement this subparagraph.



Fla. Const. art. I, § 16(e) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”



Fla. Stat. Ann. § 960.0015 affords victims the right to a speedy trial and Fla. Stat. Ann. § 960.001(1)(a)(7) affords victims the right to information regarding their right to a prompt and timely disposition of the case. Additionally, Fla. Stat. Ann. § 918.0155 affords certain child-victims the right to have their cases heard and disposed of as expeditiously as possible. These provisions are included below.

Victims' Rights to Be Informed of Their Rights and Ability to Seek Advice of Counsel.

[B]eginning at the time of his or her victimization[, a victim has] . . . [t]he right to be informed of these rights, and to be informed that victims can seek the advice of an attorney

Fla. Const. art. I, § 16(b)(11).

with respect to their rights. This information shall be made available to the general public and provided to all crime victims in the form of a card or by other means intended to effectively advise the victim of their rights under this section.



Fla. Const. art. I, § 16(e) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”



A promising practice is to have a policy and procedure determining who is responsible for providing victims with such information regarding their rights and when. If the timing of notice is not otherwise specified, consideration should be given to providing such information at or promptly after the victims’ initial contact with law enforcement. The notice should be provided in the primary language of the victim when possible, as well as in a form accessible to those with vision impairment.



A promising practice when notifying victims of their right to seek advice of counsel is to explain the different roles of a prosecuting attorney vs. an attorney hired by the victim to represent their interests and assert their rights.

Victims’ Right to Enforce Their Rights.

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 the rights enumerated in this section 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 a victim’s right shall be clearly stated on the record.

--

Fla. Const. art. I, § 16(c).

<p> Fla. Const. art. I, § 16(e) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> Fla. Stat. Ann. § 960.001(7) also provides victims with standing to assert their constitutional and statutory rights. This provision is included below.</p> <p> The state attorney’s standing to assert victims’ rights does not deny or diminish victims’ standing to assert rights.</p> <p> A promising practice is to notify victims that they have standing to enforce their rights in court and that they may do so personally or with the assistance of an attorney. This notice should include an explanation of the different roles of a prosecuting attorney vs. an attorney hired by the victim to represent their interests and assert their rights.</p>	
<p>Victims’ Rights Do Not Impair Victims’ Other Rights, Are Self-Executing, and Do Not Create a Cause of Action Against the State.</p> <p>The granting of the rights enumerated in this section to victims may not be construed to deny or impair any other rights possessed by victims. The provisions of this section apply throughout criminal and juvenile justice processes, are self-executing, and do not require implementing legislation. This section may not be construed to create any cause of action for damages against the state or a political subdivision of the state, or any officer, employee, or agent of the state or its political subdivisions.</p> <p> Fla. Const. art. I, § 16(e) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p>	Fla. Const. art. I, § 16(d).

<p>Victims' Right to Privacy.</p> <p>Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law.</p> <p> Certain victim records are expressly exempt from the general rule authorizing the public's right of access to public records. <i>See, e.g.</i>, Fla. Stat. Ann. § 741.4651 (exempting identifying and locating information of stalking victims from disclosure pursuant to a public records request if the victim has filed a sworn statement of stalking); <i>id.</i> at § 914.27(1) (exempting the identity and location of a victim participating in the state's victim and witness protection program from public disclosure). Some of these exemptions are included below.</p>	Fla. Const. art. I, § 23.
<p>Guidelines for Fair Treatment of Victims and Witnesses in the Criminal and Juvenile Justice Systems: Development, Implementation, Objectives.</p> <p>The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Florida Commission on Offender Review, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement s. 16(b), Art. I of the State Constitution and to achieve the following objectives: [listing objectives.]</p>	Fla. Stat. Ann. § 960.001(1).

Law Enforcement's Obligation to Provide Victims with Information Concerning: Available Services; Their Role in the Justice System; Significant Stages of the Justice Process; the Right to Be Notified, Present and Heard at Crucial Stages of the Proceedings; to Submit Impact Statements; and to a Prompt and Timely Disposition of the Case.

As provided in s. 27.0065, state attorneys and public defenders shall gather information regarding the following services in the geographic boundaries of their respective circuits and shall provide such information to each law enforcement agency with jurisdiction within such geographic boundaries. Law enforcement personnel shall ensure, through distribution of a victim's rights information card or brochure at the crime scene, during the criminal investigation, and in any other appropriate manner, that victims are given, as a matter of course at the earliest possible time, information about:

1. The availability of crime victim compensation, if applicable;
2. Crisis intervention services, supportive or bereavement counseling, social service support referrals, and community-based victim treatment programs;
3. The role of the victim in the criminal or juvenile justice process, including what the victim may expect from the system as well as what the system expects from the victim;
4. The stages in the criminal or juvenile justice process which are of significance to the victim and the manner in which information about such stages can be obtained;
5. The right of a victim, who is not incarcerated, including the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, and the next of kin of a homicide victim, to be informed, to be present, and to be heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent that this right does not interfere with constitutional rights of the accused, as provided by s. 16(b), Art. I of the State Constitution;

Fla. Stat. Ann. § 960.001(1)(a).

- | | |
|---|----------------------------------|
| <p>6. In the case of incarcerated victims, the right to be informed and to submit written statements at all crucial stages of the criminal proceedings, parole proceedings, or juvenile proceedings; and</p> <p>7. The right of a victim to a prompt and timely disposition of the case in order to minimize the period during which the victim must endure the responsibilities and stress involved to the extent that this right does not interfere with the constitutional rights of the accused.</p> | |
| <p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time after initial contact with law enforcement. 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>Certain Victims' Rights to Notification Through Completion of Notification Card and to Choose to Not Complete Card.</p> <p>In the case of a homicide, pursuant to chapter 782; or a sexual offense, pursuant to chapter 794; or an attempted murder or sexual offense, pursuant to chapter 777; or stalking, pursuant to s. 784.048; or domestic violence, pursuant to s. 25.385:</p> <p>1. The arresting law enforcement officer or personnel of an organization that provides assistance to a victim or to the appropriate next of kin of the victim or other designated contact must request that the victim or appropriate next of kin of the victim or other designated contact complete a victim notification card. However, the victim or appropriate next of kin of the victim or other designated contact may choose not to complete the victim notification card.</p> <p>2. Unless the victim or the appropriate next of kin of the victim or other designated contact waives the option to complete the victim notification card, a copy of the victim notification card must be filed with the incident report or warrant in the sheriff's office of the jurisdiction</p> | Fla. Stat. Ann. § 960.001(1)(b). |



<p>in which the incident report or warrant originated. The notification card shall, at a minimum, consist of:</p> <ul style="list-style-type: none">a. The name, address, and phone number of the victim; orb. The name, address, and phone number of the appropriate next of kin of the victim; orc. The name, address, and telephone number of a designated contact other than the victim or appropriate next of kin of the victim; andd. Any relevant identification or case numbers assigned to the case. <p>3. The chief administrator, or a person designated by the chief administrator, of a county jail, municipal jail, juvenile detention facility, or residential commitment facility shall make a reasonable attempt to notify the alleged victim or appropriate next of kin of the alleged victim or other designated contact within 4 hours following the release of the defendant on bail or, in the case of a juvenile offender, upon the release from residential detention or commitment. If the chief administrator, or designee, is unable to contact the alleged victim or appropriate next of kin of the alleged victim or other designated contact by telephone, the chief administrator, or designee, must send to the alleged victim or appropriate next of kin of the alleged victim or other designated contact a written notification of the defendant's release.</p> <p>4. Unless otherwise requested by the victim or the appropriate next of kin of the victim or other designated contact, the information contained on the victim notification card must be sent by the chief administrator, or designee, of the appropriate facility to the subsequent correctional or residential commitment facility following the sentencing and incarceration of the defendant, and unless otherwise requested by the victim or the appropriate next of kin of the victim or other designated contact, he or she must be notified of the release of the defendant from incarceration as provided by law.</p> <p>5. If the defendant was arrested pursuant to a warrant issued or taken into custody pursuant to s. 985.101 in a jurisdiction other than the jurisdiction in which the defendant is being released, and the alleged victim or appropriate next of kin of the alleged victim or other designated contact does not waive the option for notification of release, the chief correctional officer or chief administrator of the facility releasing the defendant shall make a reasonable</p>	
---	--

attempt to immediately notify the chief correctional officer of the jurisdiction in which the warrant was issued or the juvenile was taken into custody pursuant to s. 985.101, and the chief correctional officer of that jurisdiction shall make a reasonable attempt to notify the alleged victim or appropriate next of kin of the alleged victim or other designated contact, as provided in this paragraph, that the defendant has been or will be released.



Fla. Stat. Ann. § 960.001(9) defines the term “chief administrator” for the purposes of this section to include “the appropriate chief correctional officers of a county jail or municipal jail, and the appropriate chief administrator of a juvenile detention facility or residential commitment facility.”



A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain notification rights by completing a victim notification card or that they may waive such rights by not completing the card. Agencies should carefully document a victim’s request to be or not be notified. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.

Victims’ Right to Information Concerning Available Protection.

A victim or witness shall be furnished, as a matter of course, with information on steps that are available to law enforcement officers and state attorneys to protect victims and witnesses from intimidation. Victims of domestic violence shall also be given information about the address confidentiality program provided under s. 741.403.



Fla. Const. art. I, § 16(b)(13) provides victims with the right to reasonable protection from the accused and anyone acting on their behalf. This provision is included above.

Fla. Stat. Ann. § 960.001(1)(c).

<p> Portions of Florida's Address Confidentiality Program, Fla. Stat. Ann. §§ 741.401 through 740.4651, are included below.</p> <p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time after initial contact with law enforcement. 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 Notification of Scheduling Changes.</p> <p>Each victim or witness who has been scheduled to attend a criminal or juvenile justice proceeding shall be notified as soon as possible by the agency scheduling his or her appearance of any change in scheduling which will affect his or her appearance.</p>	Fla. Stat. Ann. § 960.001(1)(d).
<p>Victims' Rights to Advance Notification Regarding Judicial Proceedings and to Be Present at Such Proceedings.</p> <p>Any victim, parent, guardian, or lawful representative of a minor who is a victim, or relative of a homicide victim shall receive from the appropriate agency, at the address found in the police report or the victim notification card if such has been provided to the agency, prompt advance notification, unless the agency itself does not have advance notification, of judicial and postjudicial proceedings relating to his or her case, including all proceedings or hearings relating to:</p> <ol style="list-style-type: none">1. The arrest of an accused;2. The release of the accused pending judicial proceedings or any modification of release conditions; and3. 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,	Fla. Stat. Ann. § 960.001(1)(e).

subsequent modification of sentence, collateral attack of a judgment, and, when a term of imprisonment, detention, or residential 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.

A victim, a victim's parent or guardian if the victim is a minor, a lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or a victim's next of kin may not be excluded from any portion of any hearing, trial, or proceeding pertaining to the offense based solely on the fact that such person is subpoenaed to testify, unless, upon motion, the court determines such person's presence to be prejudicial. The appropriate agency with respect to notification under subparagraph 1. is the arresting law enforcement agency, and the appropriate agency with respect to notification under subparagraphs 2. and 3. is the Attorney General or state attorney, unless the notification relates to a hearing concerning parole, in which case the appropriate agency is the Florida Commission on Offender Review. The Department of Corrections, the Department of Juvenile Justice, or the sheriff is the appropriate agency with respect to release by expiration of sentence or any other release program provided by law. A victim may waive notification at any time, and such waiver shall be noted in the agency's files.



Fla. Stat. Ann. § 960.001(1)(b) governs notification cards. This provision is included above.



A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain notification rights by completing a victim notification card or that they may waive such rights by not completing the card. Agencies should carefully document a victim's request to be or not be notified. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.

Victims' Right to Notice Concerning Release from Incarceration.

The chief administrator, or a person designated by the chief administrator, of a county jail, municipal jail, juvenile detention facility, or residential commitment facility shall, upon the request of the victim or the appropriate next of kin of a victim or other designated contact of the victim of any of the crimes specified in paragraph (b), make a reasonable attempt to notify the victim or appropriate next of kin of the victim or other designated contact before the defendant's or offender's release from incarceration, detention, or residential commitment if the victim notification card has been provided pursuant to paragraph (b). If prior notification is not successful, a reasonable attempt must be made to notify the victim or appropriate next of kin of the victim or other designated contact within 4 hours following the release of the defendant or offender from incarceration, detention, or residential commitment. If the defendant is released following sentencing, disposition, or furlough, the chief administrator or designee shall make a reasonable attempt to notify the victim or the appropriate next of kin of the victim or other designated contact within 4 hours following the release of the defendant. If the chief administrator or designee is unable to contact the victim or appropriate next of kin of the victim or other designated contact by telephone, the chief administrator or designee must send to the victim or appropriate next of kin of the victim or other designated contact a written notification of the defendant's or offender's release.



Fla. Const. art. I, § 16(b)(6)(a) provides victims with the right to request their rights to notice and presence regarding an offender's release or escape. Fla. Stat. Ann. § 944.605 governs victims' rights regarding release notification. These provisions are included below.



Fla. Stat. Ann. § 960.001(9) defines the term "chief administrator" for the purposes of this section to include "the appropriate chief correctional officers of a county jail or municipal jail, and the appropriate chief administrator of a juvenile detention facility or residential commitment facility."

Fla. Stat. Ann. § 960.001(1)(f).

<p> Fla. Stat. Ann. § 960.001(1)(b) governs notification cards. This provision is included above.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain notification rights by completing a victim notification card or that they may waive such rights by not completing the card. Agencies should carefully document a victim’s request to be or not be notified. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Certain Victims’ Rights to Confer with State Attorney, Review Presentence Report, Confidentiality, Notification of Work Release.</p> <p>1. In addition to being notified of s. 921.143, the victim of a felony involving physical or emotional injury or trauma or, in a case in which the victim is a minor child or in a homicide, the guardian or family of the victim shall be consulted by the state attorney in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case brought as a result of such crime, including the views of the victim or family about:</p> <ol style="list-style-type: none">a. The release of the accused pending judicial proceedings;b. Plea agreements;c. Participation in pretrial diversion programs; andd. Sentencing of the accused. <p>2. Upon request, the state attorney shall permit the victim, the victim’s parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim’s parent or guardian if the victim is a minor, or the victim’s next of kin in the case of a homicide to review a copy of the presentence investigation report before the sentencing hearing if one was completed. Any confidential information that pertains to medical history, mental health, or substance abuse and any information that pertains to any other victim shall be redacted</p>	Fla. Stat. Ann. § 960.001(1)(g).

from the copy of the report. Any person who reviews the report pursuant to this paragraph must maintain the confidentiality of the report and may not disclose its contents to any person except statements made to the state attorney or the court.

3. If an inmate has been approved for community work release, the Department of Corrections shall, upon request and as provided in s. 944.605, notify the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the victim's next of kin if the victim is a homicide victim.

 Fla. Const. art. I, § 16(b)(6)(c) provides victims with the right 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. This provision is included above.

 Fla. Const. art. I, § 16(b)(6)(e) provides victims with the right to request a copy of any presentence report, except for those portions made confidential or exempt by law. This provision is included above.

 Fla. Stat. Ann. § 944.605(6) provides victims with the right to request notice of an inmates approval for community work release within 30 days after the date of approval. This provision is included below.

 A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain notification rights. Agencies should carefully document a victim's request to be notified. Victims who wish to receive the type of notice identified here 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 the Prompt Return of Property and Entry of Appropriate Orders to Implement this Right.</p> <p>Law enforcement agencies and the state attorney shall promptly return a victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it. The trial or juvenile court exercising jurisdiction over the criminal or juvenile proceeding may enter appropriate orders to implement this subsection, including allowing photographs of the victim's property to be used as evidence at the criminal trial or the juvenile proceeding in place of the victim's property if no substantial evidentiary issue related thereto is in dispute.</p> <p> Fla. Const. art. I, § 16(b)(8) provides victims with the right to the prompt return of their property. This provision is included above.</p> <p> It is a promising practice to have a policy and procedure in place that clearly defines what "prompt" 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 obtain their property, in addition to the name of a person they may contact to check the status of the return.</p> <p> If the accused files a request for return of property, victims and the prosecution must be notified immediately to ensure that they are on notice and have an opportunity to be meaningfully heard on the matter.</p>	Fla. Stat. Ann. § 960.001(1)(h).
<p>Victims' Right to Employment and Creditor-Related Rights.</p> <p>A victim or witness who so requests shall be assisted by law enforcement agencies and the state attorney in informing his or her employer that the need for victim and witness</p>	Fla. Stat. Ann. § 960.001(1)(i).

cooperation in the prosecution of the case may necessitate the absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of his or her cooperation with law enforcement agencies or a state attorney, is subjected to serious financial strain shall be assisted by such agencies and state attorney in explaining to the creditors of such victim or witness the reason for such serious financial strain.



A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, of their employment- and credit-related rights and to provide employers and creditors with this information.

Victims' Right to Request and Receive Restitution.

Law enforcement agencies and the state attorney shall inform the victim of the victim's right to request and receive restitution pursuant to s. 775.089 or s. 985.437, and of the victim's rights of enforcement under ss. 775.089(6) and 985.0301 in the event an offender does not comply with a restitution order. The state attorney shall seek the assistance of the victim in the documentation of the victim's losses for the purpose of requesting and receiving restitution. In addition, the state attorney shall inform the victim if and when restitution is ordered. If an order of restitution is converted to a civil lien or civil judgment against the defendant, the clerks shall 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.



Fla. Const. art. I, § 16(b)(9) affords victims a right to full and timely restitution. This provision is included above.



Fla. Stat. Ann. § 775.089(1)(c) defines the term "victim" for the purposes of restitution. This definition is included above in the section "Select Definitions."

Fla. Stat. Ann. § 960.001(1)(j).

<p> Fla. Stat. Ann. § 775.089 governs restitution rights and procedure in the adult justice system and Fla. Stat. Ann. § 985.437 governs restitution rights and procedure in the juvenile justice system. Fla. Stat. Ann. § 775.089 is included below.</p> <p> A promising practice, when informing victims about their right to restitution, is to notify victims that they should collect and organize all documentation relating to their losses. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p>Victims' Right to Notice of Right to Submit Impact Statement; Prosecution's Obligation to Assist in Preparation of Statement.</p> <p>The state attorney shall inform the victim of the victim's right to submit an oral or written impact statement pursuant to s. 921.143 and shall assist in the preparation of such statement if necessary.</p>	Fla. Stat. Ann. § 960.001(1)(k).
<p> Fla. Stat. Ann. § 921.143 governs victims statements at sentencing. This provision is included below.</p>	
<p>Availability of Victim Assistance Education and Training to Law Enforcement and State Attorneys.</p> <p>Victim assistance education and training shall be offered to persons taking courses at law enforcement training facilities and to state attorneys and assistant state attorneys so that victims may be promptly, properly, and completely assisted.</p>	Fla. Stat. Ann. § 960.001(1)(m).

<p>Victims' Right to Information Card or Brochure.</p> <p>A victim of a crime shall be provided with a victim's rights information card or brochure containing essential information concerning the rights of a victim and services available to a victim as required by state law.</p> <p> Fla. Stat. Ann. § 960.001(1)(a) details the responsibility of law enforcement regarding distribution of such information cards and brochures. This provision is included above.</p> <p> Fla. Stat. Ann. § 960.0021(3) requires the circuit court administrator to coordinate efforts to ensure that victim rights information established in this provision is provided to the clerk of the court. This provision is included below.</p> <p> A promising practice is to have a policy and procedure in place to ensure that all victims have meaningful access to the information contained in such cards and brochures. Consideration should be given to providing this information in the primary language of the victim when possible, as well as in a form accessible to those with vision impairment.</p>	Fla. Stat. Ann. § 960.001(1)(o).
<p>Victims' Right to Notification of Offender's Escape.</p> <p>In any case where an offender escapes from a state correctional institution, private correctional facility, county jail, juvenile detention facility, or residential commitment facility, the institution of confinement shall immediately notify the state attorney of the jurisdiction where the criminal charge or petition for delinquency arose and the judge who imposed the sentence of incarceration. The state attorney shall thereupon make every effort to notify the victim, material witness, parents or legal guardian of a minor who is a victim or witness, or immediate relatives of a homicide victim of the escapee. The state attorney shall also notify the sheriff of the county where the criminal charge or petition for</p>	Fla. Stat. Ann. § 960.001(1)(p).

delinquency arose. The sheriff shall offer assistance upon request. When an escaped offender is subsequently captured or is captured and returned to the institution of confinement, the institution of confinement shall again immediately notify the appropriate state attorney and sentencing judge pursuant to this section.



Fla. Const. art. I, § 16(b)(6)(a) provides victims with the right to request their rights to notice and presence regarding public proceedings and an offender's release or escape. This provision is included above.



Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.

Victims' Rights to Request Advocate Presence During Discovery Deposition; Sexual Offense Victims' Right to Be Informed of Right to Have the Courtroom Cleared of Certain Persons When Testifying.

At the request of the victim or the victim's parent, guardian, or lawful representative, the victim advocate designated by the state attorney's office, sheriff's office, or municipal police department, or one representative from a not-for-profit victim services organization, including, but not limited to, rape crisis centers, domestic violence advocacy groups, and alcohol abuse or substance abuse groups shall be permitted to attend and be present during any deposition of the victim. The victim of a sexual offense shall be informed of the right to have the courtroom cleared of certain persons as provided in s. 918.16 when the victim is testifying concerning that offense.



Fla. Stat. Ann. § 918.16 governs the clearing of the courtroom during a sex offense victim's testimony. This provision is included below.

--

Fla. Stat. Ann. § 960.001(1)(q).

<p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights.</p>	
<p>Sex Offense Victims’ Right to Not Be Subjected to a Polygraph Examination or Other Truth-Telling Device as a Precondition to the Investigation, Charging or Prosecution of the Offense.</p> <p>A law enforcement officer, prosecuting attorney, or other government official may not ask or require an adult, youth, or child victim of an alleged sexual battery as defined in chapter 794 or other sexual offense to submit to a polygraph examination or other truth-telling device as a condition of proceeding with the investigation of such an offense. The refusal of a victim to submit to such an examination does not prevent the investigation, charging, or prosecution of the offense.</p> <p> A promising practice is to ensure that law enforcement officers and prosecutors who work with victims of sexual offenses are aware that they cannot require victims to submit to a polygraph examination as a condition of proceeding with the investigation, charging or prosecution of a case.</p>	Fla. Stat. Ann. § 960.001(1)(t).
<p>Victims’ Right to Request the Presence of a Victim Advocate at a Forensic Medical Examination.</p> <p>At the request of the victim or the victim’s parent, guardian, or lawful representative, a victim advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination.</p>	Fla. Stat. Ann. § 960.001(1)(u).

<p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights.</p>	
<p>Immunity from Civil Liability for Inability to Timely Notify Victims; Good Faith Efforts Evidenced by Log Entries.</p> <p>The secretary of the Department of Juvenile Justice, and sheriff, chief administrator, or any of their respective designees, who acts in good faith in making a reasonable attempt to comply with the provisions of this section with respect to timely victim notification, shall be immune from civil or criminal liability for an inability to timely notify the victim or appropriate next of kin of the victim or other designated contact of such information. A good faith effort shall be evidenced by a log entry noting that an attempt was made to notify the victim within the time period specified by this section.</p> <p> Fla. Stat. Ann. § 960.001(9) defines the term “chief administrator” for the purposes of this section to include “the appropriate chief correctional officers of a county jail or municipal jail, and the appropriate chief administrator of a juvenile detention facility or residential commitment facility.”</p>	Fla. Stat. Ann. § 960.001(2).
<p>Guidelines for Fair Treatment Do Not Create a Cause of Action Against the State, Its Agencies or Subdivisions.</p> <p>Nothing in this section or in the guidelines adopted pursuant to this section shall be construed as creating a cause of action against the state or any of its agencies or political subdivisions.</p>	Fla. Stat. Ann. § 960.001(5).

<p>Victims' Right to Not Be Required to Attend Depositions in Correctional Facility.</p> <p>Victims and witnesses who are not incarcerated shall not be required to attend discovery depositions in any correctional facility.</p>	Fla. Stat. Ann. § 960.001(6).
<p>Victims' Standing to Assert Their Statutory and Constitutional Rights.</p> <p>The victim of a crime, the victim's parent or guardian if the victim is a minor, and the state attorney, with the consent of the victim or the victim's parent or guardian if the victim is a minor, have standing to assert the rights of a crime victim which are provided by law or s. 16(b), Art. I of the State Constitution.</p> <p> Fla. Const. art. I, § 16(c) also provides victims with standing to enforce their rights. This constitutional provision is included above.</p> <p> The state attorney's standing to assert victims' rights does not deny or diminish victims' standing to assert rights.</p> <p> A promising practice is to notify victims that they have standing to enforce their rights in court and that they may do so personally or with the assistance of an attorney. This notice should include an explanation of the different roles of a prosecuting attorney vs. an attorney hired by the victim to represent their interests and assert their rights.</p>	Fla. Stat. Ann. § 960.001(7).

<p>Victims' Right to Release of Relevant Information When Offense Committed by a Juvenile.</p> <p>For the purposes of this section, a law enforcement agency or the office of the state attorney may release any information deemed relevant to adequately inform the victim if the offense was committed by a juvenile. Information gained by the victim pursuant to this chapter, including the next of kin of a homicide victim, regarding any case handled in juvenile court, must not be revealed to any outside party, except as is reasonably necessary in pursuit of legal remedies.</p>	Fla. Stat. Ann. § 960.001(8).
<p>Victims' Right to a Speedy Trial; Speedy Trial Demand by the State Attorney.</p> <p>(1) The state attorney may file a demand for a speedy trial if the state has met its obligations under the rules of discovery, the charge is a felony or misdemeanor, the court has granted at least three continuances upon the request of the defendant over the objection of the state attorney, and:</p> <p>(a) If a felony case, it is not resolved within 125 days after the date that formal charges are filed and the defendant is arrested or the date that notice to appear in lieu of arrest is served upon the defendant; or</p> <p>(b) If a misdemeanor case, it is not resolved within 45 days after the date that formal charges are filed and the defendant is arrested or the date that notice to appear in lieu of arrest is served upon the defendant.</p> <p>(2) Upon the filing of a demand for a speedy trial, the trial court shall schedule a calendar call within 5 days, at which time the court shall schedule the trial to commence no sooner than 5 days or later than 45 days following the date of the calendar call. The court may, however, grant whatever further extension may be required to prevent deprivation of the defendant's right to due process.</p>	Fla. Stat. Ann. § 960.0015.

(3)(a) The trial court may postpone the trial date for up to 30 additional days upon a showing by the defendant that a necessary witness who was properly served failed to attend the deposition and also failed to attend a subsequently scheduled deposition following a court order to appear. The court may, however, grant whatever further extension may be required to prevent deprivation of the defendant's right to due process.

(b) The trial court may also postpone the trial date for no fewer than 30 days but no more than 70 days if the court grants a motion by counsel to withdraw and the court appoints other counsel. The court may, however, grant whatever further extension may be required to prevent deprivation of the defendant's right to due process.



Fla. Const. art. I, § 16(b)(10) affords victims the rights to proceedings free from unreasonable delay and to a prompt and final conclusion. Additionally, Fla. Stat. Ann. § 960.001(1)(a)(7) affords victims the right to information regarding their right to a prompt and timely disposition of the case and Fla. Stat. Ann. § 918.0155 affords certain child victims the right to have a case heard and disposed of as expeditiously as possible. These provisions are included above and below.

Victims' Right to Be Advised by Courts of Their Rights: Legislative Intent; Scope of Right; Obligations of Courts.

(1) The Legislature finds that in order to ensure that crime victims can effectively understand and exercise their rights under s. 16, Art. I of the State Constitution, and to promote law enforcement that considers the interests of crime victims, victims must be properly advised in the courts of this state.

(2) The courts may fulfill their obligation to advise crime victims by:

(a) Making the following announcement at any arraignment, sentencing, or case-management proceeding:

"If you are the victim of a crime with a case pending before this court, you are advised that you have the right:

1. To be informed.

--

Fla. Stat. Ann. § 960.0021.

- | | |
|---|--|
| <p>2. To be present.</p> <p>3. To be heard, when relevant, at all crucial stages of criminal proceedings to the extent that these rights do not interfere with the constitutional rights of the accused.</p> <p>4. To receive advance notification, when possible, of judicial proceedings and notification of scheduling changes, pursuant to section 960.001, Florida Statutes.</p> <p>5. To seek crimes compensation and restitution.</p> <p>6. To consult with the state attorney's office in certain felony cases regarding the disposition of the case.</p> <p>7. To make an oral or written victim impact statement at the time of sentencing of a defendant.</p> <p>For further information regarding additional rights afforded to victims of crime, you may contact the state attorney's office or obtain a listing of your rights from the Clerk of Court.”;</p> <p>or</p> <p>(b) Displaying prominently on the courtroom doors posters giving notification of the existence and general provisions of this chapter. The Department of Legal Affairs shall provide the courts with the posters specified by this paragraph.</p> <p>(3) The circuit court administrator shall coordinate efforts to ensure that victim rights information, as established in s. 960.001(1)(o), is provided to the clerk of the court.</p> <p>(4) This section is only for the benefit of crime victims. Accordingly, a failure to comply with this section shall not affect the validity of any hearing, conviction, or sentence.</p> | |
|---|--|



Fla. Stat. Ann. § 960.001(1)(o) requires the provision of victims' information cards or brochures. This provision is included above.

<p>Relocation Assistance for Victims of Sexual Battery.</p> <p>(1) The department may award a one-time payment of up to \$1,500 on any one claim and a lifetime maximum of \$3,000 to a victim of sexual battery, as defined in s. 794.011, who needs relocation assistance.</p> <p>(2) In order for an award to be granted to a victim for relocation assistance:</p> <ul style="list-style-type: none">(a) There must be proof that a sexual battery offense was committed.(b) The sexual battery offense must be reported to the proper authorities.(c) The victim's need for assistance must be certified by a certified rape crisis center in this state.(d) The center's certification must assert that the victim is cooperating with law enforcement officials, if applicable, and must include documentation that the victim has developed a safety plan.(e) The act of sexual battery must be committed in the victim's place of residence or in a location that would lead the victim to reasonably fear for his or her continued safety in the place of residence. <p>(3) Relocation payments for a sexual battery claim under this section shall be denied if the department has previously approved or paid out a human trafficking or domestic violence relocation claim under s. 960.196 or s. 960.198 to the same victim regarding the same incident.</p>	Fla. Stat. Ann. § 960.199.
<p>Civil Restitution Lien Supplemental to Other Available Forms of Restitution.</p> <p>(1) Preservation of existing restitution remedies.--The civil restitution lien provided for in this civil restitution lien act is intended to enable crime victims, the state and its local subdivisions, and other aggrieved parties to seek a restitution remedy that is alternative and supplemental to existing statutory and common-law remedies that are available for restitution. The rights of crime victims, the state and its local subdivisions, and other</p>	Fla. Stat. Ann. § 960.295.

aggrieved parties to seek any existing remedy for restitution, instead of or in addition to seeking a civil restitution lien order under this civil restitution lien act, are preserved.

(2) Applicability of other civil remedies; estoppel as a limitation upon enforcement.--A civil restitution lien order entered under this civil restitution lien act does not bar any subsequent civil remedy or recovery, but the amount of such restitution must be set off against any subsequent independent civil recovery. Notwithstanding this civil restitution lien act, the crime victim, the state and its local subdivisions, or other aggrieved parties are not precluded from collecting costs on conviction ordered under chapter 939, relating to court costs; moneys awarded under this chapter, relating to victim assistance; moneys awarded by a restitution order under s. 775.089, relating to restitution; proceeds resulting from forfeitures ordered under chapter 895, relating to racketeering offenses and illegal debts; moneys distributed pursuant to a lien placed on the offender's property under s. 944.512, relating to the state lien on literary and other accounts of crimes; or inmate reimbursements under chapter 946, relating to correctional work programs, except that no duplicate recovery may be made in favor of crime victims, the state and its local subdivisions, and other aggrieved parties.



Fla. Stat. Ann. § 960.001(1)(j) affords victims the right to notice of their rights to request and receive restitution and provides that if an order of restitution is converted to a civil lien or civil judgment, the clerks must make such information available to the victim. This provision is included above.



Fla. Stat. Ann. § 775.089(1)(c) defines the term "victim" for the purposes of restitution. This definition is included above in the section "Select Definitions."



Fla. Const. art. I, § 16(b)(9) affords victims a right to full and timely restitution. This provision is included above.

<p> A promising practice, when informing victims about their right to restitution, is to notify victims that they should collect and organize all documentation relating to their losses. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p>Law Enforcement's Duty to Provide Domestic Violence Victims with Information Regarding Domestic Violence Centers and Immediate Notice of Legal Rights and Remedies.</p> <p>Any law enforcement officer who investigates an alleged incident of domestic violence shall advise the victim of such violence that there is a domestic violence center from which the victim may receive services. The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available in accordance with the provisions of s. 741.29.</p> <p> Fla. Stat. Ann. § 741.29 governs law enforcement's duty to provide domestic violence victims with certain information. This statutory provision is included below.</p> <p> A promising practice is to have a policy and procedure in place to ensure that all victims have meaningful access to this information. Consideration should be given to providing this information in the primary language of the victim when possible, as well as in a form accessible to those with vision impairment.</p>	Fla. Stat. Ann. § 39.906.
<p>Sexual Assault Counselor-Victim Privilege.</p> <p>(2) A victim has a privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made by the victim to a sexual assault counselor or trained volunteer or any record made in the course of advising, counseling, or assisting</p>	Fla. Stat. Ann. § 90.5035(2)–(3).

<p>the victim. Such confidential communication or record may be disclosed only with the prior written consent of the victim. This privilege includes any advice given by the sexual assault counselor or trained volunteer in the course of that relationship.</p> <p>(3) The privilege may be claimed by:</p> <ul style="list-style-type: none">(a) The victim or the victim's attorney on his or her behalf.(b) A guardian or conservator of the victim.(c) The personal representative of a deceased victim.(d) The sexual assault counselor or trained volunteer, but only on behalf of the victim. The authority of a sexual assault counselor or trained volunteer to claim the privilege is presumed in the absence of evidence to the contrary. <p> Fla. Stat. Ann. § 90.5035(1) defines the terms used in this privilege. These definitions are included above in the section "Select Definitions."</p>	
<p>Domestic Violence Counselor-Victim Privilege.</p> <p>(2) A victim has a privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made by the victim to a domestic violence advocate or any record made in the course of advising, counseling, or assisting the victim. The privilege applies to confidential communications made between the victim and the domestic violence advocate and to records of those communications only if the advocate is registered under s. 39.905 at the time the communication is made. This privilege includes any advice given by the domestic violence advocate in the course of that relationship.</p> <p>(3) The privilege may be claimed by:</p> <ul style="list-style-type: none">(a) The victim or the victim's attorney on behalf of the victim.(b) A guardian or conservator of the victim.(c) The personal representative of a deceased victim.	Fla. Stat. Ann. § 90.5036(2)–(3).

<p>(d) The domestic violence advocate, but only on behalf of the victim. The authority of a domestic violence advocate to claim the privilege is presumed in the absence of evidence to the contrary.</p> <p> Fla. Stat. Ann. § 90.5036(1) defines the terms used in this privilege. This statutory provision is included above in the section "Select Definitions."</p>	
<p>Human Trafficking Victim Advocate-Victim Privilege.</p> <p>(2) A communication between a human trafficking victim advocate or trained volunteer and a human trafficking victim is confidential if it is not intended to be disclosed to third persons other than:</p> <p>(a) Those persons present to further the interest of the human trafficking victim in the consultation, examination, or interview.</p> <p>(b) Those persons necessary for the transmission of the communication.</p> <p>(c) Those persons to whom disclosure is reasonably necessary to accomplish the purposes for which the human trafficking victim advocate or trained volunteer is consulted.</p> <p>(3) A human trafficking victim has a privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made by the human trafficking victim to a human trafficking victim advocate or trained volunteer or a record made in the course of advising, counseling, or providing services to the human trafficking victim. Such confidential communication or record may be disclosed only with the prior written consent of the human trafficking victim. This privilege includes any advice given by the human trafficking victim advocate or trained volunteer to the human trafficking victim in the course of that relationship.</p> <p>(4) The privilege may be claimed by:</p> <p>(a) The human trafficking victim or the human trafficking victim's attorney on his or her behalf.</p> <p>(b) The guardian or conservator of the human trafficking victim.</p>	Fla. Stat. Ann. § 90.5037(2)–(5).

<p>(c) The personal representative of a deceased human trafficking victim.</p> <p>(d) The human trafficking victim advocate or trained volunteer, but only on behalf of the human trafficking victim. The authority of a human trafficking victim advocate or trained volunteer to claim the privilege is presumed in the absence of evidence to the contrary.</p> <p>(5) A human trafficking victim advocate or a trained volunteer shall:</p> <p>(a) Complete 24 hours of human trafficking training delivered by the Office of the Attorney General, the Bureau of Criminal Justice Programs and Victim Services, and the Florida Crime Prevention Training Institute.</p> <p>(b) Within 3 years after completing the training required under paragraph (a), complete an 8-hour human trafficking update course.</p> <p> Fla. Stat. Ann. § 90.5037(1) defines the terms used in this privilege. This statutory provision is included above in the section "Select Definitions."</p>	
<p>Court's Authority to Order Videotaped Testimony of Child-Victims and Victims with an Intellectual Disability; Motion by the Victim or Victim's Attorney, Parent, Legal Guardian, or Guardian ad Litem.</p> <p>(1) On motion and hearing in camera and a finding that there is a substantial likelihood that a victim or witness who is under the age of 18 or who has an intellectual disability as defined in s. 393.063 would suffer at least moderate emotional or mental harm due to the presence of the defendant if such victim or witness is required to testify in open court, or is unavailable as defined in s. 90.804(1), the trial court may order the videotaping of the testimony of the victim or witness in a case, whether civil or criminal in nature, in which videotaped testimony is to be used at trial in lieu of trial testimony in open court.</p> <p>(2) The motion may be filed by:</p> <p>(a) The victim or witness, or the victim's or witness's attorney, parent, legal guardian, or guardian ad litem;</p> <p>(b) A trial judge on his or her own motion;</p>	Fla. Stat. Ann. § 92.53.

<p>(c) Any party in a civil proceeding; or (d) The prosecuting attorney or the defendant, or the defendant's counsel.</p> <p>(3) The judge shall preside, or shall appoint a special master to preside, at the videotaping unless:</p> <p>(a) The child or the person who has the intellectual disability is represented by a guardian ad litem or counsel;</p> <p>(b) The representative of the victim or witness and the counsel for each party stipulate that the requirement for the presence of the judge or special master may be waived; and</p> <p>(c) The court finds at a hearing on the motion that the presence of a judge or special master is not necessary to protect the victim or witness.</p> <p>(4) The defendant and the defendant's counsel must be present at the videotaping unless the defendant has waived this right. The court may require the defendant to view the testimony from outside the presence of the child or the person who has an intellectual disability by means of a two-way mirror or another similar method that ensures that the defendant can observe and hear the testimony of the victim or witness in person, but the victim or witness cannot hear or see the defendant. The defendant and the attorney for the defendant may communicate by any appropriate private method.</p> <p>(5) Any party, or the court on its own motion, may request the aid of an interpreter, as provided in s. 90.606, to aid the parties in formulating methods of questioning the child or person who has the intellectual disability and in interpreting the answers of the child or person during proceedings conducted under this section.</p> <p>(6) The motion referred to in subsection (1) may be made at any time with reasonable notice to each party to the cause, and videotaping of testimony may be made any time after the court grants the motion. The videotaped testimony is admissible as evidence in the trial of the cause; however, such testimony is not admissible in any trial or proceeding in which such witness testifies by use of closed-circuit television pursuant to s. 92.54.</p>	
--	--

(7) The court shall make specific findings of fact, on the record, as to the basis for its ruling under this section.	
<p>Court's Authority to Order Use of Closed-Circuit Television in Proceedings Involving Child-Victims and Victims with an Intellectual Disability; Motion by the Victim or Victim's Attorney, Parent, Legal Guardian, or Guardian ad Litem.</p> <p>(1) Upon motion and hearing in camera and upon a finding that there is a substantial likelihood that a victim or witness under the age of 18 or who has an intellectual disability will suffer at least moderate emotional or mental harm due to the presence of the defendant if such victim or witness is required to testify in open court, or is unavailable as defined in s. 90.804(1), the trial court may order that the testimony of the victim or witness be taken outside of the courtroom and shown by means of closed-circuit television.</p> <p>(2) The motion may be filed by the victim or witness; the attorney, parent, legal guardian, or guardian ad litem of the victim or witness; the prosecutor; the defendant or the defendant's counsel; or the trial judge on his or her own motion.</p> <p>(3) Only the judge, the prosecutor, the defendant, the attorney for the defendant, the operators of the videotape equipment, an interpreter, and some other person who, in the opinion of the court, contributes to the well-being of the child or the person who has an intellectual disability and who will not be a witness in the case may be in the room during the recording of the testimony.</p> <p>(4) During the victim's or witness's testimony by closed-circuit television, the court may require the defendant to view the testimony from the courtroom. In such a case, the court shall permit the defendant to observe and hear the testimony of the victim or witness, but must ensure that the victim or witness cannot hear or see the defendant. The defendant's right to assistance of counsel, which includes the right to immediate and direct communication with counsel conducting cross-examination, must be protected and, upon the</p>	Fla. Stat. Ann. § 92.54.

<p>defendant's request, such communication must be provided by any appropriate electronic method.</p> <p>(5) The court shall make specific findings of fact, on the record, as to the basis for its ruling under this section.</p>	
<p>Court's Authority to Enter Any Order Necessary to Protect Certain Victims in Proceedings From Severe Emotional or Mental Harm Due to the Presence of Defendant During the Victim's Testimony; Limitations on Interviews and Depositions; Considerations When Ruling on Motions; Facility Dogs.</p> <p>(1) For purposes of this section, the term:</p> <p>(a) "Sexual offense victim or witness" means a person who was under the age of 18 when he or she was the victim of or a witness to a sexual offense.</p> <p>(b) "Sexual offense" means any offense specified in s. 775.21(4)(a) 1. or s. 943.0435(1)(h)1.a.(I).</p> <p>(2) Upon motion of any party, upon motion of a parent, guardian, attorney, guardian ad litem, or other advocate appointed by the court under s. 914.17 for a victim or witness under the age of 18, a person who has an intellectual disability, or a sexual offense victim or witness, or upon its own motion, the court may enter any order necessary to protect the victim or witness in any judicial proceeding or other official proceeding from severe emotional or mental harm due to the presence of the defendant if the victim or witness is required to testify in open court. Such orders must relate to the taking of testimony and include, but are not limited to:</p> <p>(a) Interviewing or the taking of depositions as part of a civil or criminal proceeding.</p> <p>(b) Examination and cross-examination for the purpose of qualifying as a witness or testifying in any proceeding.</p> <p>(c) The use of testimony taken outside of the courtroom, including proceedings under ss. 92.53 and 92.54.</p>	Fla. Stat. Ann. § 92.55.

(3) In ruling upon the motion, the court shall consider:

(a) The age of the child, the nature of the offense or act, the relationship of the child to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the child as a consequence of the defendant's presence, and any other fact that the court deems relevant;

(b) The age of the person who has an intellectual disability, the functional capacity of such person, the nature of the offenses or act, the relationship of the person to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the person as a consequence of the defendant's presence, and any other fact that the court deems relevant; or

(c) The age of the sexual offense victim or witness when the sexual offense occurred, the relationship of the sexual offense victim or witness to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the sexual offense victim or witness as a consequence of the defendant's presence, and any other fact that the court deems relevant.

(4) In addition to such other relief provided by law, the court may enter orders limiting the number of times that a child, a person who has an intellectual disability, or a sexual offense victim or witness may be interviewed, prohibiting depositions of the victim or witness, requiring the submission of questions before the examination of the victim or witness, setting the place and conditions for interviewing the victim or witness or for conducting any other proceeding, or permitting or prohibiting the attendance of any person at any proceeding. The court shall enter any order necessary to protect the rights of all parties, including the defendant in any criminal action.

(5) The court may set any other conditions it finds just and appropriate when taking the testimony of a victim or witness under the age of 18, a person who has an intellectual disability, or a sexual offense victim or witness, including the use of a therapy animal or facility dog, in any proceeding involving a sexual offense or child abuse, abandonment, or neglect.

(a) When deciding whether to permit a victim or witness under the age of 18, a person who has an intellectual disability, or a sexual offense victim or witness to testify with the

assistance of a therapy animal or facility dog, the court shall consider the age of the child victim or witness, the age of the sexual offense victim or witness at the time the sexual offense occurred, the interests of the child victim or witness or sexual offense victim or witness, the rights of the parties to the litigation, and any other relevant factor that would facilitate the testimony by the victim or witness under the age of 18, person who has an intellectual disability, or sexual offense victim or witness.

(b) For purposes of this subsection the term:

1. "Facility dog" means a dog that has been trained, evaluated, and certified as a facility dog pursuant to industry standards and provides unobtrusive emotional support to children and adults in facility settings.

2. "Therapy animal" means an animal that has been trained, evaluated, and certified as a therapy animal pursuant to industry standards by an organization that certifies animals as appropriate to provide animal therapy.



Fla. Stat. Ann. § 914.16 authorizes the chief judge of each judicial circuit, after consultation with the state attorney and the public defender for the circuit, the appropriate chief law enforcement officer and anyone else deemed appropriate by the chief judge, to order reasonable limits on the number of interviews that child-victims and victims with intellectual disabilities must submit to for law enforcement or discovery purposes. This provision is included below.

Rights of Victims of Sexual Offenses and Human Trafficking to Confidentiality in Court Records and Court Proceedings; Use of Pseudonyms; Waiver.

(1)(a) The confidential and exempt status of criminal intelligence information or criminal investigative information made confidential and exempt pursuant to s. 119.071(2)(h) must be maintained in court records pursuant to s. 119.0714(1)(h) and in court proceedings, including testimony from witnesses.

(b) If a petition for access to such confidential and exempt records is filed with the trial court having jurisdiction over the alleged offense, the confidential and exempt status of such information shall be maintained by the court if the state or the victim demonstrates that:

--

Fla. Stat. Ann. § 92.56.

<p>1. The identity of the victim is not already known in the community;</p> <p>2. The victim has not voluntarily called public attention to the offense;</p> <p>3. The identity of the victim has not otherwise become a reasonable subject of public concern;</p> <p>4. The disclosure of the victim's identity would be offensive to a reasonable person; and</p> <p>5. The disclosure of the victim's identity would:</p> <p>a. Endanger the victim because the assailant has not been apprehended and is not otherwise known to the victim;</p> <p>b. Endanger the victim because of the likelihood of retaliation, harassment, or intimidation;</p> <p>c. Cause severe emotional or mental harm to the victim;</p> <p>d. Make the victim unwilling to testify as a witness; or</p> <p>e. Be inappropriate for other good cause shown.</p> <p>(2) A defendant charged with a crime described in s. 787.06(3)(a) 1., (c)1., or (e)1., s. 787.06(3)(b), (d), (f), or (g), chapter 794, or chapter 800, or with child abuse, aggravated child abuse, or sexual performance by a child as described in chapter 827, may apply to the trial court for an order of disclosure of information in court records held confidential and exempt pursuant to s. 119.0714(1)(h) or maintained as confidential and exempt pursuant to court order under this section. Such identifying information concerning the victim may be released to the defendant or his or her attorney in order to prepare the defense. The confidential and exempt status of this information may not be construed to prevent the disclosure of the victim's identity to the defendant; however, the defendant may not disclose the victim's identity to any person other than the defendant's attorney or any other person directly involved in the preparation of the defense. A willful and knowing disclosure of the identity of the victim to any other person by the defendant constitutes contempt.</p> <p>(3) The state may use a pseudonym instead of the victim's name to designate the victim of a crime described in s. 787.06(3)(a) 1., (c)1., or (e)1., in s. 787.06(3)(b), (d), (f), or (g), or in chapter 794 or chapter 800, or of child abuse, aggravated child abuse, or sexual performance by a child as described in chapter 827, or any crime involving the production, possession, or promotion of child pornography as described in chapter 847, in all court records and records of court proceedings, both civil and criminal.</p>	
---	--

<p>(4) The protection of this section may be waived by the victim of the alleged offense in a writing filed with the court, in which the victim consents to the use or release of identifying information during court proceedings and in the records of court proceedings.</p> <p>(5) This section does not prohibit the publication or broadcast of the substance of trial testimony in a prosecution for an offense described in s. 787.06(3)(a) 1., (c)1., or (e)1., s. 787.06(3)(b), (d), (f), or (g), chapter 794, or chapter 800, or a crime of child abuse, aggravated child abuse, or sexual performance by a child, as described in chapter 827, but the publication or broadcast may not include an identifying photograph, an identifiable voice, or the name or address of the victim, unless the victim has consented in writing to the publication and filed such consent with the court or unless the court has declared such records not confidential and exempt as provided for in subsection (1).</p> <p>(6) A willful and knowing violation of this section or a willful and knowing failure to obey any court order issued under this section constitutes contempt.</p>	
<p>Rights of Sexual Assault Victims Regarding Medical Attention and Treatment.</p> <p>Any licensed facility which provides emergency room services shall arrange for the rendering of appropriate medical attention and treatment of victims of sexual assault through:</p> <p>(1) Such gynecological, psychological, and medical services as are needed by the victim.</p> <p>(2) The gathering of forensic medical evidence required for investigation and prosecution from a victim who has reported a sexual battery to a law enforcement agency or who requests that such evidence be gathered for a possible future report.</p> <p>(3) The training of medical support personnel competent to provide the medical services and treatment as described in subsections (1) and (2).</p>	Fla. Stat. Ann. § 395.1021.

Such licensed facility shall also arrange for the protection of the victim's anonymity while complying with the laws of this state and may encourage the victim to notify law enforcement personnel and to cooperate with them in apprehending the suspect.	
Rights of Domestic Violence Victims: Investigation of Incidents; Notification of Rights and Remedies; Reporting. (1) Any law enforcement officer who investigates an alleged incident of domestic violence shall assist the victim to obtain medical treatment if such is required as a result of the alleged incident to which the officer responds. Any law enforcement officer who investigates an alleged incident of domestic violence shall advise the victim of such violence that there is a domestic violence center from which the victim may receive services. The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available on a standard form developed and distributed by the department. As necessary, the department shall revise the Legal Rights and Remedies Notice to Victims to include a general summary of s. 741.30 using simple English as well as Spanish, and shall distribute the notice as a model form to be used by all law enforcement agencies throughout the state. The notice shall include: (a) The resource listing, including telephone number, for the area domestic violence center designated by the Department of Children and Families; and (b) A copy of the following statement: "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection from domestic violence which may include, but need not be limited to, provisions which restrain the abuser from further acts of abuse; direct the abuser to leave your household; prevent the abuser from entering your residence, school, business, or place of employment; award you custody of your minor child or children; and direct the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."	Fla. Stat. Ann. § 741.29.

<p>(2) When a law enforcement officer investigates an allegation that an incident of domestic violence has occurred, the officer shall handle the incident pursuant to the arrest policy provided in s. 901.15(7), and as developed in accordance with subsections (3), (4), and (5). Whether or not an arrest is made, the officer shall make a written police report that is complete and clearly indicates the alleged offense was an incident of domestic violence. Such report shall be given to the officer's supervisor and filed with the law enforcement agency in a manner that will permit data on domestic violence cases to be compiled. Such report must include:</p> <p>(a) A description of physical injuries observed, if any.</p> <p>(b) If a law enforcement officer decides not to make an arrest or decides to arrest two or more parties, the officer shall include in the report the grounds for not arresting anyone or for arresting two or more parties.</p> <p>(c) A statement which indicates that a copy of the legal rights and remedies notice was given to the victim.</p> <p>Whenever possible, the law enforcement officer shall obtain a written statement from the victim and witnesses concerning the alleged domestic violence. The officer shall submit the report to the supervisor or other person to whom the employer's rules or policies require reports of similar allegations of criminal activity to be made. The law enforcement agency shall, without charge, send a copy of the initial police report, as well as any subsequent, supplemental, or related report, which excludes victim/witness statements or other materials that are part of an active criminal investigation and are exempt from disclosure under chapter 119, to the nearest locally certified domestic violence center within 24 hours after the agency's receipt of the report. The report furnished to the domestic violence center must include a narrative description of the domestic violence incident.</p> <p>(3) Whenever a law enforcement officer determines upon probable cause that an act of domestic violence has been committed within the jurisdiction the officer may arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime. The decision to arrest and charge shall not require consent of the victim or consideration of the relationship of the parties.</p>	
--	--

- (4)(a) When complaints are received from two or more parties, the officers shall evaluate each complaint separately to determine whether there is probable cause for arrest.
- (b) If a law enforcement officer has probable cause to believe that two or more persons have committed a misdemeanor or felony, or if two or more persons make complaints to the officer, the officer shall try to determine who was the primary aggressor. Arrest is the preferred response only with respect to the primary aggressor and not the preferred response with respect to a person who acts in a reasonable manner to protect or defend oneself or another family or household member from domestic violence.
- (5) No law enforcement officer shall be held liable, in any civil action, for an arrest based on probable cause, enforcement in good faith of a court order, or service of process in good faith under this chapter arising from an alleged incident of domestic violence brought by any party to the incident.
- (6) A person who willfully violates a condition of pretrial release provided in s. 903.047, when the original arrest was for an act of domestic violence as defined in s. 741.28, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and shall be held in custody until his or her first appearance.



Fla. Stat. Ann. § 741.28 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."

Address Confidentiality Program: Legislative Findings; Purpose.

Fla. Stat. Ann. § 741.401.

The Legislature finds that persons attempting to escape from actual or threatened domestic violence frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of ss. 741.401-741.409 is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, to enable interagency cooperation with the Attorney General in providing address confidentiality for victims of domestic violence, and to enable state and

<p>local agencies to accept a program participant's use of an address designated by the Attorney General as a substitute mailing address.</p> <p> Fla. Stat. Ann. § 741.402 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."</p>	
<p>Address Confidentiality Program: Application; Certification.</p> <p>(1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of a person adjudicated incapacitated under chapter 744 may apply to the Attorney General to have an address designated by the Attorney General serve as the person's address or the address of the minor or incapacitated person. To the extent possible within funds appropriated for this purpose, 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 it contains all of the following:</p> <p>(a) A sworn statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, and that the applicant fears for his or her safety or his or her children's safety or the safety of the minor or incapacitated person on whose behalf the application is made.</p> <p>(b) A designation of the Attorney General as agent for purposes of service of process and for the purpose of receipt of mail.</p> <p>(c) The mailing address where the applicant can be contacted by the Attorney General, and the phone number or numbers where the applicant can be called by the Attorney General.</p> <p>(d) A statement that the new address or addresses that the applicant requests must not be disclosed for the reason that disclosure will increase the risk of domestic violence.</p> <p>(e) The signature of the applicant and of any individual or representative of any office designated in writing under s. 741.408 who assisted in the preparation of the application, and the date on which the applicant signed the application.</p>	Fla. Stat. Ann. § 741.403.

(2) Applications must be filed with the Office of the Attorney General. An application fee may not be charged.

(3) Upon filing a properly completed application, the Attorney General shall certify the applicant as a program participant. Applicants shall be certified for 4 years following the date of filing unless the certification is withdrawn or invalidated before that date. The Attorney General shall by rule establish a renewal procedure.

(4) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Any person who attempts to gain access to a program participant's actual address through fraud commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Any person who knowingly enters the address confidentiality program to evade prosecution of criminal laws or civil liability commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



Fla. Stat. Ann. § 741.402 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."

Address Confidentiality Program: Certification Cancellation.

Fla. Stat. Ann. § 741.404.

(1) If the program participant obtains a name change, he or she loses certification as a program participant.

(2) The Attorney General may cancel a program participant's certification if there is a change in the residential address from the one listed on the application, unless the program

participant provides the Attorney General with 14 days' prior notice of the change of address.

(3) The Attorney General may cancel certification of a program participant if mail forwarded by the Attorney General to the program participant's address is returned and is undeliverable or if service of process documents are returned to the Attorney General.

(4) The Attorney General shall cancel certification of a program participant who applies using false information.



Fla. Stat. Ann. § 741.402 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."

Address Confidentiality Program: Agency Use of Designated Address.

Fla. Stat. Ann. § 741.405.

(1) A program participant may request that state and local agencies or other governmental entities use the address designated by the Attorney General as his or her address. When creating a new public record, state and local agencies or other governmental entities shall accept the address designated by the Attorney General as a program participant's substitute address, unless the Attorney General has determined that:

- (a) The agency or entity has a bona fide statutory or administrative requirement for the use of the address that would otherwise be confidential under ss. 741.401-741.409;
- (b) This address will be used only for those statutory and administrative purposes;
- (c) The agency or entity has identified the specific program participant's record for which the waiver is requested;
- (d) The agency or entity has identified the individuals who will have access to the record; and
- (e) The agency or entity has explained how its acceptance of a substitute address will prevent the agency from meeting its obligations under the law and why it cannot meet its statutory or administrative obligation by a change in its internal procedures.

- (2) During the review, evaluation, and appeal of an agency's request, the agency shall accept the use of a program participant's substitute address.
- (3) The Attorney General's determination to grant or withhold a requested waiver must be based on, but not limited to, an evaluation of information provided under subsection (1).
- (4) If the Attorney General determines that an agency or entity has a bona fide statutory or administrative need for the actual address and that the information will be used only for that purpose, the Attorney General may issue the actual address to the agency or entity. When granting a waiver, the Attorney General shall notify and require the agency or entity to:
- (a) Maintain the confidentiality of a program participant's address information;
 - (b) Limit the use of and access to that address;
 - (c) Designate an address disposition date after which the agency or entity may no longer maintain the record of the address; and
 - (d) Comply with any other provisions and qualifications determined appropriate by the Attorney General.
- (5) The Attorney General's denial of an agency's or entity's waiver request must be made in writing and include a statement of specific reasons for denial. Acceptance or denial of an agency's or entity's waiver request shall constitute final agency action.
- (6) Pursuant to chapter 120, an agency or entity may appeal the denial of its request.
- (7) A program participant may use the address designated by the Attorney General as his or her work address.
- (8) The Office of the Attorney General shall forward all first class mail to the appropriate program participants at no charge.



Fla. Stat. Ann. § 741.402 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."

<p>Address Confidentiality Program: Voting by Program Participant; Use of Designated Address by Supervisor of Elections.</p> <p>A program participant who is otherwise qualified to vote may request a vote-by-mail ballot pursuant to s. 101.62. The program participant shall automatically receive vote-by-mail ballots for all elections in the jurisdictions in which that individual resides in the same manner as vote-by-mail voters. The supervisor of elections shall transmit the vote-by-mail ballot to the program participant at the address designated by the participant in his or her application as a vote-by-mail voter. The name, address, and telephone number of a program participant may not be included in any list of registered voters available to the public.</p> <p> Fla. Stat. Ann. § 741.402 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."</p>	Fla. Stat. Ann. § 741.406.
<p>Address Confidentiality Program: Assistance for Program Applicants.</p> <p>The Attorney General shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence to assist persons applying to be program participants. Assistance and counseling rendered by the Office of the Attorney General or its designees to applicants does not constitute legal advice.</p> <p> Fla. Stat. Ann. § 741.402 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."</p>	Fla. Stat. Ann. § 741.408.
<p>Public Records Exemption: Address Confidentiality Program.</p> <p>(1) The addresses, corresponding telephone numbers, and social security numbers of program participants in the Address Confidentiality Program for Victims of Domestic</p>	Fla. Stat. Ann. § 741.465.

Violence held by the Office of the Attorney General are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except the information may be disclosed under the following circumstances: to a law enforcement agency for purposes of assisting in the execution of a valid arrest warrant; if directed by a court order, to a person identified in the order; or if the certification has been canceled. For purposes of this section, the term "address" means a residential street address, school address, or work address, as specified on the individual's application to be a program participant in the Address Confidentiality Program for Victims of Domestic Violence.

(2) The names, addresses, and telephone numbers of participants in the Address Confidentiality Program for Victims of Domestic Violence contained in voter registration and voting records held by the supervisor of elections and the Department of State are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except the information may be disclosed under the following circumstances: to a law enforcement agency for purposes of assisting in the execution of an arrest warrant or, if directed by a court order, to a person identified in the order. This exemption applies to information made exempt by this subsection before, on, or after the effective date of the exemption.

Public Records Exemption: Identifying and Locating Information of Victims of Stalking or Aggravated Stalking.

The names, addresses, and telephone numbers of persons who are victims of stalking or aggravated stalking are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution in the same manner that the names, addresses, and telephone numbers of participants in the Address Confidentiality Program for Victims of Domestic Violence which are held by the Attorney General under s. 741.465 are exempt from disclosure, provided that the victim files a sworn statement of stalking with the Office of the Attorney General and otherwise complies with the procedures in ss. 741.401-741.409.

Fla. Stat. Ann. § 741.4651.

<p>Victims' Right to Restitution; Restitution Procedure.</p> <p>(1)(a) In addition to any punishment, the court shall order the defendant to make restitution to the victim for:</p> <ol style="list-style-type: none">1. Damage or loss caused directly or indirectly by the defendant's offense; and2. Damage or loss related to the defendant's criminal episode, <p>unless it finds clear and compelling reasons not to order such restitution. Restitution may be monetary or nonmonetary restitution. The court shall make the payment of restitution a condition of probation in accordance with s. 948.03. An order requiring the defendant to make restitution to a victim does not remove or diminish the requirement that the court order payment to the Crimes Compensation Trust Fund pursuant to chapter 960. Payment of an award by the Crimes Compensation Trust Fund shall create an order of restitution to the Crimes Compensation Trust Fund, unless specifically waived in accordance with subparagraph (b)1.</p> <p>(b) 1. If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in this section, it shall state on the record in detail the reasons therefor.</p> <p>2. An order of restitution entered as part of a plea agreement is as definitive and binding as any other order of restitution, and a statement to such effect must be made part of the plea agreement. A plea agreement may contain provisions that order restitution relating to criminal offenses committed by the defendant to which the defendant did not specifically enter a plea.</p> <p>(c) [definition of "victim"]</p> <p>(2)(a) When an offense has resulted in bodily injury to a victim, a restitution order entered under subsection (1) shall require that the defendant:</p> <ol style="list-style-type: none">1. Pay the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a recognized method of healing.2. Pay the cost of necessary physical and occupational therapy and rehabilitation.3. Reimburse the victim for income lost by the victim as a result of the offense.	Fla. Stat. Ann. § 775.089.
--	----------------------------

<p>4. In the case of an offense which resulted in bodily injury that also resulted in the death of a victim, pay an amount equal to the cost of necessary funeral and related services.</p> <p>(b) When an offense has not resulted in bodily injury to a victim, a restitution order entered under subsection (1) may require that the defendant reimburse the victim for income lost by the victim as a result of the offense.</p> <p>(3)(a) The court may require that the defendant make restitution under this section within a specified period or in specified installments.</p> <p>(b) The end of such period or the last such installment shall not be later than:</p> <ol style="list-style-type: none">1. The end of the period of probation if probation is ordered;2. Five years after the end of the term of imprisonment imposed if the court does not order probation; or3. Five years after the date of sentencing in any other case. <p>(c) Notwithstanding this subsection, a court that has ordered restitution for a misdemeanor offense shall retain jurisdiction for the purpose of enforcing the restitution order for any period, not to exceed 5 years, that is pronounced by the court at the time restitution is ordered.</p> <p>(d) If not otherwise provided by the court under this subsection, restitution must be made immediately.</p> <p>If the restitution ordered by the court is not made within the time period specified, the court may continue the restitution order through the duration of the civil judgment provision set forth in subsection (5) and as provided in s. 55.10.</p> <p>(4) If a defendant is placed on probation or paroled, complete satisfaction of any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation, and the Florida Commission on Offender Review may revoke parole, if the defendant fails to comply with such order.</p> <p>(5) An order of restitution may be enforced by the state, or by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action. The outstanding unpaid amount of the order of restitution bears interest in accordance with s. 55.03, and, when properly recorded, becomes a lien on real estate owned by the defendant. If civil</p>	
---	--

enforcement is necessary, the defendant shall be liable for costs and attorney's fees incurred by the victim in enforcing the order.

(6)(a) The court, in determining whether to order restitution and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense.

(b) The criminal court, at the time of enforcement of the restitution order, shall consider the financial resources of the defendant, the present and potential future financial needs and earning ability of the defendant and his or her dependents, and such other factors which it deems appropriate.

(7)(a) While the primary purpose of restitution is to compensate the victim, it also serves the rehabilitative and deterrent goals of the criminal justice system.

(b) Restitution must be determined on a fair market value basis unless the state, victim, or defendant shows that using another basis, including, but not limited to, replacement cost, purchase price less depreciation, or actual cost of repair, is equitable and better furthers the purposes of restitution.

(c) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The court may consider hearsay evidence for this purpose, provided it finds that the hearsay evidence has a minimal indicia of reliability. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense is on the state attorney. The burden of demonstrating the present financial resources and the absence of potential future financial resources of the defendant and the financial needs of the defendant and his or her dependents is on the defendant. The burden of demonstrating such other matters as the court deems appropriate is upon the party designated by the court as justice requires.

(8) The conviction of a defendant for an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of that offense in any subsequent civil proceeding. An order of restitution hereunder will not bar any subsequent civil remedy or recovery, but the amount of such restitution shall be set off against any subsequent independent civil recovery.

- | | |
|---|--|
| <p>(9) When a corporation or unincorporated association is ordered to make restitution, the person authorized to make disbursements from the assets of such corporation or association shall pay restitution from such assets, and such person may be held in contempt for failure to make such restitution.</p> <p>(10)(a) Any default in payment of restitution may be collected by any means authorized by law for enforcement of a judgment.</p> <p>(b) The restitution obligation is not subject to discharge in bankruptcy, whether voluntary or involuntary, or to any other statutory or common-law proceeding for relief against creditors.</p> <p>(11)(a) The court may order the clerk of the court to collect and dispense restitution payments in any case.</p> <p>(b) The court may order the Department of Corrections to collect and dispense restitution and other payments from persons remanded to its custody or supervision.</p> <p>(12)(a) <i>Issuance of income deduction order with an order for restitution.--</i></p> <ol style="list-style-type: none">1. Upon the entry of an order for restitution, the court shall enter a separate order for income deduction if one has not been entered.2. The income deduction order shall direct a payor to deduct from all income due and payable to the defendant the amount required by the court to meet the defendant's obligation.3. The income deduction order shall be effective so long as the order for restitution upon which it is based is effective or until further order of the court.4. When the court orders the income deduction, the court shall furnish to the defendant a statement of his or her rights, remedies, and duties in regard to the income deduction order. The statement shall state: <ol style="list-style-type: none">a. All fees or interest which shall be imposed.b. The total amount of income to be deducted for each pay period.c. That the income deduction order applies to current and subsequent payors and periods of employment.d. That a copy of the income deduction order will be served on the defendant's payor or payors. | |
|---|--|

e. That enforcement of the income deduction order may only be contested on the ground of mistake of fact regarding the amount of restitution owed. f. That the defendant is required to notify the clerk of court within 7 days after changes in the defendant's address, payors, and the addresses of his or her payors.
(b) <i>Enforcement of income deduction orders.--</i> 1. The clerk of court or probation officer shall serve an income deduction order and the notice to payor on the defendant's payor unless the defendant has applied for a hearing to contest the enforcement of the income deduction order. 2. a. Service by or upon any person who is a party to a proceeding under this subsection shall be made in the manner prescribed in the Florida Rules of Civil Procedure for service upon parties. b. Service upon the defendant's payor or successor payor under this subsection shall be made by prepaid certified mail, return receipt requested, or in the manner prescribed in chapter 48. 3. The defendant, within 15 days after having an income deduction order entered against him or her, may apply for a hearing to contest the enforcement of the income deduction order on the ground of mistake of fact regarding the amount of restitution owed. The timely request for a hearing shall stay the service of an income deduction order on all payors of the defendant until a hearing is held and a determination is made as to whether the enforcement of the income deduction order is proper. 4. The notice to payor shall contain only information necessary for the payor to comply with the income deduction order. The notice shall: a. Require the payor to deduct from the defendant's income the amount specified in the income deduction order and to pay that amount to the clerk of court. b. Instruct the payor to implement the income deduction order no later than the first payment date which occurs more than 14 days after the date the income deduction order was served on the payor. c. Instruct the payor to forward within 2 days after each payment date to the clerk of court the amount deducted from the defendant's income and a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction order. d. Specify that, if a payor fails to deduct the proper amount from the defendant's income, the payor is liable for the amount the payor should have deducted plus costs, interest, and reasonable attorney's fees.

- | | |
|--|--|
| <p>e. Provide that the payor may collect up to \$5 against the defendant's income to reimburse the payor for administrative costs for the first income deduction and up to \$2 for each deduction thereafter.</p> <p>f. State that the income deduction order and the notice to payor are binding on the payor until further notice by the court or until the payor no longer provides income to the defendant.</p> <p>g. Instruct the payor that, when he or she no longer provides income to the defendant, the payor shall notify the clerk of court and shall also provide the defendant's last known address and the name and address of the defendant's new payor, if known, and that, if the payor violates this provision, the payor is subject to a civil penalty not to exceed \$250 for the first violation or \$500 for any subsequent violation.</p> <p>h. State that the payor shall not discharge, refuse to employ, or take disciplinary action against the defendant because of an income deduction order and shall state that a violation of this provision subjects the payor to a civil penalty not to exceed \$250 for the first violation or \$500 for any subsequent violation.</p> <p>i. Inform the payor that, when he or she receives income deduction orders requiring that the income of two or more defendants be deducted and sent to the same clerk of court, the payor may combine the amounts that are to be paid to the depository in a single payment as long as he or she identifies that portion of the payment attributable to each defendant.</p> <p>j. Inform the payor that if the payor receives more than one income deduction order against the same defendant, he or she shall contact the court for further instructions.</p> <p>5. The clerk of court shall enforce income deduction orders against the defendant's successor payor who is located in this state in the same manner prescribed in this subsection for the enforcement of an income deduction order against an original payor.</p> <p>6. A person may not discharge, refuse to employ, or take disciplinary action against an employee because of the enforcement of an income deduction order. An employer who violates this provision is subject to a civil penalty not to exceed \$250 for the first violation or \$500 for any subsequent violation.</p> <p>7. When a payor no longer provides income to a defendant, the payor shall notify the clerk of court and shall provide the defendant's last known address and the name and address of the defendant's new payor, if known. A payor who violates this provision is subject to a civil penalty not to exceed \$250 for the first violation or \$500 for a subsequent violation.</p> | |
|--|--|

<p> Fla. Stat. Ann. § 775.089(1)(c) defines the term “victim” for the purposes of restitution. This definition is included above in the section “Select Definitions.”</p> <p> Fla. Const. art. I, § 16(b)(9) affords victims the right to full and timely restitution. Fla. Stat. Ann. § 960.001(1)(j) provides victims with the right to receive notice of their rights to request and receive restitution. Fla. Stat. Ann. § 775.089 governs restitution rights and procedure in the adult justice system and Fla. Stat. Ann. § 985.437 governs restitution rights and procedure in the juvenile justice system. Fla. Stat. Ann. § 960.295 governs civil restitution liens. Some of these statutory provisions are included above.</p> <p> A promising practice, when informing victims about their right to restitution, is to notify victims that they should collect and organize all documentation relating to their losses. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p>Right of Certain Child-Victims' and Sexual Assault Victims to Nondisclosure of Their Photograph, Name or Address by Public Employees or Officers.</p> <p>(1) A public employee or officer who has access to the photograph, name, or address of a person who is alleged to be the victim of an offense described in this chapter, chapter 800, s. 827.03, s. 827.04, or s. 827.071 may not willfully and knowingly disclose it to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, a person specified in an order entered by the court having jurisdiction of the alleged offense, or organizations authorized to receive such information made exempt by s. 119.071(2)(h), or to a rape crisis center or sexual assault counselor, as defined in s. 90.5035(1)(b), who will be offering services to the victim.</p>	Fla. Stat. Ann. § 794.024.

(2) A violation of subsection (1) constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.	
<p>Sexual Battery Victims' Rights and Law Enforcement's Obligations Regarding Notification of Rights and Services.</p> <p>(1) A law enforcement officer who investigates an alleged sexual battery shall:</p> <p>(a) Assist the victim in obtaining medical treatment, if medical treatment is necessary as a result of the alleged incident, a forensic examination, and advocacy and crisis-intervention services from a certified rape crisis center and provide or arrange for transportation to the appropriate facility.</p> <p>(b) Advise the victim that he or she may contact a certified rape crisis center from which the victim may receive services.</p> <p>(c) Prior to submitting a final report, permit the victim to review the final report and provide a statement as to the accuracy of the final report.</p> <p>(2) The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available to a victim on a standard form developed and distributed by the Florida Council Against Sexual Violence in conjunction with the Department of Law Enforcement. The notice must include the resource listing, including telephone number, for the area certified rape crisis center as designated by the Florida Council Against Sexual Violence.</p> <p> A promising practice is to have a policy and procedure in place to ensure that all victims have meaningful access to information about their rights and available services from the earliest moments of the case. Consideration should be given to providing this information in the primary language of the victim when possible, as well as in a form accessible to those with vision impairment.</p>	Fla. Stat. Ann. § 794.052.

<p>Limitations on Number of Law Enforcement or Discovery Interviews of Child Victims and Victims with an Intellectual Disability.</p> <p>The chief judge of each judicial circuit, after consultation with the state attorney and the public defender for the judicial circuit, the appropriate chief law enforcement officer, and any other person deemed appropriate by the chief judge, shall order reasonable limits on the number of interviews which a victim of a violation of s. 794.011, s. 800.04, s. 827.03, or s. 847.0135(5) who is under 16 years of age or a victim of a violation of s. 794.011, s. 800.02, s. 800.03, or s. 825.102 who has an intellectual disability as defined in s. 393.063 must submit to for law enforcement or discovery purposes. To the extent possible, the order must protect the victim from the psychological damage of repeated interrogations while preserving the rights of the public, the victim, and the person charged with the violation.</p> <p> Fla. Stat. Ann. § 92.55(4) authorizes courts to enter orders limiting the number of times that a child, a person who has an intellectual disability, or a sexual offense victim or witness may be interviewed. This provision is included above.</p>	Fla. Stat. Ann. § 914.16.
<p>Appointment of Guardian Ad Litem or Other Advocate for Child-Victims and Victims with an Intellectual Disability.</p> <p>(1) A guardian ad litem or other advocate shall be appointed by the court to represent a minor in any criminal proceeding if the minor is a victim of or witness to child abuse or neglect, a victim of a sexual offense, or a witness to a sexual offense committed against another minor. The court may appoint a guardian ad litem or other advocate in any other criminal proceeding in which a minor is involved as a victim or a witness. The guardian ad litem or other advocate shall have full access to all evidence and reports introduced during the proceedings, may interview witnesses, may make recommendations to the court, shall be noticed and have the right to appear on behalf of the minor at all proceedings, and may request additional examinations by medical doctors, psychiatrists, or psychologists. The guardian ad litem or other advocate shall:</p>	Fla. Stat. Ann. § 914.17.

<p>(a) Explain, in language understandable to the minor, all legal proceedings in which the minor is involved;</p> <p>(b) Act, as a friend of the court, to advise the judge, whenever appropriate, of the minor's ability to understand and cooperate with any court proceeding; and</p> <p>(c) Assist the minor and the minor's family in coping with the emotional effects of the crime and subsequent criminal proceedings in which the minor is involved.</p> <p>(2) An advocate shall be appointed by the court to represent a person who has an intellectual disability as defined in s. 393.063 in any criminal proceeding if the person is a victim of or witness to abuse or neglect, a victim of a sexual offense, or a witness to a sexual offense committed against a minor or person who has an intellectual disability. The court may appoint an advocate in any other criminal proceeding in which such person is involved as a victim or a witness. The advocate shall have full access to all evidence and reports introduced during the proceedings, may interview witnesses, may make recommendations to the court, shall be noticed and have the right to appear on behalf of the person at all proceedings, and may request additional examinations by medical doctors, psychiatrists, or psychologists. The advocate shall:</p> <p>(a) Explain, in language understandable to the person, all legal proceedings in which the person is involved;</p> <p>(b) Act, as a friend of the court, to advise the judge, whenever appropriate, of the person's ability to understand and cooperate with any court proceedings; and</p> <p>(c) Assist the person and the person's family in coping with the emotional effects of the crime and subsequent criminal proceedings in which the person is involved.</p> <p>(3) Any person participating in a judicial proceeding as a guardian ad litem or other advocate is presumed <i>prima facie</i> to be acting in good faith and in so doing is immune from any liability, civil or criminal, which might be incurred or imposed.</p>	
---	--

<p>Confidentiality of Identifying and Locating Information of Victim-Witnesses and Immediate Family Members Who Are Accessing Protective or Relocation Services.</p> <p>(1) Information held by any state or local law enforcement agency, state attorney, the statewide prosecutor, the Victim and Witness Protection Review Committee created pursuant to s. 943.031, or the Department of Law Enforcement which discloses:</p> <p>(a) The identity or location of a victim or witness who has been identified or certified for protective or relocation services pursuant to s. 914.25;</p> <p>(b) The identity or location of an immediate family member of a victim or witness who has been identified or certified pursuant to s. 914.25;</p> <p>(c) Relocation sites, techniques, or procedures utilized or developed as a result of the victim and witness protective services afforded by s. 914.25; or</p> <p>(d) The identity or relocation site of any victim, witness, or immediate family member of a victim or witness who has made a relocation of permanent residence by reason of the victim's or witness's involvement in the investigation or prosecution giving rise to certification for protective or relocation services pursuant to s. 914.25;</p> <p>is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such information may be shared by law enforcement agencies, state attorneys, and the statewide prosecutor to facilitate the protective or relocation services provided pursuant to s. 914.25 and to support the prosecution efforts of the state attorneys and the statewide prosecutor. Any information so shared must remain confidential and exempt in the hands of any agency or entity to which the information is provided.</p> <p>(2) If a victim or witness is identified for protective services under s. 914.25 and is later denied certification, the identity and location information exempt pursuant to paragraphs (1)(a) and (b) becomes public information, unless otherwise provided by law.</p> <p>(3) If a victim or witness is certified for protective services, information made confidential and exempt from public disclosure under paragraphs (1)(a) and (b) becomes public information, unless otherwise provided by law, at the time such certification expires, unless</p>	Fla. Stat. Ann. § 914.27.
---	---------------------------

<p>the state attorney or statewide prosecutor making such certification complies with the provisions of subsection (4).</p> <p>(4) The certifying state attorney or statewide prosecutor may state in writing to the Victim and Witness Protection Review Committee established pursuant to s. 943.031 that even though certification for participation in the victim or witness protective services program is about to expire, disclosure of information made confidential and exempt by paragraph (1)(a) or paragraph (1)(b) continues to constitute an unwarranted risk to, or jeopardizes the safety of, victims, witnesses, or family members of such victims or witnesses. Accordingly, the confidential and exempt status of such information shall continue until the certifying state attorney or statewide prosecutor determines that disclosure of such information would not constitute an unwarranted risk to, or jeopardize the safety of, such persons, and provides written notification to that effect to the Victim and Witness Protection Review Committee.</p> <p>(5) For the purposes of effectively implementing s. 914.25, any state or local law enforcement agency, state attorney, or the statewide prosecutor may provide written notification to an agency as defined in s. 119.011 or to a business entity operating under contract with, licensed by, or having any other business relationship with an agency, or providing services pursuant to s. 914.25, that information described in subsection (1) held by that agency or business is confidential and exempt from public disclosure. The state or local law enforcement agency, state attorney, or the statewide prosecutor providing such written notification shall also provide written notification to the agency or business as to when, in accordance with this section, identity and location information exempted pursuant to paragraphs (1)(a) and (b) can be made publicly available.</p>	
<p>The Right of Certain Child-Victims to Expedited Disposition.</p> <p>Every criminal case prosecuted under chapter 782, chapter 784, chapter 787, chapter 794, chapter 796, chapter 800, chapter 827, or chapter 847 which involves the abuse of a child or unlawful sexual contact or acts performed in the presence of, with, or upon a child under the age of 16 shall be heard and disposed of as expeditiously as possible.</p>	Fla. Stat. Ann. § 918.0155.

<p> Fla. Const. art. I, § 16(b)(10) affords victims the rights to proceedings free from unreasonable delay and to a prompt and final conclusion. Additionally, Fla. Stat. Ann. § 960.0015 affords victims the right to a speedy trial and Fla. Stat. Ann. § 960.001(1)(a)(7) affords victims the right to information regarding their right to a prompt and timely disposition of the case. These provisions are included above.</p>	
<p>Right of Certain Sex Offense Victims to Have Courtroom Cleared During Testimony; Right of Other Sex Offense Victims to Have Courtroom Cleared Upon Request During Testimony; Exceptions.</p> <p>(1) Except as provided in subsection (2), in the trial of any case, civil or criminal, if any person under the age of 16 or any person with an intellectual disability as defined in s. 393.063 is testifying concerning any sex offense, the court shall clear the courtroom of all persons except parties to the cause and their immediate families or guardians, attorneys and their secretaries, officers of the court, jurors, newspaper reporters or broadcasters, court reporters, and, at the request of the victim, victim or witness advocates designated by the state attorney's office.</p> <p>(2) If the victim of a sex offense is testifying concerning that offense in any civil or criminal trial, the court shall clear the courtroom of all persons upon the request of the victim, regardless of the victim's age or mental capacity, except that parties to the cause and their immediate families or guardians, attorneys and their secretaries, officers of the court, jurors, newspaper reporters or broadcasters, court reporters, and, at the request of the victim, victim or witness advocates designated by the state attorney may remain in the courtroom.</p>	Fla. Stat. Ann. § 918.16.
<p> Fla. Stat. Ann. § 960.001(1)(q) affords victims the right to be informed of this right. This provision is included above.</p>	

<p>Victims' Right to Be Present and Heard at Sentencing; Prosecutor's Obligations; Rights of Certain Officer-Victims Regarding Plea Agreements.</p> <p>(1) At the sentencing hearing, and prior to the imposition of sentence upon any defendant who has been convicted of any felony or who has pleaded guilty or nolo contendere to any crime, including a criminal violation of a provision of chapter 316, the sentencing court shall permit the victim of the crime for which the defendant is being sentenced, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the next of kin of the victim if the victim has died from causes related to the crime, to:</p> <p>(a) Appear before the sentencing court for the purpose of making a statement under oath for the record; and</p> <p>(b) Submit a written statement under oath to the office of the state attorney, which statement shall be filed with the sentencing court.</p> <p>(2) The state attorney or any assistant state attorney shall advise all victims or, when appropriate, the victim's parent, guardian, next of kin, or lawful representative that statements, whether oral or written, shall relate to the facts of the case and the extent of any harm, including social, psychological, or physical harm, financial losses, loss of earnings directly or indirectly resulting from the crime for which the defendant is being sentenced, and any matter relevant to an appropriate disposition and sentence.</p> <p>(3)(a) This subsection shall be known by the popular name the "Officer Cheryl Seiden Act."</p> <p>(b) The court may not accept a plea agreement that prohibits a law enforcement officer, correctional officer, or correctional probation officer from appearing or speaking at a parole hearing or clemency hearing.</p> <p>(c) In any case in which the victim is a law enforcement officer, correctional officer, or correctional probation officer, a plea agreement may not prohibit the officer or an authorized representative of the officer's employing agency from appearing or providing a statement at the sentencing hearing.</p>	Fla. Stat. Ann. § 921.143.
--	----------------------------

<p>(d) As used in this subsection, the terms "law enforcement officer," "correctional officer," "correctional probation officer," and "employing agency" have the meanings ascribed in s. 943.10.</p> <p>(e) This subsection does not impair any right afforded under chapter 960 or under s. 16(b), Art. I of the State Constitution.</p> <p>(4) The court may refuse to accept a negotiated plea and order the defendant to stand trial.</p> <p> Fla. Stat. Ann. § 960.001(1)(k) provides victims with the right to notification of their right to submit an impact statement. This provision appears above.</p>	
<p>Victims' Rights Regarding Notification of Inmate Release.</p> <p>(1) Within 6 months before the release of an inmate from the custody of the Department of Corrections or a private correctional facility by expiration of sentence under s. 944.275, any release program provided by law, or parole under chapter 947, or as soon as possible if the offender is released earlier than anticipated, notification of such anticipated release date shall be made known by the Department of Corrections to the chief judge of the circuit in which the offender was sentenced, the appropriate state attorney, the original arresting law enforcement agency, the Department of Law Enforcement, and the sheriff as chief law enforcement officer of the county in which the inmate plans to reside. In addition, unless otherwise requested by the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, the victim's next of kin in the case of a homicide, the state attorney or the Department of Corrections, whichever is appropriate, shall notify such person within 6 months before the inmate's release, or as soon as possible if the offender is released earlier than anticipated, when the name and address of such victim, or the name and address of the parent, guardian, next of kin, or lawful representative of the victim has been furnished to the agency. The state attorney shall provide the latest address documented for the victim, or for the victim's parent, guardian, next of kin, or lawful representative, as applicable, to the sheriff with the other documents required by law for the delivery of inmates to those agencies for service of</p>	Fla. Stat. Ann. § 944.605(1), (6).

sentence. Upon request, within 30 days after an inmate is approved for community work release, the state attorney, the victim, the victim's parent or guardian if the victim is a minor, the victim's next of kin in the case of a homicide, or the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor shall be notified that the inmate has been approved for community work release. This section does not imply any repeal or modification of any provision of law relating to notification of victims.

...

(6) Upon request of the victim, the personal representative of the victim, or the state attorney, the department shall notify the requesting person when an inmate has been approved for community work release within 30 days after the date of approval.



Fla. Const. art. I, § 16(b)(6)(a) provides victims with the right to request their rights to notice of and presence at public proceedings, as well as notice of an offender's release or escape and of any proceeding in which a right of the victim is implicated. Fla. Const. art. I, § 16(b)(6)(f) provides victims with the right to be informed of, *inter alia*, any scheduled release date of the offender, and the release of or the escape of the offender from custody. These provisions are included above.



A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully document a victim's request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.

This resource was developed by the National Crime Victim Law Institute (NCVLI) under 2020-V3-GX-K001, awarded to the International Association of Chiefs of Police (IACP) by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this draft publication are those of the contributors and do not necessarily represent the official position of the U.S. Department of Justice.