

## Select Victims' Rights – Indiana

### USING THIS RESOURCE

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

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<sup>1</sup> 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.


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<p><b>SELECT DEFINITIONS</b></p>	<p><b>Indiana Statutes</b></p>
<p><b>Victims' Rights Definitions.</b></p> <p>“Accused” means that an indictment or information charging a person with a crime or a petition alleging that a child is a delinquent child has been filed. Ind. Code Ann. § 35-40-4-2.</p> <p>“Crime” includes a delinquent act. Ind. Code Ann. § 35-40-4-3.</p> <p>“Delinquent act” has the meaning set forth in IC 31-37-1-2. Ind. Code Ann. § 35-40-4-4.</p> <p>“Immediate family member” means a spouse, child, parent, or sibling. Ind. Code Ann. § 35-40-4-4.5.</p> <p>“Local law enforcement agency” means a law enforcement agency other than the state police department. Ind. Code Ann. § 35-40-4-7.</p> <p>“Postarrest release” means the discharge on recognizance, bond, or other condition imposed under IC 31 or IC 35-33 of an accused person from confinement. Ind. Code Ann. § 35-40-4-5.</p> <p>“Postconviction release” means parole, work release, home detention, or any other permanent, conditional, or temporary discharge from confinement of a person who is confined in: (1) the custody of: (A) the department of correction; or (B) a sheriff; (2) a county jail; (3) a secure mental health facility; or (4) a secure juvenile facility or shelter care facility. Ind. Code Ann. § 35-40-4-6.</p> <p>“Public court proceeding” means a hearing, an argument, or another matter scheduled by and held before a trial court. The term does not include: (1) a deposition; (2) a lineup; (3) a</p>	<p>Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8.</p>

<p>grand jury proceeding; or (4) any other procedure not held in the presence of a court having jurisdiction. Ind. Code Ann. § 35-40-4-7.</p> <p>“Reasonable suspicion” means an objectively reasonable basis for believing that a death was caused by the criminal act of a third person, based on: (1) concrete, articulable facts that support the belief; and (2) specific reasonable inferences that may be drawn from these facts. Ind. Code Ann. § 35-40-4-7.3.</p> <p>“Uncharged death” means the death of a person that a local law enforcement agency has determined was not the result of a criminal act committed by a third person. Ind. Code Ann. § 35-40-4-7.5.</p> <p>“Victim” means a person that has suffered harm as a result of a crime that was perpetrated directly against the person. The term does not include a person that has been charged with a crime arising out of the same occurrence. Ind. Code Ann. § 35-40-4-8.</p> <p> These definitions apply to Indiana’s statutory victims’ rights provisions, Ind. Code Ann. §§ 35-40-1-1 through 35-40-15-6. Many of these provisions are included below in the section “Select Crime Victims’ Rights.”</p>	
<p><b>Rights of Victims of Identity Theft Definitions.</b></p> <p>As used in this chapter, “identity theft” means:                  (1) identity deception (IC 35-43-5-3.5); or                  (2) synthetic identity deception (IC 35-43-5-3.8) (before its repeal).                  Ind. Code Ann. § 35-40-14-1.</p> <p>As used in this chapter, “unit” refers to the identity theft unit established under IC 4-6-13-2.                  Ind. Code Ann. § 35-40-14-2.</p>	<p>Ind. Code Ann. §§ 35-40-14-1 through 35-40-14-2.</p>

 These definitions apply to Ind. Code Ann. §§ 35-40-14-3 through 35-40-14-4. These provisions are included below in the section “Select Crime Victims’ Rights.”	
<p><b>Rights of Sexual Assault Victims Definitions.</b></p> <p>The following definitions apply throughout this article:</p> <p>(1) “Law enforcement officer” means any of the following:              (A) A law enforcement officer (as defined in IC 35-31.5-2-185).              (B) A state educational institution police officer appointed under IC 21-39-4.              (C) A school corporation police officer appointed under IC 20-26-16.              (D) A school resource officer (as defined in IC 20-26-18.2-1).              (E) A police officer of a private postsecondary educational institution whose governing board has appointed the police officer under IC 21-17-5-2.</p> <p>(2) “Provider” has the meaning set forth in IC 16-21-8-0.2.</p> <p>(3) “Relative” has the meaning set forth in IC 35-42-2-1(b).</p> <p>(4) “Sexual assault forensic evidence” means the results collected from a forensic medical examination of a victim by a provider.</p> <p>(5) “State sexual assault response team” means the statewide sexual assault response team coordinated by the Indiana prosecuting attorneys council and the Indiana criminal justice institute.</p> <p>(6) “Victim” means an individual:              (A) who is a victim of sexual assault (as defined in IC 5-26.5-1-8); or              (B) who:              (i) is a relative of or a person who has had a close personal relationship with the individual described under clause (A); and</p>	<p>Ind. Code Ann. § 35-40.5-1-1.</p>

<p>(ii) is designated by the individual described under clause (A) as a representative. The term does not include an individual who is accused of committing an act of sexual assault (as defined in IC 5-26.5-1-8) against the individual described under clause (A).</p> <p>(7) “Victim advocate” has the meaning set forth in IC 35-37-6-3.5.</p> <p>(8) “Victim service provider” has the meaning set forth in IC 35-37-6-5.</p> <p> These definitions apply to Ind. Code Ann. §§ 35-40.5-1-1 through 35-40.5-7-1. These provisions are included below in the section “Select Crime Victims’ Rights.”</p>	
<p><b>Law Enforcement’s Obligation to Notify Child-Victim’s Parent, Guardian or Custodian that Child is a Victim of Crime Definitions.</b></p> <p>As used in this chapter, “child” means a person who is less than eighteen (18) years of age. Ind. Code Ann. § 5-2-18-1.</p> <p>As used in this chapter, “law enforcement agency” has the meaning set forth IC 5-2-17-2. Ind. Code Ann. § 5-2-18-2.</p> <p> These definitions apply to Ind. Code Ann. §§ 5-2-18-3 and 5-2-18-4. These provisions are included below in the section “Select Crime Victims’ Rights.”</p>	<p>Ind. Code Ann. §§ 5-2-18-1 and § 5-2-18-2.</p>

<p><b>Address Confidentiality Program Definitions.</b></p> <p>“Address” means: (1) a residential street address; (2) a school address; or (3) a work address; of an individual as specified on an individual’s application to be a program participant. Ind. Code Ann. § 5-26.5-1-2.</p> <p>“Designated address” means the address designated by the office of the attorney general to serve as the address of a program participant. Ind. Code Ann. § 5-26.5-1-2.5.</p> <p>“Domestic violence” includes conduct that is:</p> <ul style="list-style-type: none"> <li>(1) an element of an offense under IC 35-42 or a threat to commit an act described in IC 35-42 by a person against:             <ul style="list-style-type: none"> <li>(A) a family or household member; or</li> <li>(B) an incapacitated individual under the guardianship or otherwise subject to the control of the person;</li> </ul> </li> <li>(2) an element or threat to commit an act constituting an element of a misdemeanor or felony under the laws of:             <ul style="list-style-type: none"> <li>(A) the United States;</li> <li>(B) another state; or</li> <li>(C) an Indian tribe;</li> </ul>             that is substantially similar to an offense described in subdivision (1); or</li> <li>(3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2); regardless of whether the act or threat has been reported to a law enforcement agency or results in a criminal prosecution or whether the person who engages in the conduct is an adult.</li> </ul> <p>Ind. Code Ann. § 5-26.5-1-3.</p> <p>“Harassment” means conduct that constitutes:</p> <ul style="list-style-type: none"> <li>(1) an offense under IC 35-45-2-2 (harassment);</li> <li>(2) an offense under the laws of:             <ul style="list-style-type: none"> <li>(A) the United States;</li> </ul> </li> </ul>	<p>Ind. Code Ann. §§ 5-26.5-1-2 through § 5-26.5-1-9.</p>
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(B) another state; or  
 (C) an Indian tribe;  
 that is substantially similar to an offense described in subdivision (1); or  
 (3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2);  
 regardless of whether the conduct results in criminal prosecution or whether the person who  
 engages in the conduct is an adult.  
 Ind. Code Ann. § 5-26.5-1-3.5.

“Human trafficking” means conduct that constitutes:  
 (1) an offense under IC 35-42-3.5 (human and sexual trafficking);  
 (2) an offense under the laws of:  
 (A) the United States;  
 (B) another state; or  
 (C) an Indian tribe;  
 that is substantially similar to an offense described in subdivision (1); or  
 (3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2);  
 regardless of whether the conduct results in criminal prosecution or whether the person who  
 engages in the conduct is an adult.  
 Ind. Code Ann. § 5-26.5-1-3.8.

“Incapacitated individual” has the meaning set forth in IC 12-10-7-1.  
 Ind. Code Ann. § 5-26.5-1-4.

“Intimidation” means conduct that constitutes:  
 (1) an offense under IC 35-45-2-1 (intimidation);  
 (2) an offense under the laws of:  
 (A) the United States;  
 (B) another state; or  
 (C) an Indian tribe;  
 that is substantially similar to an offense described in subdivision (1); or  
 (3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult.

Ind. Code Ann. § 5-26.5-1-4.5.

“Invasion of privacy” means conduct that constitutes:

(1) an offense under IC 35-46-1-15.1 (invasion of privacy);

(2) an offense under the laws of:

(A) the United States;

(B) another state; or

(C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

(3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult.

Ind. Code Ann. § 5-26.5-1-4.8.

“Minor” means a person who is less than eighteen (18) years of age. Ind. Code Ann. § 5-26.5-1-5.

“Person” means an individual, corporation, limited liability company, partnership, unincorporated association, or governmental entity (as defined in IC 35-31.5-2-144). Ind. Code Ann. § 5-26.5-1-5.5.

“Program” means the address confidentiality program administered by the office of the attorney general under this article. Ind. Code Ann. § 5-26.5-1-5.6.

“Program participant” refers to an individual certified as a program participant under IC 5-26.5-2-3. Ind. Code Ann. § 5-26.5-1-6.

“Protective order” means any order issued by a court that prohibits a person from directly or indirectly contacting, harassing, disturbing, or approaching another person. The term

includes an order (as defined in IC 5-2-9-2.1) and a protective order from a foreign jurisdiction. Ind. Code Ann. § 5-26.5-1-7.

“Sexual assault” means conduct that constitutes:

(1) an offense under IC 35-42-4 (sex crimes) or IC 35-46-1-3 (incest);

(2) an offense under the laws of:

(A) the United States;

(B) another state; or

(C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

(3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult.

Ind. Code Ann. § 5-26.5-1-8.

“Stalking” means conduct that constitutes:

(1) an offense under IC 35-45-10-5 (stalking);

(2) an offense under the laws of:

(A) the United States;

(B) another state; or

(C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

(3) an attempt or conspiracy to engage in conduct described in subdivision (1) or (2);


regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult.



Ind. Code Ann. § 5-26.5-1-9.



These definitions apply to Indiana’s Address Confidentiality Program, Ind. Code Ann. §§ 5-26.5-1-1 through 5-26.5-5-6. Some of these provisions are included below in the section “Select Crime Victims’ Rights.”

<p><b>Emergency Services for Sex Crime Victims Definitions.</b></p> <p>The following definitions apply throughout this chapter:</p> <p>(1) “Division” refers to the victim services division of the Indiana criminal justice institute established by IC 5-2-6-8(a).</p> <p>(2) “Evidence” means the results collected from a forensic medical examination of a victim by a provider.</p> <p>(3) “Personal information” has the meaning set forth in IC 9-14-6-6.</p> <p>(4) “Provider” means a hospital or licensed medical services provider that provides forensic medical exams and additional forensic services to a victim.</p> <p>(5) “Sample” means the result collected from a forensic medical examination of the victim by a provider, when the victim has not yet reported the sex crime to law enforcement.</p> <p>(6) “Secured storage” means a method of storing a sample that will adequately safeguard the integrity and viability of the sample.</p> <p>(7) “Sexual assault examination kit” means the standard medical forensic examination kit for victims of sexual assault developed by the state police department under IC 10-11-2-33.</p> <p>(8) “Sexual assault nurse examiner” means a registered nurse who:</p> <p>(A) has received training to provide comprehensive care to sexual assault survivors; and</p> <p>(B) can:</p> <p>(i) conduct a forensic medical examination; and</p> <p>(ii) collect evidence from a sexual assault victim.</p>	<p>Ind. Code Ann. § 16-21-8-0.2.</p>
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<p> These definitions apply to Indiana’s laws regarding emergency services for crime victims, Ind. Code Ann. §§ 16-21-8-0.2 through 16-21-8-12. Some of these provisions are included below in the section “Select Crime Victims’ Rights.”</p>	
<p><b>Housing-Related Rights of Victims of Certain Crimes Definitions.</b></p> <p>As used in this chapter, “applicable offense” refers to any of the following:</p> <ul style="list-style-type: none"> <li>(1) A crime involving domestic or family violence (as defined in IC 35-31.5-2-76).</li> <li>(2) A sex offense under IC 35-42-4.</li> <li>(3) Stalking under IC 35-45-10.</li> </ul> <p>Ind. Code Ann. § 32-31-9-3.</p> <p>As used in this chapter, “applicant” means an individual who applies to a landlord to enter into a lease of a dwelling unit. Ind. Code Ann. § 32-31-9-4.</p> <p>As used in this chapter, “dwelling unit” has the meaning set forth in IC 32-31-5-3. Ind. Code Ann. § 32-31-9-5.</p> <p>As used in this chapter, “perpetrator” means an individual who:</p> <ul style="list-style-type: none"> <li>(1) has been convicted of; or</li> <li>(2) for purposes of a civil protection order, has been determined to have committed; an applicable offense.</li> </ul> <p>Ind. Code Ann. § 32-31-9-6.</p> <p>As used in this chapter, “protected individual” means a tenant or applicant:</p> <ul style="list-style-type: none"> <li>(1) who is:             <ul style="list-style-type: none"> <li>(A) a victim; or</li> <li>(B) an alleged victim; of an applicable offense; and</li> </ul> </li> <li>(2) who has received either of the following:</li> </ul>	<p>Ind. Code Ann. §§ 32-31-9-3 through 32-31-9-7.</p>

<p>(A) A civil order for protection issued or recognized by a court under IC 34-26-5 that restrains a perpetrator from contact with the individual.</p> <p>(B) A criminal no contact order that restrains a perpetrator from contact with the individual. Ind. Code Ann. § 32-31-9-7.</p> <p> These definitions apply to Indiana’s laws regarding the housing-related rights of victims of certain crimes, Ind. Code Ann. §§ 32-31-9-1 through 32-31-9-15. Some of these provisions are included below in the section “Select Crime Victims’ Rights.”</p>	
<p><b>Sex Crime Victims’ Rights Regarding Polygraphs and Other Truth Telling Device Examinations; Definition of “Polygraph.”</b></p> <p>As used in this chapter, “polygraph” means a device that permanently and simultaneously records, at a minimum, an individual’s:</p> <p>(1) cardiovascular and respiratory patterns; and</p> <p>(2) galvanic skin responses;</p> <p>in order to determine truthfulness.</p> <p> These definitions apply to Indiana’s sex crime victims’ rights laws regarding polygraph examinations, Ind. Code Ann. §§ 35-27-4.5-2 through 35-27-4.5-4. These provisions are included below in the section “Select Crime Victims’ Rights.”</p>	<p>Ind. Code Ann. § 35-37-4.5-1.</p>
<p><b>Victim Advocate- and Victim Services Provider-Victim Privileges Definitions.</b></p> <p>(a) As used in this chapter, “confidential communication” means any information:</p>	<p>Ind. Code Ann. §§ 35-37-6-1 through 35-37-6-5.</p>

<p>(1) exchanged between a victim and a victim advocate in the course of the relationship between the victim and the victim advocate;</p> <p>(2) exchanged or disclosed in a support group in which a victim is or was a participant; or</p> <p>(3) exchanged in the presence of a third person who facilitates or facilitated communication between a victim and a victim advocate.</p> <p>(b) The term includes communication that is verbal or written and includes:</p> <p>(1) advice;</p> <p>(2) notes;</p> <p>(3) reports;</p> <p>(4) statistical data;</p> <p>(5) memoranda;</p> <p>(6) working papers;</p> <p>(7) records; and</p> <p>(8) personally identifying information;</p> <p>produced in the course of advocating for a victim.</p> <p>Ind. Code Ann. § 35-37-6-1.</p> <p>(a) As used in this chapter, “confidential information” includes:</p> <p>(1) personally identifying information;</p> <p>(2) descriptions of physical appearance;</p> <p>(3) the case file; and</p> <p>(4) the case history;</p> <p>of a person who seeks, receives, or has received services from a victim advocate.</p> <p>(b) The term does not include:</p> <p>(1) information disclosed to a victim service provider or a victim advocate if the victim:</p> <p>(A) files criminal charges;</p> <p>(B) institutes a civil lawsuit; or</p> <p>(C) reports allegations of criminal conduct to a law enforcement agency;</p> <p>against the victim service provider or victim advocate; and</p> <p>(2) alleged child abuse or neglect that is required to be reported under IC 31-33.</p> <p>Ind. Code Ann. § 35-37-6-1.5.</p>	
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(a) As used in this chapter, “personally identifying information” means information that identifies a victim or the location where domestic violence, dating violence, sexual assault, or stalking occurred, including the victim’s:

- (1) name;
- (2) mailing and physical address;
- (3) electronic mail address;
- (4) Internet protocol address;
- (5) telephone numbers, including facsimile numbers;
- (6) Social Security number;
- (7) date of birth;
- (8) racial or ethnic background; and
- (9) religious affiliation.

(b) The term includes any other information that, in combination with other nonpersonally identifying information, would identify an individual.

Ind. Code Ann. § 35-37-6-2.5.

As used in this chapter, “student advocate office” means a student services office, victim assistance office, or other victim counselor as designated by a state educational institution or an approved postsecondary educational institution. Ind. Code Ann. § 35-37-6-2.7.

As used in this chapter, “victim” means:

- (1) an individual against whom an act of:
  - (A) domestic or family violence;
  - (B) dating violence;
  - (C) sexual assault (as defined in IC 5-26.5-1-8);
  - (D) human and sexual trafficking (IC 35-42-3.5); or
  - (E) stalking (IC 35-45-10-5);
 is committed; or
- (2) an individual:
  - (A) who is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and







<p>(B) who:</p> <ul style="list-style-type: none"> <li>(i) is a member of the family of an individual described in subdivision (1); but</li> <li>(ii) is not a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).</li> </ul> <p>Ind. Code Ann. § 35-37-6-3.</p> <p>(a) As used in this chapter, “victim advocate” means an individual employed or appointed by or who volunteers for:</p> <ul style="list-style-type: none"> <li>(1) a victim services provider; or</li> <li>(2) the student advocate office of a state educational institution or an approved postsecondary educational institution, if the individual provides services to a victim.</li> </ul> <p>(b) The term does not include:</p> <ul style="list-style-type: none"> <li>(1) a law enforcement officer;</li> <li>(2) an employee or agent of a law enforcement officer;</li> <li>(3) a prosecuting attorney; or</li> <li>(4) an employee or agent of a prosecuting attorney’s office.</li> </ul> <p>(c) The term includes an employee, an appointee, or a volunteer of a:</p> <ul style="list-style-type: none"> <li>(1) victim services provider;</li> <li>(2) domestic violence program;</li> <li>(3) sexual assault program;</li> <li>(4) rape crisis center;</li> <li>(5) battered women’s shelter;</li> <li>(6) transitional housing program for victims of domestic violence; or</li> <li>(7) program that has as one (1) of its primary purposes to provide services to an individual:             <ul style="list-style-type: none"> <li>(A) against whom an act of:                 <ul style="list-style-type: none"> <li>(i) domestic or family violence;</li> <li>(ii) dating violence;</li> <li>(iii) sexual assault (as defined in IC 5-26.5-1-8);</li> <li>(iv) human and sexual trafficking (IC 35-42-3.5); or</li> <li>(v) stalking (IC 35-45-10-5);</li> </ul> </li> </ul> </li> </ul> <p>is committed; or</p>	
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(B) who:  
(i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and  
(ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5).  
Ind. Code Ann. § 35-37-6-3.5.


As used in this chapter, “victim service provider” means a person:





- (1) that is:
    - (A) a public agency;
    - (B) a unit of a public agency; or
    - (C) an organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code;
  - (2) that is not affiliated with a law enforcement agency;
  - (3) that has, as one (1) of its primary purposes, to provide services for emotional and psychological conditions that occur to an individual:
    - (A) against whom an act of:
      - (i) domestic or family violence;
      - (ii) dating violence;
      - (iii) sexual assault (as defined in IC 5-26.5-1-8);
      - (iv) human and sexual trafficking (IC 35-42-3.5); or
      - (v) stalking (IC 35-45-10-5);
- is committed; or
- (B) who:  
(i) is not accused of committing an act of domestic or family violence, dating violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5); and  
(ii) is a member of the family of an individual described in clause (A) other than a family member who is accused of committing an act of domestic or family violence, dating




<p>violence, sexual assault (as defined in IC 5-26.5-1-8), human and sexual trafficking (IC 35-42-3.5), or stalking (IC 35-45-10-5). Ind. Code Ann. § 35-37-6-5.</p> <p> These definitions apply to Indiana’s laws regarding victim advocate-victim confidentiality and privilege, Ind. Code Ann. §§ 35-37-6-1 through 35-37-6-17. These provisions are included below in the section “Select Crime Victims’ Rights.”</p>	
<p><b>Victims’ Right Designation of Victim Representative; Definition of “Victim Representative.”</b></p> <p>As used in this chapter, “victim representative” means a person designated by a sentencing court who is:</p> <ul style="list-style-type: none"> <li>(1) a spouse, parent, child, sibling, or other relative of; or</li> <li>(2) a person who has had a close personal relationship with; the victim of a felony who is deceased, incapacitated, or less than eighteen (18) years of age.</li> </ul> <p> This definition applies to Ind. Code Ann. §§ 35-38-1-1 through 35-38-1-33. Some of the statutory provisions within this chapter are included below in the section “Select Crime Victims’ Rights.”</p>	<p>Ind. Code Ann. § 35-38-1-2(a).</p>
<p><b>Court’s Discretion to Order Correction of Credit History of Victims of Crimes of Deception; Definition of “Crimes of Deception.”</b></p> <p>As used in this section, “crime of deception” means any offense in which a person assumes the identity of another person, professes to be another person, uses the identifying</p>	<p>Ind. Code Ann. § 35-38-1-2.5(a).</p>

<p>information of another person, or falsely suggests that the person is acting with the authority of another person. The term includes an offense under IC 35-43-5.</p> <p> This definition applies to Ind. Code Ann. §§ 35-38-1-2.5. This statutory provision is included below in the section “Select Crime Victims’ Rights.”</p>	
<p><b>Rights of Victims of Human and Sex Trafficking Definitions.</b></p> <p>(a) The following definitions apply throughout this chapter:</p> <ol style="list-style-type: none"> <li>(1) “Human trafficking” means an offense described in sections 1 through 1.4 of this chapter.</li> <li>(2) “Human trafficking victim” means a person who is the victim of human trafficking.</li> <li>(3) “Sexual conduct” has the meaning set forth in IC 35-42-4-4.</li> </ol> <p>(b) As used in this chapter, “force”, “threat of force”, “coercion”, or “fraud” means but is not limited to a person:</p> <ol style="list-style-type: none"> <li>(1) causing or threatening to cause physical harm to a human trafficking victim;</li> <li>(2) physically restraining or threatening to physically restrain a human trafficking victim;</li> <li>(3) abusing or threatening to abuse the law or legal process to further the act of human trafficking;</li> <li>(4) knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document of the human trafficking victim;</li> <li>(5) using blackmail or threatening to cause financial harm for the purpose of exercising financial control over the human trafficking victim; or</li> <li>(6) facilitating or controlling a human trafficking victim’s access to a controlled substance.</li> </ol> <p> These definitions apply to Ind. Code Ann. §§ 35-42-3.5-0.5 through 35-42-3.5-4. Some of these statutory provisions are included below in the section “Select Crime Victims’ Rights.”</p>	<p>Ind. Code Ann. § 35-42-3.5-0.5.</p>



<p><b>SELECT CRIME VICTIMS' RIGHTS</b></p>	<p><b>Indiana Constitutional Provisions and Statutes</b></p>
<p><b>Victims' Constitutional Rights to Fair Treatment, Notice of and Presence at Public Hearings and to Confer with the Prosecution.</b></p> <p>Victims of crime, as defined by law, shall have the right to be treated with fairness, dignity, and respect throughout the criminal justice process; and, as defined by law, to be informed of and present during public hearings and to confer with the prosecution, to the extent that exercising these rights does not infringe upon the constitutional rights of the accused.</p> <p> Ind. Code Ann. § 35-40-5-1 also provides victims with the right to be treated with fairness, dignity and respect throughout the criminal justice process. This provision is included below.</p> <p> Ind. Code Ann. § 35-40-5-3 also provides victims with the right to confer with the prosecution. This provision is included below.</p> <p> Ind. Code Ann. § 35-40-11-1 also provides victims with the right to be present at court proceedings. This provision is included below.</p> <p> A victim's right to be present should provide for the victim's presence during the entirety of the trial. Even if the victim is to be a witness and the court concludes that the victim's testimony would be materially altered if the victim hears other testimony, consider discussing with the prosecutor the possibility of the victim testifying first to best ensure the victim's right to be present during the entirety of the trial.</p>	<p>Ind. Const. art. I, § 13(b).</p>

<p><b>Victims' Statutory Rights: Legislative Intent.</b></p> <p>The legislature recognizes that many innocent persons suffer economic loss and personal injury or death as a result of criminal or delinquent acts. It is the intent of the general assembly to do the following:</p> <p>(1) Enact laws that define, implement, preserve, and protect the rights guaranteed to victims by Article 1, Section 13 of the Constitution of the State of Indiana.</p> <p>(2) Ensure that Article 1, Section 13 of the Constitution of the State of Indiana is fully and fairly implemented.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Ind. Code Ann. § 35-40-1-1.</p>
<p><b>Victims' Standing to Assert Rights.</b></p> <p>A victim has standing to assert the rights established by this article. However, this article does not do any of the following:</p> <p>(1) Provide grounds for a victim to challenge a charging decision or a conviction, obtain a stay of trial, or compel a new trial.</p> <p>(2) Give rise to a claim for damages against the state of Indiana, a political subdivision, or any public official.</p> <p>(3) Provide grounds for a person accused of or convicted of a crime or an act of delinquency to obtain any form of relief.</p>	<p>Ind. Code Ann. § 35-40-2-1.</p>

<p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</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><b>Victims’ Statutory Rights: Construction of Article.</b></p> <p>This article [regarding victims’ rights] shall be construed to preserve and protect the rights to which a victim is entitled without interfering with the rights of the accused to receive a fair trial or the duty of the prosecuting attorney to represent the people of Indiana.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-40-3-1.</p>
<p><b>Victims’ Statutory Rights Do Not Include the Rights to Be Released from Confinement by Law Enforcement to Attend a Hearing; Law Enforcement Does Not Have an Obligation to Transport Confined Victim to a Hearing.</b></p> <p>This article may not be construed to imply that a victim who is confined by the department of correction or by any local law enforcement agency has a right to be released to attend a hearing or that the department of correction or the local law enforcement agency has a duty to transport the confined victim to a hearing.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-40-3-2.</p>

<p> Ind. Code Ann. § 35-40-11-3 provides that when a victim is in custody for committing or allegedly committing an offense, the victim may be heard by submitting a written statement to the court. This provision is included below.</p>	
<p><b>Victims' Rights to Be Treated with Fairness, Dignity and Respect and to Be Free from Intimidation, Harassment and Abuse Throughout the Criminal Justice Process.</b></p> <p>A victim has the right to be:</p> <ul style="list-style-type: none"> <li>(1) treated with fairness, dignity, and respect; and</li> <li>(2) free from intimidation, harassment, and abuse;</li> </ul> <p>throughout the criminal justice process.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> Ind. Const. art. I, § 13(b) also provides victims with the right to be treated with fairness, dignity and respect. This provision is included above.</p>	<p>Ind. Code Ann. § 35-40-5-1.</p>
<p><b>Victims' Right to Notice of Release or Escape from Custody.</b></p> <p>(a) A victim has the right to be informed, upon request, when a person who is:</p> <ul style="list-style-type: none"> <li>(1) accused of committing; or</li> <li>(2) convicted of committing;</li> </ul> <p>a crime perpetrated directly against the victim is released from custody or has escaped.</p>	<p>Ind. Code Ann. § 35-40-5-2.</p>





<p>(b) Whenever a person accused or convicted of committing a crime is released or escapes from the custody of a mental health treatment agency or a hospital that is not operated by a county sheriff or the department of correction, the court committing the accused or convicted person to the mental health treatment agency or hospital shall carry out this section to inform the victim of the release or escape. The mental health treatment agency or hospital shall provide the court with sufficient information about the release or escape to allow the court to carry out this section.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are 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 maintain documentation of 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>	
<p><b>Certain Victims’ Right to Confer with the Prosecution: Right Applies After a Crime Has Been Charged, Before Trial and Before Any Disposition in the Case; Child-Victims’ Right to Confer with the Prosecution Before Being Deposed.</b></p> <p>(a) This section applies if either of the following has occurred:          (1) The alleged felony or delinquent act that would have been a felony if committed by an adult was directly perpetrated against the victim.          (2) The alleged felony, misdemeanor, or delinquent act that would have been a felony or misdemeanor if committed by an adult was:</p>	<p>Ind. Code Ann. § 35-40-5-3.</p>





(A) a violation of IC 35-42-2 (offenses against the person), IC 35-45-2-1 (intimidation), IC 35-45-2-2 (harassment), IC 35-46-1-15.1 (invasion of privacy), IC 35-46-1-15.3, or IC 35-47-4-3 (pointing a firearm); and  
 (B) directly perpetrated against the victim by a person who:  
 (i) is or was a spouse of the victim;  
 (ii) is or was living as if a spouse of the victim; or  
 (iii) has a child in common with the victim.  
 (3) The alleged misdemeanor or delinquent act that would have been a misdemeanor if committed by an adult, other than a misdemeanor described in subdivision (2), was directly perpetrated against the victim, and the victim has complied with the notice requirements under IC 35-40-10.




(b) A victim has the right to confer with a representative of the prosecuting attorney's office:  
 (1) after a crime allegedly committed against the victim has been charged;  
 (2) before the trial of a crime allegedly committed against the victim; and  
 (3) before any disposition of a criminal case involving the victim.  
 This right does not include the authority to direct the prosecution of a criminal case involving the victim.





A child victim (as defined in section 11.5 of this chapter) has the right to confer with a representative of the prosecuting attorney's office before being deposed. The representative of the prosecuting attorney's office may not instruct the child victim to refuse to participate in the deposition.


 Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."




 Ind. Const. art. I, § 13(b) also provides victims with the right to confer with the prosecution. This provision is included above.




<p><b>Victims' Right to Have Their Safety Considered.</b></p> <p>A victim has the right to have the victim's safety considered in determining release from custody of a person accused of committing a crime against the victim.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Ind. Code Ann. § 35-40-5-4.</p>
<p><b>Victims' Right to Be Heard at Sentencing.</b></p> <p>A victim has the right to be heard at any proceeding involving sentencing, a postconviction release decision, or a pre-conviction release decision under a forensic diversion program.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> Numerous provisions in Indiana's code require courts to offer victims, when present at sentencing, an opportunity to make a statement. <i>See, e.g.</i>, Ind. Code Ann. § 35-35-3-5(b); <i>id.</i> at § 35-38-1-2; <i>id.</i> at § 35-38-1-8(b). These provisions are included below.</p> <p> A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your jurisdiction's law, victims may choose to: (1) read or speak their impact statement aloud at the sentencing proceeding, or have another person do it for them; (2) submit a written victim impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.</p>	<p>Ind. Code Ann. § 35-40-5-5.</p>

<p><b>Victims' Rights Regarding Presentence Reports: Right to Make Oral or Written Statement; Right to Read Presentence Report; Right to Respond to Material Included in the Presentence Report.</b></p> <p>(a) A victim has the right to make a written or oral statement for use in preparation of the presentence report.</p> <p>(b) Notwithstanding IC 35-38-1-13, the victim has the right to read presentence reports relating to the crime committed against the victim, except those parts of the reports containing the following:</p> <ol style="list-style-type: none"> <li>(1) The source of confidential information.</li> <li>(2) Information about another victim.</li> <li>(3) Other information determined confidential or privileged by the judge in a proceeding.</li> </ol> <p>The information given to the victim must afford the victim a fair opportunity to respond to the material included in the presentence report.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> Ind. Code Ann. § 35-38-1-8.5 governs the obligations of probation officers regarding presentence reports. This provision is included below.</p> <p> Ind. Code Ann. § 35-38-1-13 governs the confidentiality of presentence reports. This provision is included below.</p>	<p>Ind. Code Ann. § 35-40-5-6.</p>
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<p><b>Victims' Right to Pursue Restitution and Civil Damages.</b></p> <p>A victim has the right to pursue an order of restitution and other civil remedies against the person convicted of a crime against the victim.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> A promising practice is to inform victims that they are entitled to restitution upon the conviction of defendant for losses caused by defendant's criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	<p>Ind. Code Ann. § 35-40-5-7.</p>
<p><b>Victims' Right to Information About Disposition of Case or Conviction, Sentence and Release of Offender.</b></p> <p>A victim has the right to information, upon request, about the disposition of the criminal case involving the victim or the conviction, sentence, and release of a person accused of committing a crime against the victim.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are 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 maintain documentation of a victim's request to exercise rights.</p>	<p>Ind. Code Ann. § 35-40-5-8.</p>

<p><b>Victims' Right to Transcript Prepared for Appeal.</b></p> <p>(a) This section applies if:</p> <ul style="list-style-type: none"><li>(1) a defendant has filed an appeal of the defendant's conviction; or</li><li>(2) the state has filed an appeal in connection with criminal proceedings against a defendant.</li></ul> <p>(b) A:</p> <ul style="list-style-type: none"><li>(1) victim or alleged victim; or</li><li>(2) spouse or member of the immediate family (as defined in IC 27-14-1-17) of the victim or alleged victim, if:<ul style="list-style-type: none"><li>(A) the victim or alleged victim is deceased; and</li><li>(B) the spouse or the immediate family member is not a defendant in the criminal case;</li></ul></li></ul> <p>in a case described in subsection (a) is entitled, at no charge, to an electronic copy of the transcript prepared for appeal in the case described in subsection (a).</p> <p>(c) The trial court clerk shall provide the victim or alleged victim (or spouse or immediate family member) with an electronic copy of the transcript as soon as practicable after the court reporter has filed the transcript with the clerk.</p> <p>(d) The victim or alleged victim (or spouse or immediate family member) is not entitled to any confidential information that the court has excluded from public access under the Indiana rules of appellate procedure, the court administrative rules adopted by the supreme court, or any other statute or court rule.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Ind. Code Ann. § 35-40-5-8.5.</p>
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<p><b>Victims' Rights to Information about Their Rights.</b></p> <p>A victim has the right to be informed of the victim's constitutional and statutory rights.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	<p>Ind. Code Ann. § 35-40-5-9.</p>
<p><b>Certain Victims' Right to Designation Omitting Their Name in Court Documents.</b></p> <p>(a) The following shall be identified by means of a designation omitting the victim's name, such as "Victim 1", in court documents open to the public:</p> <ul style="list-style-type: none"> <li>(1) A victim of a sex crime under IC 35-42-4.</li> <li>(2) A child victim of a crime of violence (as defined in IC 35-50-1-2).</li> </ul> <p>(b) The state shall provide to the court a confidential document identifying the victims named in the court documents.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Ind. Code Ann. § 35-40-5-12.</p>

<p><b>Child-Victims' Right to Comfort Item or Animal During Hearing.</b></p> <p>When a child less than sixteen (16) years of age is summoned as a witness to any hearing in any criminal matter, including a preliminary hearing, a comfort item or comfort animal shall be allowed to remain in the courtroom with the child during the child's testimony unless the court finds that the defendant's constitutional right to a fair trial will be unduly prejudiced.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Ind. Code Ann. § 35-40-5-13.</p>
<p><b>Prosecuting Attorney Duties and Victim Assistance Programs: Requiring Victim Cooperation and Responsiveness to Reasonable Requests from Law Enforcement and Prosecutors.</b></p> <p>This chapter applies when:</p> <p>(1) law enforcement officials have received a report of an alleged offense not later than five (5) days after the alleged offense occurred or was discovered, unless the prosecuting attorney having jurisdiction finds that the report was not made within the five (5) day period due to circumstances beyond the control of a victim of the alleged offense; and</p> <p>(2) a victim fully cooperates with and responds to reasonable requests from law enforcement officials and the prosecuting attorney.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> This statutory provision applies to the laws governing prosecuting attorneys' obligations</p>	<p>Ind. Code Ann. § 35-40-6-1.</p>




<p>to victims and victims' assistance programs, Ind. Code Ann. §§ 35-40-6-1 through 35-40-6-10. These provisions are included below.</p>	
<p><b>Prosecuting Attorneys' Obligation to Treat Victims with Dignity, Respect and Sensitivity and to Ensure that Their Rights are Protected.</b></p> <p>A prosecuting attorney shall provide that:</p> <p>(1) victims are treated with dignity, respect, and sensitivity at all stages of the criminal justice process; and</p> <p>(2) the rights of victims are protected.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> This statutory provision applies when the requirements of Ind. Code Ann. § 35-40-6-1 are met. This provision is included above.</p>	<p>Ind. Code Ann. § 35-40-6-2.</p>
<p><b>Prosecuting Attorneys' Discretion to Contract with a Person to Operate a Victim Assistance Program.</b></p> <p>A prosecuting attorney may contract with a person to operate a victim assistance program to provide the services required under this chapter.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Ind. Code Ann. § 35-40-6-3.</p>


<p><b>Prosecuting Attorney's or Victim Assistance Program's Obligations and Purposes.</b></p> <p>A prosecuting attorney or a victim assistance program shall do the following:</p> <p>(1) Inform a victim that the victim may be present at all public stages of the criminal justice process to the extent that:</p> <ul style="list-style-type: none"> <li>(A) the victim's presence and statements do not interfere with a defendant's constitutional rights; and</li> <li>(B) there has not been a court order restricting, limiting, or prohibiting attendance at the criminal proceedings.</li> </ul> <p>(2) Timely notify a victim of all criminal justice hearings and proceedings that are scheduled for a criminal matter in which the victim was involved.</p> <p>(3) Promptly notify a victim when a criminal court proceeding has been rescheduled or canceled.</p> <p>(4) Obtain an interpreter or translator, if necessary, to advise a victim of the rights granted to a victim under the law.</p> <p>(5) Coordinate efforts of local law enforcement agencies that are designed to promptly inform a victim after an offense occurs of the availability of, and the application process for, community services for victims and the families of victims, including information concerning services such as the following:</p> <ul style="list-style-type: none"> <li>(A) Victim compensation funds.</li> <li>(B) Victim assistance resources.</li> <li>(C) Legal resources.</li> <li>(D) Mental health services.</li> <li>(E) Social services.</li> <li>(F) Health resources.</li> <li>(G) Rehabilitative services.</li> </ul>	<p>Ind. Code Ann. § 35-40-6-4.</p>
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<p>(H) Financial assistance services.</p> <p>(I) Crisis intervention services.</p> <p>(J) Transportation and child care services to promote the participation of a victim or a member of the victim's immediate family in the criminal proceedings.</p> <p>(6) Inform the victim that the court may order a defendant convicted of the offense involving the victim to pay restitution to the victim under IC 35-50-5-3.</p> <p>(7) Upon request of the victim, inform the victim of the terms and conditions of release of the person accused of committing a crime against the victim.</p> <p>(8) Upon request of the victim, give the victim notice of the criminal offense for which:</p> <p>(A) the defendant accused of committing the offense against the victim was convicted or acquitted; or</p> <p>(B) the charges were dismissed against the defendant accused of committing the offense against the victim.</p> <p>(9) In a county having a victim-offender reconciliation program (VORP), provide an opportunity for a victim, if the accused person or the offender agrees, to:</p> <p>(A) meet with the accused person or the offender in a safe, controlled environment;</p> <p>(B) give to the accused person or the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim and the victim's family; and</p> <p>(C) negotiate a restitution agreement to be submitted to the sentencing court for damages incurred by the victim as a result of the offense.</p> <p>(10) Assist a victim in preparing verified documentation necessary to obtain a restitution order under IC 35-50-5-3.</p> <p>(11) Inform a victim (or the spouse or an immediate family member of a deceased victim) of the victim's right to a copy of the trial transcript, and assist the victim, spouse, or immediate family member in obtaining a transcript as described in IC 35-40-5-8.5.</p>	
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(12) Advise a victim of other rights granted to a victim under the law.


(13) Assist a local law enforcement authority in notifying a victim (or the spouse or an immediate family member of a deceased victim) under IC 11-8-8-23 of an offender's name change.



 Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."




 This statutory provision applies when the requirements of Ind. Code Ann. §§ 35-40-6-1 are met. This provision is included above.

 A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.


 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 maintain documentation of 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.


 A promising practice is to inform victims that they are entitled to restitution upon the conviction of defendant for losses caused by defendant's criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.


<p><b>Victim Assistance Program’s Operation of Victim-Offender Reconciliation Programs.</b></p> <p>(a) If a victim participates in a victim-offender reconciliation program (VORP) operated by a victim assistance program under section 4(9) of this chapter, the victim shall execute a waiver releasing:</p> <ul style="list-style-type: none"> <li>(1) the prosecuting attorney responsible for the victim assistance program; and</li> <li>(2) the victim assistance program;</li> </ul> <p>from civil and criminal liability for actions taken by the victim, an accused person, or an offender as a result of participation by the victim, the accused person, or the offender in a victim-offender reconciliation program (VORP).</p> <p>(b) A victim is not required to participate in a victim-offender reconciliation program (VORP) under section 4(9) of this chapter.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> This statutory provision applies when the requirements of Ind. Code Ann. § 35-40-6-1 are met. This provision is included above.</p>	<p>Ind. Code Ann. § 35-40-6-5.</p>
<p><b>Prosecuting Attorney’s Obligations When Victims Submit Affidavits Asserting Acts or Threats of Harm by Defendants.</b></p> <p>If:</p> <ul style="list-style-type: none"> <li>(1) a victim submits to the prosecuting attorney an affidavit asserting: <ul style="list-style-type: none"> <li>(A) that an act or threat of physical violence or intimidation has been made against the victim or the immediate family of the victim; and</li> </ul> </li> </ul>	<p>Ind. Code Ann. § 35-40-6-6.</p>




<p>(B) that the act or threat described in clause (A) has been made by the defendant or at the direction of the defendant; and</p> <p>(2) the prosecuting attorney has reason to believe the allegations in the affidavit are true and warrant the filing of a motion for bond revocation;</p> <p>the prosecuting attorney shall file a motion under IC 35-33-8-5 requesting the court to revoke the defendant’s bond or order for personal recognizance.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> This statutory provision applies when the requirements of Ind. Code Ann. § 35-40-6-1 are met. This provision is included above.</p> <p> Ind. Code Ann. § 35-40-6-8 provides that the prosecuting attorney or a victim assistance program must advise a victim on how to complete a request form under this section. This provision is included below.</p>	
<p><b>Prosecuting Attorney’s or Victim Assistance Program’s Obligations to Provide Victims, Upon Request, with Information Post-Conviction.</b></p> <p>If the defendant is convicted, and upon the victim’s request, the victim shall be notified, if applicable, of the following:</p> <p>(1) The function of the presentence report.</p> <p>(2) The name and telephone number of the probation department that is preparing the presentence report.</p>	<p>Ind. Code Ann. § 35-40-6-7.</p>

- (3) The right to make a victim impact statement under IC 35-38-1-8.5.
- (4) The defendant's right to review the presentence report.
- (5) The victim's right to review the presentence report, except those parts excised by the court or made confidential by IC 35-40-5-6.
- (6) The victim's right to be present and heard at any sentencing procedure under IC 35-40-5-5.
- (7) The time, place, and date of the sentencing proceeding.







 Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."




 This statutory provision applies when the requirements of Ind. Code Ann. § 35-40-6-1 are met. 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 rights. Agencies should carefully maintain documentation of 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><b>Prosecuting Attorney’s or Victim Assistance Program’s Obligation to Advise Victims on How to Complete Request Form For Revocation of Bond Based on Threat of Harm.</b></p> <p>The prosecuting attorney or a victim assistance program shall advise a victim on how the request form completed under section 6 of this chapter may be filed with the appropriate agencies and departments.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> This statutory provision applies when the requirements of Ind. Code Ann. § 35-40-6-1 are met. This provision is included above.</p> <p> Ind. Code Ann. § 35-40-6-6, which governs requests for revocation of bond based on threats of harm to the victim, is included above.</p>	<p>Ind. Code Ann. § 35-40-6-8.</p>
<p><b>Notice Provided to Victims by Prosecuting Attorneys and Victim Assistance Programs Does Not Relieve Probation Department of its Notification Obligations.</b></p> <p>(a) Notice provided under this chapter does not relieve a probation department of responsibility under IC 35-38-1-8.5 to initiate the contact between a victim and the probation department concerning the consequences suffered by the victim as a result of the crime.</p> <p>(b) At the time of contact with a victim, a probation department shall advise the victim of the date, time, and place of sentencing and of the victim’s right to be present and to be heard at the proceeding.</p>	<p>Ind. Code Ann. § 35-40-6-9.</p>












<p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> This statutory provision applies when the requirements of Ind. Code Ann. § 35-40-6-1 are met. This provision is included above.</p> <p> Ind. Code Ann. § 35-38-1-8.5 governs the notification obligations of probation officers with respect to crime victims. This provision is included below.</p>	
<p><b>Prosecuting Attorney’s or Office of the Attorney General’s Obligation to Inform Victims, Upon Request, of Status of Case on Appeal and Decision of Appellate Court.</b></p> <p>If a person convicted of a crime against the victim seeks appellate review or attacks the person’s conviction or sentence, the prosecuting attorney or the office of the attorney general, whichever is appropriate, shall inform the victim, upon request, of the status of the case and of the decision of the court.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> This statutory provision applies when the requirements of Ind. Code Ann. § 35-40-6-1 are met. 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 rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their</p>	<p>Ind. Code Ann. § 35-40-6-10.</p>




<p>participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p><b>Victims' Right to Notice of Offender's Escape from Law Enforcement Custody; Law Enforcement's Obligation to Provide Such Notification.</b></p> <p>The law enforcement agency having custody of a person accused of committing a crime against a victim shall notify the victim if the accused person escapes from the custody of the law enforcement agency.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> Ind. Code Ann. § 35-40-7-3 governs the timing of such notification. This provision is included below.</p>	<p>Ind. Code Ann. § 35-40-7-1.</p>
<p><b>Victims' Right to Notice of Scheduling of an Offender's Bond Hearing, Escape, Death or Release; Prosecuting Attorney's or Law Enforcement's Obligations to Provide Such Notification.</b></p> <p>Upon request of a victim, the office of the prosecuting attorney having jurisdiction or a law enforcement agency having custody of a person accused of a crime against the victim shall notify the victim of the scheduling of a bond hearing, the escape or death of a person accused of committing a crime against the victim, release of a person convicted of a crime against the victim to a work release program, or any other type of postarrest release of a person convicted of a crime or charged with a crime against the victim.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory</p>	<p>Ind. Code Ann. § 35-40-7-2.</p>




<p>provision. These definitions are included above in the section “Select Definitions.”</p> <p> Ind. Code Ann. § 35-40-7-3 governs the timing of such notification. 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 maintain documentation of 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>	
<p><b>Victims’ Rights and Prosecuting Attorney’s and Law Enforcement’s Obligations Regarding the Timing of Notice of Certain Events.</b></p> <p>A notice under this chapter must be given by a law enforcement agency that has custody of the person at the time of the escape or release to a victim:</p> <p>(1) before the person is released by the law enforcement agency, if possible; or</p> <p>(2) as soon as practicable after the person escapes or has been released by the law enforcement agency.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> This timing requirement applies to the notification provisions in Ind. Code Ann. §§ 35-40-7-1 and 35-40-7-2. These statutory provisions are included above.</p>	<p>Ind. Code Ann. § 35-40-7-3.</p>

<p><b>Victims' Right to Notice of Probation or Forensic Diversion Revocation or Termination Proceedings.</b></p> <p>Upon request of a victim, a criminal court shall notify the victim of any probation or forensic diversion revocation disposition proceeding or proceeding in which the court is asked to terminate the probation or forensic diversion of a person who is convicted of a crime against the victim.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are 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 maintain documentation of 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>	<p>Ind. Code Ann. § 35-40-8-1.</p>
<p><b>Victims' Right to Notice of Modification of Terms of Probation or Forensic Diversion Program.</b></p> <p>Upon request of a victim, a criminal court shall notify the victim of a modification of the terms of probation or a forensic diversion program of a person convicted of a crime against the victim only if:</p> <p>(1) the modification will substantially affect the person's contact with or safety of the victim; or</p> <p>(2) the modification affects the person's restitution or confinement status.</p>	<p>Ind. Code Ann. § 35-40-8-2.</p>



<p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are 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 maintain documentation of 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> <p> A promising practice is to have a policy and procedure in place establishing what types of modifications warrant notice under this provision.</p>	
<p><b>Victims’ Right to Notice of Offender’s Release or Discharge from a Mental Health Treatment Agency; Mental Health Treatment Agency’s Obligation to Notify Court.</b></p> <p>If the court described in IC 35-40-5-2 has received a request for notice from a victim and has communicated the request to a mental health treatment agency, the mental health treatment agency shall mail a notification to the court described in IC 35-40-5-2 not later than ten (10) days before the release or discharge of a person:</p> <ul style="list-style-type: none"> <li>(1) accused or convicted of committing a criminal offense against the victim; and</li> <li>(2) placed by court order with the mental health treatment agency.</li> </ul> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-40-9-1.</p>




<p> Ind. Code Ann. § 35-40-5-2 governs courts' obligations to provide victims with notice of an offender's release or escape from a mental health treatment agency. 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 rights. Agencies should carefully maintain documentation of 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>	
<p><b>Victims' Right to Notice of Offender's Release, Discharge or Escape from a Mental Health Treatment Agency; Courts' Obligation to Notify Victims.</b></p> <p>The court described in IC 35-40-5-2 shall give the notice required under IC 35-40-5-2 on behalf of the mental health treatment agency.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> Ind. Code Ann. § 35-40-5-2 governs courts' obligations to provide victims with notice of an offender's release or escape from a mental health treatment agency. 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 rights. Agencies should carefully maintain documentation of a victim's request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their</p>	<p>Ind. Code Ann. § 35-40-9-3.</p>




<p>participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p><b>Victims' Right to Notice: Victims' Obligation to Complete Forms with Contact Information.</b></p> <p>(a) A victim shall provide to and maintain with the agency that is responsible for providing notice to the victim a request for notice on a form that is provided by that agency. The form must include a telephone number, electronic mail address, and mailing address for the victim. If the victim fails to keep the victim's telephone number and address current, the agency may withdraw the victim's request for notice.</p> <p>(b) A victim may restore a request for notice of subsequent proceedings by filing, on a request form provided by an agency, the victim's current telephone number, electronic mail address, and mailing address.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> A promising practice is to let victims know, upon first contact, of their obligation to keep their contact information current.</p> <p> A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p>	<p>Ind. Code Ann. § 35-40-10-1.</p>




<p><b>Victims' Right to Notice: Notice to be Provided by Forms Designated by Prosecuting Attorney.</b></p> <p>A notice provided to a victim under this article must be on a form designated by the prosecuting attorney. The prosecuting attorneys council of Indiana established by IC 33-39-8-2 shall develop and disseminate model notice forms for use by prosecuting attorneys.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Ind. Code Ann. § 35-40-10-2.</p>
<p><b>Victims' Right to Be Present and Heard at Court Proceedings.</b></p> <p>It is at the victim's discretion to exercise the victim's rights under this article to be present and to be heard at court proceedings, and the absence of the victim at a court proceeding does not preclude the court from holding the proceeding.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> Ind. Const. art. I, § 13(b) also provides victims with the right to be present during public hearings. This provision is included above.</p>	<p>Ind. Code Ann. § 35-40-11-1.</p>
<p><b>Victims' Right to be Heard: Oral, Written or Taped Statements Allowed.</b></p> <p>Except as provided in section 3 of this chapter, a victim's right to be heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of a statement through audiotape or videotape.</p>	<p>Ind. Code Ann. § 35-40-11-2.</p>






<p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p><b>Victims’ Right to Be Heard While in Custody.</b></p> <p>If a victim is in custody for committing or allegedly committing an offense, the victim may be heard by submitting a written statement to the court.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-40-11-3.</p>
<p><b>Victims’ Rights When Victim is Incompetent, Deceased, Under Eighteen Years of Age or Otherwise Incapable of Receiving or Understanding a Notice or Consultation: Consultation with Victims’ Next of Kin, Parent, Guardian or Custodian.</b></p> <p>(a) This section applies if:</p> <ul style="list-style-type: none"> <li>(1) the victim is an individual;</li> <li>(2) the victim is incompetent, deceased, less than eighteen (18) years of age, or otherwise incapable of receiving or understanding a notice or consultation required under this article; and</li> <li>(3) a person has not been designated under IC 35-40-13 to exercise the rights of the victim under this article.</li> </ul> <p>(b) A notice or consultation required under this article may be performed by notifying or consulting with at least one (1) of the next of kin or the parent, guardian, or custodian of the victim.</p>	<p>Ind. Code Ann. § 35-40-12-1.</p>


<p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p><b>Victims’ Rights When Victim is an Entity Other Than an Individual: Notice to Victims’ Agents.</b></p> <p>(a) This section applies if the victim is an entity other than an individual.</p> <p>(b) A notice or consultation required under this article may be performed by notifying or consulting with a responsible officer or agent of the entity.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-40-12-2.</p>
<p><b>Victims’ Rights When Victim is a Partnership: Notice to One Partner.</b></p> <p>(a) This section applies if the victim is a partnership.</p> <p>(b) A notice or consultation required under this article may be performed by notifying or consulting with at least one (1) partner.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-40-12-3.</p>

<p><b>Victims' Rights When Victim is an Entity Other Than an Individual: Request for Notice Must Identify Name, Email and Physical Mailing Address of Person to Receive Notice.</b></p> <p>(a) This section applies if the victim is an entity other than an individual.</p> <p>(b) A request for notice under IC 35-40-10 must identify the name, electronic mail address, and mailing address of the person who is to receive notices and consultations on behalf of the entity.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Ind. Code Ann. § 35-40-12-4.</p>
<p><b>Victims' Rights When There are Multiple Victims.</b></p> <p>(a) This section applies if there are multiple victims that are entitled to notices or consultations under this article.</p> <p>(b) The prosecuting attorney for the county in which the crime occurred may adopt procedures that afford to a group of victims the rights afforded by this article.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> A promising practice is to have policies and procedures in place regarding affording victims' rights when there are multiple victims.</p>	<p>Ind. Code Ann. § 35-40-12-5.</p>

<p><b>Exercise of Victims' Rights When Victims are Physically or Emotionally Unable to Exercise Rights: Designation of Representatives; Revocation of Designation.</b></p> <p>(a) If a victim is physically or emotionally unable to exercise any right but is able to designate a lawful representative who is not a bona fide witness, the designated person may exercise the same rights that the victim is entitled to exercise.</p> <p>(b) A victim may revoke the designation of a representative at any time and exercise the victim's rights.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Ind. Code Ann. § 35-40-13-1.</p>
<p><b>Exercise of Victims' Rights When Victims are Incompetent, Deceased or Otherwise Incapable of Designating Another Person to Act in Their Place: Court's Discretion to Appoint, Upon Request by the Prosecuting Attorney, a Lawful Representative.</b></p> <p>If a victim is incompetent, deceased, or otherwise incapable of designating another person to act in the victim's place, the court may appoint, upon request of the prosecuting attorney, a lawful representative who is not a witness.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> Ind. Code Ann. § 35-40-13-4 authorizes courts to appoint relatives as representatives for non-minor victims who are incompetent, deceased or otherwise incapable of designating their own representative. This provision is included below.</p>	<p>Ind. Code Ann. § 35-40-13-2.</p>

<p><b>Exercise of Victims' Rights When Victims are Minors: Parents or Legal Guardians May Exercise Rights on Victims' Behalf.</b></p> <p>If the victim is a minor, the victim's parents or legal guardian may exercise all of the victim's rights on behalf of the victim.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Ind. Code Ann. § 35-40-13-3.</p>
<p><b>Exercise of Victims' Rights When Victims are Not Minors and are Incompetent, Deceased or Otherwise Incapable of Designating a Representative: Court's Discretion to Appoint Relative to Exercise Rights on Victims' Behalf.</b></p> <p>If section 3 of this chapter does not apply, the court shall consider appointing a relative of the incompetent, deceased, or otherwise incapable victim as the lawful representative.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Ind. Code Ann. § 35-40-13-4.</p>
<p><b>Guidelines for Courts When Appointing Victims' Representatives.</b></p> <p>The court shall consider the following guidelines in appointing a person to represent an incompetent or deceased victim:</p> <p>(1) Any conflict occasioned by the allegation of criminal conduct that substantially or adversely affected the person.</p> <p>(2) The person's willingness and ability to do all of the following:</p>	<p>Ind. Code Ann. § 35-40-13-5.</p>

<p>(A) Work with and accompany the victim through all proceedings, including criminal, civil, and dependency proceedings.                  (B) Communicate with the victim.                  (C) Express the concerns of the victim to those authorized to come in contact with the victim as a result of the proceedings.</p> <p>(3) The person's training, if any, to serve as a representative of the incompetent victim.</p> <p>(4) The likelihood of the person being called as a witness in the criminal case involving the incompetent victim.</p> <p> Ind. Code Ann. §§ 35-40-4-2 through 35-40-4-8 define the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	
<p><b>Rights of Victims of Identity Theft: Filing Report; Role of Local Law Enforcement Agencies.</b></p> <p>(a) A person who has learned or reasonably suspects that the person has been the victim of identity theft may contact the local law enforcement agency that has jurisdiction over the person's residence. The local law enforcement agency shall take an official report of the matter and provide the complainant with a copy of that report. Even if jurisdiction lies elsewhere for investigation and prosecution of a crime of theft, the local law enforcement agency shall take the complaint and provide the person with a copy of the complaint. The law enforcement authority may refer the complaint to a law enforcement agency in a different jurisdiction.</p> <p>(b) This section does not affect the discretion of a local law enforcement agency to allocate resources for investigation of crimes. A complaint filed under this section is not required to be counted as an open case for purposes of compiling open case statistics.</p>	<p>Ind. Code Ann. § 35-40-14-3.</p>

<p> Ind. Code Ann. §§ 35-40-14-1 through 35-40-14-2 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	
<p><b>Rights of Victims of Identity Theft: Order Declaring Person Victim of Identity Theft.</b></p> <p>(a) A person who is injured by a crime of identity theft or who has filed a police report alleging commission of an offense of identity theft may file an application with the court in the jurisdiction where the person resides for the issuance of a court order declaring that the person is a victim of identity theft. A person may file an application under this section regardless of whether the person is able to identify each person who allegedly obtained, possessed, transferred, or used the person’s identifying information in an unlawful manner.</p> <p>(b) A person filing an application under subsection (a) shall file a copy of the application with the unit. The unit may appear at and present evidence in a hearing conducted under this section if the unit determines that a court order declaring the applicant a victim of identity theft would be inappropriate.</p> <p>(c) A person is presumed to be a victim of identity theft under this section if another person is charged with and convicted of an offense of identity theft for unlawfully obtaining, possessing, transferring, or using the person’s identifying information.</p> <p>(d) After notice and hearing, if the court is satisfied by a preponderance of the evidence that the applicant has been injured by a crime of identity theft, the court shall enter an order containing:</p> <ol style="list-style-type: none"> <li>(1) a declaration that the person filing the application is a victim of identity theft resulting from the commission of a crime of identity theft;</li> <li>(2) any known information identifying the violator or person charged with the offense;</li> <li>(3) the specific personal identifying information and any related document or record used to commit the alleged offense; and</li> <li>(4) information identifying any financial account or transaction affected by the alleged offense, including:</li> </ol>	<p>Ind. Code Ann. § 35-40-14-4.</p>

- (A) the name of the financial institution in which the account is established or of the merchant or creditor involved in the transaction, as appropriate;
- (B) any relevant account numbers;
- (C) the dollar amount of the account or transaction affected by the alleged offense; and
- (D) the date or dates of the offense.

(e) Except as provided in subsection (h), an order issued under this section must be sealed because of the confidential nature of the information required to be included in the order. The order may be opened and the order or a copy of the order may be released only:

(1) to the proper officials in a civil proceeding brought by or against the victim arising or resulting from the commission of a crime of identity theft, including a proceeding to set aside a judgment obtained against the victim;

(2) to the victim for the purpose of submitting the copy of the order to a governmental entity or private business to:

(A) prove that a financial transaction or account of the victim was directly affected by the commission of a crime of identity theft; and

(B) correct any record of the entity or business that contains inaccurate or false information as a result of the offense;


(3) on order of the judge; or

(4) as otherwise required by law.

(f) A court at any time may vacate an order issued under this section if the court finds that the application or any information submitted to the court by the applicant contains a fraudulent misrepresentation or a material misrepresentation of fact.


(g) Except as provided in subsection (h), a copy of the order provided to a person under subsection (e)(1) must remain sealed throughout and after the civil proceeding. Information contained in a copy of an order provided to a governmental entity or business under subsection (e)(2) is confidential and may not be released to another person except as otherwise required by law.







<p>(h) The following information regarding an application filed under this section may be released to the public:</p> <ol style="list-style-type: none"> <li>(1) The name of the applicant.</li> <li>(2) The county of residence of the applicant.</li> <li>(3) Whether the application was approved or denied by the court.</li> </ol> <p> Ind. Code Ann. §§ 35-40-14-1 through 35-40-14-2 define the terms used in this provision. These definitions are included above in the section "Select Definitions."</p>	
<p><b>Right of Deceased Victim’s Family to Request a New Investigation: Applicability of Right and Effect on State Police Authority to Conduct New Investigation.</b></p> <p>(a) This chapter does not apply to the death of a person:</p> <ol style="list-style-type: none"> <li>(1) under the care of a physician; or</li> <li>(2) if the person’s death may be the result of medical malpractice.</li> </ol> <p>(b) This chapter does not affect the authority of the state police department to conduct a new investigation.</p>	<p>Ind. Code Ann. § 35-40-15-1.</p>
<p><b>Right of Deceased Victim’s Family to Request a New Investigation: Who May Request and When.</b></p> <p>An immediate family member:</p> <ol style="list-style-type: none"> <li>(1) of a person whose death is an uncharged death; and</li> <li>(2) who has reasonable suspicion that the uncharged death was caused by the criminal act of a third person;</li> </ol>	<p>Ind. Code Ann. § 35-40-15-2.</p>



<p>has the right to request the superintendent of the state police department to conduct a new investigation to determine whether the death was the result of a criminal act committed by a third person. An immediate family member has the right to request a new investigation even if the state police department assisted the local law enforcement agency in the earlier investigation of the uncharged death.</p>	
<p><b>Right of Deceased Victim’s Family to Request a New Investigation: Procedure and Requirements for Request.</b></p> <p>(a) An immediate family member who wishes the state police department to conduct a new investigation as described in section 2 of this chapter must:</p> <ol style="list-style-type: none"> <li>(1) request the new investigation in writing;</li> <li>(2) describe the immediate family member’s relationship to the deceased;</li> <li>(3) describe the determination made by the local law enforcement agency;</li> <li>(4) concisely set forth the basis of the immediate family member’s reasonable suspicion that the death was the result of a criminal act committed by a third person, including:             <ol style="list-style-type: none"> <li>(A) describing the criminal act or acts that the immediate family member believes caused the death;</li> <li>(B) listing every fact that forms the basis of the immediate family member’s reasonable suspicion; and</li> <li>(C) explaining any reasonable inferences drawn from the facts described in clause (B); and</li> </ol> </li> <li>(5) notify the local law enforcement agency and the prosecuting attorney that the immediate family member has requested a new investigation.</li> </ol> <p>(b) An immediate family member is entitled to request a new investigation under this chapter even if another immediate family member objects to the request.</p>	<p>Ind. Code Ann. § 35-40-15-3.</p>




<p><b>Right of Deceased Victim’s Family to Request a New Investigation: Review of Request; Assignment of Review.</b></p> <p>(a) Upon receipt of a request for a new investigation, the superintendent of the state police department shall, as soon as practicable, review the written request and, if warranted, conduct any further investigation.</p> <p>(b) If the state police department assisted the local law enforcement agency in the earlier investigation, the superintendent of the state police department shall consider assigning an officer to review the request who did not participate in the earlier investigation, unless assigning a new officer is impracticable.</p> <p>(c) The review of a request under this chapter shall be conducted without regard to the conclusions of the earlier investigation. However, an officer conducting the new investigation may rely on forensic and other evidence collected during the earlier investigation.</p> <p>(d) At the conclusion of the review, the superintendent of the state police department shall provide the immediate family member who requested the investigation with a concise written summary of the determination made by the state police department. A determination made by the state police department under this section is not subject to judicial review.</p>	<p>Ind. Code Ann. § 35-40-15-4.</p>
<p><b>Right of Deceased Victim’s Family to Request a New Investigation: Exchange of Information; Review.</b></p> <p>A coroner and a local law enforcement agency shall, upon request by the superintendent of the state police department, exchange information with, cooperate with, and assist the state police department in reviewing the request and, if applicable, conducting the new investigation.</p>	<p>Ind. Code Ann. § 35-40-15-5.</p>

<p><b>Right of Deceased Victim’s Family to Request a New Investigation: Exceptions to Right.</b></p> <p>(a) An immediate family member is only entitled to request a new investigation under this chapter if the earlier investigation resulted in an uncharged death. An immediate family member is not entitled to request a new investigation under this chapter because the family member is dissatisfied with any other aspect of the earlier investigation, including:</p> <ul style="list-style-type: none"> <li>(1) the failure to identify a suspect, or the identification or exclusion of a particular person as a criminal suspect; and</li> <li>(2) a conclusion concerning which criminal offense resulting in death was committed.</li> </ul> <p>(b) The superintendent of the state police department is only required to consider a request to conduct one (1) new investigation, regardless of the number of immediate family members who request a new investigation.</p>	<p>Ind. Code Ann. § 35-40-15-6.</p>
<p><b>Rights of Sexual Assault Victims: When Rights Attach.</b></p> <p>The rights provided to victims under this article attach whenever a victim is subject to:</p> <ul style="list-style-type: none"> <li>(1) a forensic medical exam; or</li> <li>(2) an interview by a law enforcement officer;</li> </ul> <p>in relation to injuries, trauma, or an investigation resulting from an alleged sexual assault.</p> <p> Ind. Code Ann. § 35-40.5-1-1 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-40.5-2-1.</p>


<p><b>Rights of Sexual Assault Victims: Rights Retained Continuously Regardless of Participation in Criminal Proceeding or Consent to Forensic Medical Examination.</b></p> <p>A victim continuously retains all the rights under this article regardless of whether the victim:</p> <p>(1) agrees to participate in any civil or criminal proceeding related to the alleged sexual assault; or</p> <p>(2) consents to a forensic medical exam to collect forensic evidence related to the alleged sexual assault.</p> <p> Ind. Code Ann. § 35-40.5-1-1 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> A promising practice is to inform sex crime victims, as soon as possible, that they are not required to participate in a criminal prosecution or consent to a forensic medical examination to retain their rights.</p>	<p>Ind. Code Ann. § 35-40.5-2-2.</p>
<p><b>Rights of Sexual Assault Victims: Victims’ Right to Speak with a Victim Advocate, Victim Service Provider, Victims’ Assistance or Social Worker During Sexual Assault Examination and During the Course of the Investigation.</b></p> <p>A victim has the right to:</p> <p>(1) speak with a victim advocate or victim service provider during any hospital visit for the purpose of receiving a sexual assault examination; and</p>	<p>Ind. Code Ann. § 35-40.5-3-1.</p>





<p>(2) speak with a victim advocate or victim service provider during the course of the investigation.</p> <p>If a victim advocate or victim service provider is not available, a victim has the right to speak with victims assistance or a social worker. A victim retains these rights even if the victim has waived one (1) or more of these rights in a previous examination or interview.</p> <p> Ind. Code Ann. § 35-40.5-1-1 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	
<p><b>Rights of Sexual Assault Victims: Right to Privileged Communications with Victim Advocate, Victim Service Provider, Victims’ Assistance or Social Worker; Communications Inadmissible without Victims’ Consent.</b></p> <p>A victim’s communications with a victim advocate, victim service provider, victims assistance, or a social worker are not admissible into evidence for any purpose except with consent of the victim.</p> <p> Ind. Code Ann. § 35-40.5-1-1 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-40.5-3-2.</p>
<p><b>Rights of Sexual Assault Victims: Right to No Cost Forensic Medical Exam and Additional Forensic Services.</b></p> <p>As described in IC 16-21-8-6, a provider shall provide forensic medical exams and additional forensic services to a victim without charge.</p>	<p>Ind. Code Ann. § 35-40.5-4-1.</p>



<p> Ind. Code Ann. § 35-40.5-1-1 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	
<p><b>Rights of Sexual Assault Victims: Right to Notice of Rights Prior to Forensic Medical Examination; Examination Provider’s Obligation to Provide Information.</b></p> <p>Before a provider commences a forensic medical examination, or as soon as possible, the provider shall inform the victim of the following:</p> <p>(1) The victim’s rights under this article and other relevant law in a document to be developed by the state sexual assault response team, which shall be signed by the victim to confirm receipt, unless the victim has already been provided with the document under IC 35-40.5-5-1.</p> <p>(2) The victim’s right to speak with a victim advocate or victim service provider. If a victim advocate or victim service provider is not available, a victim has the right to speak with victims assistance or a social worker.</p> <p> Ind. Code Ann. § 35-40.5-1-1 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-40.5-4-2.</p>
<p><b>Rights of Sexual Assault Victims: Forensic Medical Examination Provider’s Obligation to Notify Victim Advocate or Victim Service Provider Before Commencing Examination.</b></p> <p>Before a provider commences a forensic medical examination, or as soon as possible, the provider shall notify a victim advocate or a victim service provider. If a victim advocate or victim service provider is not available, the provider shall notify victims assistance or a social worker.</p>	<p>Ind. Code Ann. § 35-40.5-4-3.</p>



<p> Ind. Code Ann. § 35-40.5-1-1 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	
<p><b>Rights of Sexual Assault Victims: Law Enforcement’s Obligation to Inform Victims of Their Rights Before Interview.</b></p> <p>Before a law enforcement officer commences an interview of a victim, the law enforcement officer shall inform the victim of the following:</p> <p>(1) The victim’s rights under this article and other relevant law in a document to be developed by the state sexual assault response team, which shall be signed by the victim to confirm receipt, unless the victim has already been provided with the document under IC 35-40.5-4-2.</p> <p>(2) The victim’s right to speak with a victim advocate or victim service provider during the course of the investigation, and that the victim has the right to speak to victims assistance or a social worker if a victim advocate or victim service provider is not available.</p> <p> Ind. Code Ann. § 35-40.5-1-1 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> Ind. Code Ann. § 35-40.5-7-1 details the document containing victims’ rights. This provision is included below.</p>	<p>Ind. Code Ann. § 35-40.5-5-1.</p>



<p><b>Rights of Sexual Assault Victims: Defendant May Not Object to Failure to Comply or Seek to Set Aside Conviction or Sentence for Failure to Comply with Rights of Sexual Assault Victims.</b></p> <p>(a) A defendant or a person accused or convicted of a crime against a victim may not object to any failure in complying with this article.</p> <p>(b) The failure to provide a right or notice to a victim under this section may not be used by a defendant to seek to have the conviction or sentence set aside.</p> <p> Ind. Code Ann. § 35-40.5-1-1 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-40.5-6-1.</p>
<p><b>Rights of Sexual Assault Victims: Document Explaining Victims’ Rights.</b></p> <p>(a) Upon initial interaction with a victim, a law enforcement officer or provider shall provide the victim with a document developed by the state sexual assault response team that explains the rights of victims:</p> <ol style="list-style-type: none"> <li>(1) under this article and other relevant law;</li> <li>(2) in a format accessible to persons with visual disabilities; and</li> <li>(3) in English, Spanish, and German.</li> </ol> <p>(b) The document described in subsection (a) shall include the following:</p> <ol style="list-style-type: none"> <li>(1) A clear statement that a victim is not required to receive a medical evidentiary or physical examination in order to retain the rights provided under this article or any other relevant law.</li> <li>(2) Information concerning state and federal victim compensation funds for medical and other costs associated with the sexual assault.</li> </ol>	<p>Ind. Code Ann. § 35-40.5-7-1.</p>

<p> Ind. Code Ann. § 35-40.5-1-1 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> A promising practice is to inform sex crime victims, as soon as possible, that they are not required to participate in a criminal prosecution or consent to a forensic medical examination to retain their rights.</p>	
<p><b>Law Enforcement’s Obligation to Notify Child-Victim’s Parent, Guardian or Custodian that Child is a Victim of Crime.</b></p> <p>Except as provided in section 4 of this chapter, if a child is named in a written report of a crime as a victim of the crime or in a written report of a crime, and the law enforcement agency that receives the report reasonably believes that the child may be a victim of a crime, the law enforcement agency that receives the report shall make a reasonable attempt to:</p> <p>(1) notify the parent, guardian, or custodian of the child that the child has been named:          (A) in the report as a victim of a crime; or          (B) in the report and the law enforcement agency reasonably believes that the child may be a victim of a crime; and</p> <p>(2) provide the parent, guardian, or custodian of the child with contact information, if available, for a victim rights advocate or a nonprofit, community, or government organization that assists victims.</p> <p> Ind. Code Ann. §§ 5-2-18-1 and 5-2-18-2 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> Ind. Code Ann. § 5-2-18-4 provides exceptions to this notification requirement. This statutory provision is included below.</p>	<p>Ind. Code Ann. § 5-2-18-3.</p>

 A promising practice is to have a policy in place to establish what constitutes “a reasonable attempt” to provide such notice.	
<p><b>Exceptions to Law Enforcement’s Obligation to Notify Child-Victim’s Parent, Guardian or Custodian that Child is a Victim of Crime.</b></p> <p>A law enforcement agency is not required to notify or send a letter to the parent, guardian, or custodian of a child under section 3 of this chapter if:</p> <p>(1) the parent, guardian, or custodian is the alleged perpetrator of the crime; or</p> <p>(2) notification or sending a letter to the parent, guardian, or custodian would not be in the best interests of the child due to the relationship of the parent, guardian, or custodian with the alleged perpetrator of the crime.</p> <p> Ind. Code Ann. §§ 5-2-18-1 and 5-2-18-2 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 5-2-18-4.</p>
<p><b>Address Confidentiality Program: Eligible Applicants.</b></p> <p>The following individuals may apply to the office of the attorney general to have an address designated by the office of the attorney general serve as the individual’s address or as the address of a minor or an incapacitated individual:</p> <p>(1) An individual who is at least eighteen (18) years of age.</p> <p>(2) A parent or guardian acting on behalf of a minor.</p>	<p>Ind. Code Ann. § 5-26.5-2-1.</p>

<p>(3) A guardian acting on behalf of an incapacitated individual.</p> <p>(4) An emancipated minor.</p> <p> Ind. Code Ann. §§ 5-26.5-1-2 through 5-26.5-1-9 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> For additional information regarding Indiana’s Address Confidentiality Program, <i>see</i> Ind. Code Ann. § 5-26.5-2-2 (approval of applications); <i>id.</i> at § 5-26.5-2-3 (certification of participants; confidentiality); <i>id.</i> at § 5-26.5-2-4 (use as work address); <i>id.</i> at § 5-26.5-2-5 (voting); <i>id.</i> at § 5-26.5-2-6 (expiration of certificate; renewal of certificate); <i>id.</i> at § 5-26.5-2-7 (notice of expiration; approval of renewal); <i>id.</i> at § 5-26.5-2-11 (name change); <i>id.</i> at § 5-26.5-3-2 (disclosure of confidential information by attorney general’s office); <i>id.</i> at § 5-26.5-3-3 (forwarding of mail); <i>id.</i> at § 5-26.5-3-4 (designation of agencies providing counseling and shelter services); <i>id.</i> at § 5-26.5-3-5 (assistance and counseling from attorney general’s office not deemed legal advice); <i>id.</i> at § 5-26.5-3-6 (address confidentiality fund); <i>id.</i> at § 5-26.5-3-7 (immunity from civil liability); <i>id.</i> at § 5-26.5-3-8 (physical address required); <i>id.</i> at § 5-26.5-4-1.5 (revocation of certification; denial of application); <i>id.</i> at § 5-26.5-4-2 (change of address); <i>id.</i> at § 5-26.5-4-3 (mail returned as undeliverable); <i>id.</i> at § 5-26.5-4-4 (applicants using false information); <i>id.</i> at § 5-26.5-5-1 (agency’s responsibility for providing written notice of designated address); <i>id.</i> at § 5-26.5-5-2.5 (providing written notice; designated address); <i>id.</i> at § 5-26.5-5-5 (notice of termination); <i>id.</i> at § 5-26.5-5-6 (use of program participant’s address; disclosure). Some of these provisions are included below.</p>	
<p><b>Address Confidentiality Program: Approval of Applications.</b></p> <p>The office of the attorney general shall approve an application filed in the manner and on a form prescribed by the office of the attorney general if the application contains the following:</p>	<p>Ind. Code Ann. § 5-26.5-2-2.</p>

<p>(1) A sworn statement by the applicant that the applicant has good reason to believe that:</p> <p>(A) the applicant, the minor or incapacitated individual on whose behalf the application is made, or a household member of the applicant is a victim of:</p> <ul style="list-style-type: none"><li>(i) domestic violence;</li><li>(ii) harassment;</li><li>(iii) human trafficking;</li><li>(iv) intimidation;</li><li>(v) invasion of privacy;</li><li>(vi) sexual assault; or</li><li>(vii) stalking; and</li></ul> <p>(B) the applicant fears for:</p> <ul style="list-style-type: none"><li>(i) the applicant's safety; or</li><li>(ii) the safety of a minor or an incapacitated individual on whose behalf the application is made.</li></ul> <p>(2) A copy of a valid protective order, if any, that has been issued on behalf of the applicant, the minor or incapacitated individual on whose behalf the application is made, or household member of the applicant.</p> <p>(3) A designation of the office of the attorney general as an agent of the applicant for the purpose of:</p> <ul style="list-style-type: none"><li>(A) service of process; and</li><li>(B) receipt of mail.</li></ul> <p>(4) The:</p> <ul style="list-style-type: none"><li>(A) mailing address; and</li><li>(B) telephone number;</li></ul> <p>where the applicant may be contacted by the office of the attorney general.</p> <p>(5) The new address that the applicant requests not be disclosed.</p>	
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(6) The signature of the applicant and of any representative of an agency designated under IC 5-26.5-3-4 that assisted in the preparation of the application.

(7) The date the applicant signed the application.

(8) A description of the applicant's plan, developed with the assistance of a representative of an agency designated under IC 5-26.5-3-4, to maintain the confidentiality of the applicant's new address.

(9) The office of the attorney general may require the applicant to provide additional information:

(A) to determine the truth or falsity of the sworn statement as described in subdivision (1); or



(B) about the applicant's plan described in subdivision (8).





Ind. Code Ann. §§ 5-26.5-1-2 through 5-26.5-1-9 define the terms used in this provision. These definitions are included above in the section "Select Definitions."





For additional information regarding Indiana's Address Confidentiality Program, *see* Ind. Code Ann. § 5-26.5-2-1 (applicant eligibility); *id.* at § 5-26.5-2-3 (certification of participants; confidentiality); *id.* at § 5-26.5-2-4 (use as work address); *id.* at § 5-26.5-2-5 (voting); *id.* at § 5-26.5-2-6 (expiration of certificate; renewal of certificate); *id.* at § 5-26.5-2-7 (notice of expiration; approval of renewal); *id.* at § 5-26.5-2-11 (name change); *id.* at § 5-26.5-3-2 (disclosure of confidential information by attorney general's office); *id.* at § 5-26.5-3-3 (forwarding of mail); *id.* at § 5-26.5-3-4 (designation of agencies providing counseling and shelter services); *id.* at § 5-26.5-3-5 (assistance and counseling from attorney general's office not deemed legal advice); *id.* at § 5-26.5-3-6 (address confidentiality fund); *id.* at § 5-26.5-3-7 (immunity from civil liability); *id.* at § 5-26.5-3-8 (physical address required); *id.* at § 5-26.5-4-1.5 (revocation of certification; denial of application); *id.* at § 5-26.5-4-2 (change of address); *id.* at § 5-26.5-4-3 (mail returned as undeliverable); *id.* at § 5-26.5-4-4 (applicants using false information); *id.* at § 5-26.5-5-1 (agency's responsibility for

<p>providing written notice of designated address); <i>id.</i> at § 5-26.5-5-2.5 (providing written notice; designated address); <i>id.</i> at § 5-26.5-5-5 (notice of termination); <i>id.</i> at § 5-26.5-5-6 (use of program participant’s address; disclosure). Some of these provisions are included above and below.</p>	
<p><b>Address Confidentiality Program: Certification of Participants; Confidentiality.</b></p> <p>(a) Upon approving an application under section 2 of this chapter, the office of the attorney general shall certify the applicant as a program participant.</p> <p>(b) Subject to IC 5-26.5-3-2, IC 5-26.5-5-2.5, IC 5-26.5-5-2.6, and IC 5-26.5-5-6, the name, address, telephone number, and any other identifying information relating to a program participant, as contained in a record created under this chapter, is declared confidential for purposes of IC 5-14-3-4(a)(1).</p> <p> Ind. Code Ann. §§ 5-26.5-1-2 through 5-26.5-1-9 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> For additional information regarding Indiana’s Address Confidentiality Program, <i>see</i> Ind. Code Ann. § 5-26.5-2-1 (applicant eligibility); <i>id.</i> at § 5-26.5-2-2 (approval of applications); <i>id.</i> at § 5-26.5-2-4 (use as work address); <i>id.</i> at § 5-26.5-2-5 (voting); <i>id.</i> at § 5-26.5-2-6 (expiration of certificate; renewal of certificate); <i>id.</i> at § 5-26.5-2-7 (notice of expiration; approval of renewal); <i>id.</i> at § 5-26.5-2-11 (name change); <i>id.</i> at § 5-26.5-3-2 (disclosure of confidential information by attorney general’s office); <i>id.</i> at § 5-26.5-3-3 (forwarding of mail); <i>id.</i> at § 5-26.5-3-4 (designation of agencies providing counseling and shelter services); <i>id.</i> at § 5-26.5-3-5 (assistance and counseling from attorney general’s office not deemed legal advice); <i>id.</i> at § 5-26.5-3-6 (address confidentiality fund); <i>id.</i> at § 5-26.5-3-7 (immunity from civil liability); <i>id.</i> at § 5-26.5-3-8 (physical address required); <i>id.</i> at § 5-26.5-4-1.5 (revocation of certification; denial of application); <i>id.</i> at § 5-26.5-4-2 (change of address); <i>id.</i> at § 5-26.5-4-3 (mail returned as undeliverable); <i>id.</i> at § 5-26.5-4-4</p>	<p>Ind. Code Ann. § 5-26.5-2-3.</p>



<p>(applicants using false information); <i>id.</i> at § 5-26.5-5-1 (agency’s responsibility for providing written notice of designated address); <i>id.</i> at § 5-26.5-5-2.5 (providing written notice; designated address); <i>id.</i> at § 5-26.5-5-5 (notice of termination); <i>id.</i> at § 5-26.5-5-6 (use of program participant’s address; disclosure). Some of these provisions are included above and below.</p>	
<p><b>Address Confidentiality Program: Use as Work Address.</b></p> <p>A program participant may use an address designated by the office of the attorney general as the program participant’s work address.</p> <p> Ind. Code Ann. §§ 5-26.5-1-2 through 5-26.5-1-9 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> For additional information regarding Indiana’s Address Confidentiality Program, <i>see</i> Ind. Code Ann. § 5-26.5-2-1 (applicant eligibility); <i>id.</i> at § 5-26.5-2-2 (approval of applications); <i>id.</i> at § 5-26.5-2-3 (certification of participants; confidentiality); <i>id.</i> at § 5-26.5-2-4 (use as work address); <i>id.</i> at § 5-26.5-2-5 (voting); <i>id.</i> at § 5-26.5-2-6 (expiration of certificate; renewal of certificate); <i>id.</i> at § 5-26.5-2-7 (notice of expiration; approval of renewal); <i>id.</i> at § 5-26.5-2-11 (name change); <i>id.</i> at § 5-26.5-3-2 (disclosure of confidential information by attorney general’s office); <i>id.</i> at § 5-26.5-3-3 (forwarding of mail); <i>id.</i> at § 5-26.5-3-5 (assistance and counseling from attorney general’s office not deemed legal advice); <i>id.</i> at § 5-26.5-3-6 (address confidentiality fund); <i>id.</i> at § 5-26.5-3-7 (immunity from civil liability); <i>id.</i> at § 5-26.5-3-8 (physical address required); <i>id.</i> at § 5-26.5-4-1.5 (revocation of certification; denial of application); <i>id.</i> at § 5-26.5-4-2 (change of address); <i>id.</i> at § 5-26.5-4-3 (mail returned as undeliverable); <i>id.</i> at § 5-26.5-4-4 (applicants using false information); <i>id.</i> at § 5-26.5-5-1 (agency’s responsibility for providing written notice of designated address); <i>id.</i> at § 5-26.5-5-2.5 (providing written notice; designated address); <i>id.</i> at § 5-26.5-</p>	<p>Ind. Code Ann. § 5-26.5-2-4.</p>





<p>5-5 (notice of termination); <i>id.</i> at § 5-26.5-5-6 (use of program participant’s address; disclosure). Some of these provisions are included above and below.</p>	
<p><b>Address Confidentiality Program: Designation of Agencies Providing Counseling and Shelter Services to Assist Program Applicants.</b></p> <p>The office of the attorney general shall designate:</p> <p>(1) state and local agencies; and</p> <p>(2) nonprofit agencies;</p> <p>that provide counseling and shelter services to victims of domestic violence to assist persons in applying to be program participants.</p> <p> Ind. Code Ann. §§ 5-26.5-1-2 through 5-26.5-1-9 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> For additional information regarding Indiana’s Address Confidentiality Program, <i>see</i> Ind. Code Ann. § 5-26.5-2-1 (applicant eligibility); <i>id.</i> at § 5-26.5-2-2 (approval of applications); <i>id.</i> at § 5-26.5-2-3 (certification of participants; confidentiality); <i>id.</i> at § 5-26.5-2-4 (use as work address); <i>id.</i> at § 5-26.5-2-5 (voting); <i>id.</i> at § 5-26.5-2-6 (expiration of certificate; renewal of certificate); <i>id.</i> at § 5-26.5-2-7 (notice of expiration; approval of renewal); <i>id.</i> at § 5-26.5-2-11 (name change); <i>id.</i> at § 5-26.5-3 (disclosure of confidential information by attorney general’s office); <i>id.</i> at § 5-26.5-3-3 (forwarding of mail); <i>id.</i> at § 5-26.5-3-5 (assistance and counseling from attorney general’s office not deemed legal advice); <i>id.</i> at § 5-26.5-3-6 (address confidentiality fund); <i>id.</i> at § 5-26.5-3-7 (immunity from civil liability); <i>id.</i> at § 5-26.5-3-8 (physical address required); <i>id.</i> at § 5-26.5-4-1.5 (revocation of certification; denial of application); <i>id.</i> at § 5-26.5-4-2 (change of address); <i>id.</i> at § 5-26.5-4-3 (mail returned as undeliverable); <i>id.</i> at § 5-26.5-4-4 (applicants using false information);</p>	<p>Ind. Code Ann. § 5-26.5-3-4.</p>

<p><i>id.</i> at § 5-26.5-5-1 (agency’s responsibility for providing written notice of designated address); <i>id.</i> at § 5-26.5-5-2.5 (providing written notice; designated address); <i>id.</i> at § 5-26.5-5-5 (notice of termination); <i>id.</i> at § 5-26.5-5-6 (use of program participant’s address; disclosure). Some of these provisions are included above.</p>	
<p><b>Automated Victim Notification System: Requirements; Means of Transmittal.</b></p> <p>(a) The department shall establish an automated victim notification system that must do the following:</p> <p>(1) Automatically notify a registered crime victim when a committed offender who committed the crime against the victim:</p> <p>(A) is assigned to a:</p> <p>(i) department facility; or</p> <p>(ii) county jail or any other facility not operated by the department;</p> <p>(B) is transferred to a:</p> <p>(i) department facility; or</p> <p>(ii) county jail or any other facility not operated by the department;</p> <p>(C) is given a different security classification;</p> <p>(D) is released on temporary leave;</p> <p>(E) is discharged;</p> <p>(F) has escaped;</p> <p>(G) has a change in the committed offender’s expected date of release from incarceration;</p> <p>(H) is scheduled to have a parole release hearing;</p> <p>(I) has requested clemency or pardon consideration;</p> <p>(J) is to be placed in a minimum security:</p> <p>(i) facility; or</p> <p>(ii) work release program;</p> <p>or is permitted to participate in another minimum security assignment; or</p> <p>(K) dies during the committed offender’s period of incarceration.</p> <p>(2) Allow a registered crime victim to receive the most recent status report for an offender by calling the automated victim notification system on a toll free telephone number.</p>	<p>Ind. Code Ann. § 11-8-7-2.</p>

<p>(3) Allow a crime victim to register or update the victim’s registration for the automated victim notification system by calling a toll free telephone number.</p> <p>(b) For purposes of subsection (a), a sheriff responsible for the operation of a county jail shall immediately notify the department if a committed offender:</p> <ul style="list-style-type: none"> <li>(1) is transferred to another county jail or another facility not operated by the department of correction;</li> <li>(2) is released on temporary leave;</li> <li>(3) is discharged; or</li> <li>(4) has escaped.</li> </ul> <p>Sheriffs and other law enforcement officers and prosecuting attorneys shall cooperate with the department in establishing and maintaining an automated victim notification system.</p> <p>(c) An automated victim notification system may transmit information to a person by:</p> <ul style="list-style-type: none"> <li>(1) telephone;</li> <li>(2) electronic mail; or</li> <li>(3) another method as determined by the department.</li> </ul> <p>(d) The department shall provide the opportunity for a registered crime victim to receive periodic status reports concerning the committed offender who committed the crime against the registered crime victim, including reports stating:</p> <ul style="list-style-type: none"> <li>(1) the committed offender’s projected date of release from imprisonment;</li> <li>(2) the facility where the committed offender is imprisoned; and</li> <li>(3) the current security classification of the committed offender.</li> </ul> <p>(e) A registered crime victim may choose to receive a status report described in subsection (d):</p> <ul style="list-style-type: none"> <li>(1) annually;</li> <li>(2) quarterly;</li> <li>(3) monthly; or</li> <li>(4) when triggered by an event described in subsection (a)(1).</li> </ul>	
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<p><b>Victims' Right to Notice of Lifetime Sex or Violent Offender's Name Change; Local Law Enforcement's Obligation to Provide Such Notice.</b></p> <p>(a) This section applies to the local law enforcement authority in the county of conviction who has received notice that a lifetime sex or violent offender (as defined in IC 34-28-2-1.5) has changed the offender's name under:</p> <ol style="list-style-type: none"> <li>(1) IC 31-11-4-11 (marriage);</li> <li>(2) IC 31-15-2-19 (dissolution of marriage);</li> <li>(3) IC 31-19-2-1.1 (adult adoption); or</li> <li>(4) IC 34-28-2-1.5 (an action for name change).</li> </ol> <p>(b) A local law enforcement authority to which this section applies shall take reasonable steps, including consulting with the prosecuting attorney or a victim assistance program in the county of conviction, to notify the victim (or the spouse or immediate family member of a deceased victim):</p> <ol style="list-style-type: none"> <li>(1) that the lifetime sex or violent offender has changed the offender's name;</li> <li>(2) of the reason for the name change; and</li> <li>(3) of the lifetime sex or violent offender's new name.</li> </ol> <p> Ind. Code Ann. § 34-28-2-1.5 defines "lifetime sex or violent offender" as the terms are used in this provision.</p> <p> A promising practice is to have a policy in place to establish what constitutes "reasonable steps" to notify the victim of this information.</p>	<p>Ind. Code Ann. § 11-8-8-23.</p>
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<p><b>Victims' Rights Regarding Assignment of Offender to Work Release Program: to Notice and to Be Heard; Victims' Obligation to Keep Contact Information Current.</b></p> <p>Before the department may assign an offender to a work release program, the department must notify any victim of the offender's crime of the right to submit a written statement to:</p> <ul style="list-style-type: none"> <li>(1) a sentencing court in accordance with IC 11-10-11.5-4.5, if the offender is under consideration for assignment to a community transition program; and</li> <li>(2) the department, if the offender is under consideration for assignment to any other work release program.</li> </ul> <p>If the name or address of a victim of the offender's crime changes after the offender is sentenced for the offense, and the offender's sentence may result in the offender's assignment to the work release program, the victim is responsible for notifying the department of the name or address change.</p> <p> A promising practice is to let victims know, upon first contact, of their obligation to keep their contact information current.</p>	<p>Ind. Code Ann. § 11-10-8-9.</p>
<p><b>Victims' Right to Submit a Statement Before an Offender is Assigned to a Community Transition Program; Victims' Obligation to Keep Their Contact Information Current.</b></p> <p>(a) Before the department may assign an offender to a minimum security classification and place the offender in a community transition program, the department shall notify:</p> <ul style="list-style-type: none"> <li>(1) the offender and any victim of the offender's crime of the right to submit a written statement regarding the offender's assignment to the community transition program; and</li> <li>(2) the offender of the right to submit a written statement objecting to the offender's placement in a community transition program;</li> </ul> <p>to each court that sentenced the offender to a period of imprisonment that the offender is actively serving. If the name or address of a victim of the offender's crime changes after the offender is sentenced for the offense, and the offender's sentence may result in the offender's</p>	<p>Ind. Code Ann. § 11-10-11.5-4.5.</p>

<p>assignment to the community transition program, the victim is responsible for notifying the department of the name or address change.</p> <p>(b) An offender or a victim of the offender's crime who wishes to submit a written statement under subsection (a)(1) must submit the statement to each court and the department not later than ten (10) working days after receiving notice from the department under subsection (a).</p> <p>(c) An offender's written statement objecting to the offender's placement in a community transition program under subsection (a)(2) must be submitted to each court and the department:</p> <p>(1) not later than ten (10) working days after receiving notice from the department under subsection (a); or</p> <p>(2) before the offender is transported under section 7 of this chapter; whichever occurs first.</p> <p> A promising practice is to let victims know, upon first contact, of their obligation to keep their contact information current.</p>	
<p><b>Victims' Rights to Notice of and to Be Heard Regarding Offender's Release on Parole or Discharge: Victims' Obligation to Keep Their Contact Information Current; Procedure for Requesting or Objecting to Release of Victims' Information.</b></p> <p>(a) A person sentenced under IC 35-50 shall be released on parole or discharged from the person's term of imprisonment under IC 35-50 without a parole release hearing.</p> <p>(b) A person sentenced for an offense under laws other than IC 35-50 who is eligible for release on parole, or a person whose parole is revoked and is eligible for reinstatement on parole under rules adopted by the parole board shall, before the date of the person's parole eligibility, be granted a parole release hearing to determine whether parole will be granted or denied. The hearing shall be conducted by one (1) or more of the parole board members. If one (1) or more of the members conduct the hearing on behalf of the parole board, the</p>	<p>Ind. Code Ann. § 11-13-3-3.</p>

final decision shall be rendered by the full parole board based upon the record of the proceeding and the hearing conductor's findings. Before the hearing, the parole board shall order an investigation to include the collection and consideration of:

- (1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;
- (2) official reports of the person's history of criminality;
- (3) reports of earlier parole or probation experiences;
- (4) reports concerning the person's present commitment that are relevant to the parole release determination;
- (5) any relevant information submitted by or on behalf of the person being considered; and
- (6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:

- (1) to be discharged from imprisonment;
- (2) to be released on parole under IC 35-50-6-1;
- (3) to have a parole release hearing under this chapter;
- (4) to have a parole violation hearing;
- (5) an escaped committed offender; or
- (6) to be released from departmental custody under any temporary release program administered by the department, including the following:
  - (A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a regulated community assignment program.
  - (B) Assignment to a minimum security work release program.

(d) The department shall make the notification required under subsection (c):

- (1) not later than twenty-four (24) hours after the escape of a committed offender;
- (2) at least forty (40) days before:
  - (A) the discharge or release of a committed offender; or

(B) the date of a hearing concerning a committed offender's possible discharge or release; and

(3) if the date of a committed offender's discharge or release as referred to in subdivision (2)(A) is changed during the forty (40) day notification period referred to in subdivision (2), as soon as possible but not more than forty-eight (48) hours after the change in the discharge or release date.

The department shall supply the information to a victim (or a next of kin of a victim in the appropriate case) and a witness at the address supplied to the department by the victim (or next of kin) or witness. A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

(e) The probation officer conducting the presentence investigation shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim. A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

(f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not have access to the name and address of a victim and a witness. Upon the filing of a motion by any person requesting or objecting to the release of victim information, witness information, or both that is retained by the department, the court shall review the information that is the subject of the motion in camera before ruling on the motion.

(g) The notice required under subsection (c) must specify whether the prisoner is being discharged, is being released on parole, is being released on lifetime parole, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

(1) The name of the prisoner.



<p>(2) The date of the offense.</p> <p>(3) The date of the conviction.</p> <p>(4) The felony of which the prisoner was convicted.</p> <p>(5) The sentence imposed.</p> <p>(6) The amount of time served.</p> <p>(7) The date and location of the interview (if applicable).</p> <p>(h) The parole board shall adopt rules under IC 4-22-2 and make available to offenders the criteria considered in making parole release determinations. The criteria must include the:</p> <ul style="list-style-type: none"><li>(1) nature and circumstances of the crime for which the offender is committed;</li><li>(2) offender's prior criminal record;</li><li>(3) offender's conduct and attitude during the commitment; and</li><li>(4) offender's parole plan.</li></ul> <p>(i) The hearing prescribed by this section may be conducted in an informal manner without regard to rules of evidence. In connection with the hearing, however:</p> <ul style="list-style-type: none"><li>(1) reasonable, advance written notice, including the date, time, and place of the hearing shall be provided to the person being considered;</li><li>(2) the person being considered shall be given access, in accord with IC 11-8-5, to records and reports considered by the parole board in making its parole release decision;</li><li>(3) the person being considered may appear, speak in the person's own behalf, and present documentary evidence;</li><li>(4) irrelevant, immaterial, or unduly repetitious evidence shall be excluded; and</li><li>(5) a record of the proceeding, to include the results of the parole board's investigation, notice of the hearing, and evidence adduced at the hearing, shall be made and preserved.</li></ul> <p>(j) If parole is denied, the parole board shall give the person written notice of the denial and the reasons for the denial. The parole board may not parole a person if it determines that there is substantial reason to believe that the person:</p> <ul style="list-style-type: none"><li>(1) will engage in further specified criminal activity; or</li><li>(2) will not conform to appropriate specified conditions of parole.</li></ul>	
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(k) If parole is denied, the parole board shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the board may conduct a hearing earlier than five (5) years after denial of parole if the board:

- (1) finds that special circumstances exist for the holding of a hearing; and
- (2) gives reasonable notice to the person being considered for parole.

(l) The parole board may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.



(m) If the board is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b), except as provided in subsection (n), the board may order and consider a community investigation, which may include an investigation and report that substantially reflects the attitudes and opinions of:



- (1) the community in which the crime committed by the offender occurred;
- (2) law enforcement officers who have jurisdiction in the community in which the crime occurred;
- (3) the victim of the crime committed by the offender, or if the victim is deceased or incompetent for any reason, the victim's relatives or friends; and
- (4) friends or relatives of the offender.

If the board reconsiders for release on parole an offender who was previously released on parole and whose parole was revoked under section 10 of this chapter, the board may use a community investigation prepared for an earlier parole hearing to comply with this subsection. However, the board shall accept and consider any supplements or amendments to any previous statements from the victim or the victim's relatives or friends.

(n) The board shall conduct the community investigation described in subsection (m) if:

- (1) the person was convicted of a crime of violence (as defined in IC 35-50-1-2); or
- (2) the person is a sex offender (as defined in IC 11-8-8-4.5).

<p>(o) As used in this section, “victim” means a person who has suffered direct harm as a result of a violent crime (as defined in IC 5-2-6.1-8).</p> <p> A promising practice is to let victims know, upon first contact, of their obligation to keep their contact information current.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims may “request” to decline notice. Agencies should carefully maintain documentation of such requests.</p>	
<p><b>Sex Crime Victims’ Rights to No Cost Forensic Medical Exams and Additional Forensic Services.</b></p> <p>(a) A hospital licensed under IC 16-21-2 that provides general medical and surgical hospital services shall provide forensic medical exams and additional forensic services to all alleged sex crime victims who apply for forensic medical exams and additional forensic services in relation to injuries or trauma resulting from the alleged sex crime. To the extent practicable, the hospital shall use a sexual assault examination kit to conduct forensic exams and provide forensic services. The provision of services may not be dependent on a victim’s reporting to, or cooperating with, law enforcement.</p> <p>(b) For the purposes of this chapter, the following crimes are considered sex crimes:</p> <ol style="list-style-type: none"> <li>(1) Rape (IC 35-42-4-1).</li> <li>(2) Criminal deviate conduct (IC 35-42-4-2) (repealed).</li> <li>(3) Child molesting (IC 35-42-4-3).</li> <li>(4) Vicarious sexual gratification (IC 35-42-4-5).</li> <li>(5) Sexual battery (IC 35-42-4-8).</li> <li>(6) Sexual misconduct with a minor (IC 35-42-4-9).</li> <li>(7) Child solicitation (IC 35-42-4-6).</li> <li>(8) Child seduction (IC 35-42-4-7).</li> </ol>	<p>Ind. Code Ann. § 16-21-8-1.</p>

<p>(9) Incest (IC 35-46-1-3).</p> <p>(c) Payment for services under this section shall be processed in accordance with rules adopted by the victim services division of the Indiana criminal justice institute.</p> <p> Ind. Code Ann. § 16-21-8-0.2 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> A promising practice is to inform sex crime victims, as soon as possible, that they are not required to report the offense committed against them to receive a no-cost forensic examination or other forensic services.</p>	
<p><b>Law Enforcement Procedures and Obligations Regarding Emergency Services to Sex Crime Victims; Victims’ Right to Register for Notification of Sample Destruction, Claim Reimbursement and Sexual Assault Examination Kit Tracking.</b></p> <p>(a) Law enforcement shall:</p> <p>(1) obtain the sample within forty-eight (48) hours after receiving a provider’s notification; and</p> <p>(2) transport the sample to secured storage.</p> <p>(b) Law enforcement shall keep the sample in secured storage until the earlier of the following:</p> <p>(1) At least one (1) year after the date the sample is placed in secured storage.</p> <p>(2) The victim reports the sex crime to law enforcement and the sample is transported to a crime lab.</p> <p>(c) Notification of sample destruction may be provided by the division through the web based claims reimbursement and sexual assault examination kit tracking system. Law enforcement agencies and prosecuting attorneys shall cooperate with the division by</p>	<p>Ind. Code Ann. § 16-21-8-10.</p>

providing storage updates to the division via the web based claims reimbursement and sexual assault examination kit tracking system.

(d) A victim may register for notification through the web based claims reimbursement and sexual assault examination kit tracking system.

(e) Each county shall develop and implement a plan for the secured storage and destruction of samples.

(f) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

(1) A date set by the director.

(2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify the prosecuting attorney of each county of the director's action and when funding becomes available to implement this section.


(g) The failure to comply with:


(1) this chapter;

(2) a plan adopted by a county; or




(3) a protocol adopted by a sexual assault response team;




does not, standing alone, affect the admissibility of a sample as evidence in a criminal or civil proceeding.

 Ind. Code Ann. § 16-21-8-0.2 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."

 A promising practice is to alert victims, at the earliest possible moment, how to register for the notifications to which they are entitled under this provision.

<p><b>Confidentiality of Sexual Assault Victims' Personal Information and Medical Records Regarding Forensic Examinations, Claims Reimbursement and Sexual Assault Examination Kits.</b></p> <p>(a) Information entered into the web based claims reimbursement and sexual assault examination kit tracking system for the purposes of reimbursement to a provider for a forensic medical exam or the location of a sexual assault examination kit is confidential until the later of the following:</p> <p>(1) The sexual assault examination kit is destroyed in accordance with section 10 of this chapter.</p> <p>(2) The conclusion of a case filed by a prosecuting attorney with appropriate jurisdiction.</p> <p>(b) A victim's:</p> <p>(1) personal information; and</p> <p>(2) medical records;</p> <p>are confidential.</p>	<p>Ind. Code Ann. § 16-21-8-11.</p>
<p><b>Certain Victims' Right to Request That Locks Be Changed, When Perpetrator Does Not Reside With the Victim.</b></p> <p>(a) This section applies if a perpetrator who is restrained from contact with the tenant referred to in subsection (b) under an order referred to in section 7(2)(A) or 7(2)(B) of this chapter is not a tenant of the same dwelling unit as the tenant referred to in subsection (b).</p> <p>(b) A landlord shall change the locks of a tenant's dwelling unit upon the written request of the tenant not later than forty-eight (48) hours after the tenant gives the landlord a copy of a court order referred to in section 7(2) of this chapter, and shall give a key to the new locks to the tenant.</p>	<p>Ind. Code Ann. § 32-31-9-9.</p>

<p> Ind. Code Ann. §§ 32-31-9-3 through 32-31-9-7 define the terms used in this provision. These definitions are 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, of their housing-related rights and to provide landlords with this information.</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.</p>	
<p><b>Certain Victims’ Right to Request That Locks Be Changed, When Perpetrator Resides With the Victim.</b></p> <p>(a) This section applies if the perpetrator who is restrained from contact with the tenant referred to in subsection (b) under an order referred to in section 7(2)(A) or 7(2)(B) of this chapter is a tenant of the same dwelling unit as the tenant referred to in subsection (b).</p> <p>(b) A landlord shall change the locks of a tenant’s dwelling unit, upon the written request of the tenant, not later than twenty-four (24) hours after the tenant provides the landlord with a copy of a court order referred to in section 7(2) of this chapter restraining the perpetrator referred to in subsection (a) from contact with the tenant, and shall give a key to the new locks to the tenant.</p> <p>(c) Unless the court order provided to the landlord under subsection (b) allows the perpetrator to return to the dwelling unit to retrieve the perpetrator’s personal property, a landlord to whom subsection (b) applies may not by any act provide the perpetrator access to the dwelling unit.</p> <p>(d) A landlord to whom subsection (b) applies is immune from civil liability for:</p>	<p>Ind. Code Ann. § 32-31-9-10.</p>

<p>(1) excluding the perpetrator from the dwelling unit under a court order; or                  (2) loss of use of or damage to personal property while the personal property is present in the dwelling unit.</p> <p>(e) A perpetrator who has been excluded from a dwelling unit under this section remains liable under the lease with all other tenants of the dwelling unit for rent or damages to the dwelling unit as provided in the lease.</p> <p> Ind. Code Ann. §§ 32-31-9-3 through 32-31-9-7 define the terms used in this provision. These definitions are 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, of their housing-related rights and to provide landlords with this information.</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.</p>	
<p><b>Certain Victims’ Right to Terminate Lease.</b></p> <p>(a) A protected individual who is a tenant may terminate the protected individual’s rights and obligations under a rental agreement by providing the landlord with a written notice of termination in compliance with this section.</p> <p>(b) A protected individual must give written notice of termination under this section to the landlord at least thirty (30) days before the termination date stated in the notice.</p> <p>(c) The written notice required by this section must include:                  (1) a copy of:</p>	<p>Ind. Code Ann. § 32-31-9-12.</p>







(A) a civil order for protection issued or recognized by a court under IC 34-26-5 that restrains a perpetrator from contact with the protected individual; or  
 (B) a criminal no contact order that restrains a perpetrator from contact with the protected individual; and  
 (2) if the protected individual is a victim of domestic violence or sexual assault, a copy of a safety plan, which must satisfy the following:  
 (A) The plan must be dated not more than thirty (30) days before the date on which the protected individual provides the written notice to the landlord under this section.  
 (B) The plan must be provided by an accredited domestic violence or sexual assault program.  
 (C) The plan must recommend relocation of the protected individual.


(d) If a protected individual's rights and obligations under a rental agreement are terminated under this section, the protected individual is liable for the rent and other expenses due under the rental agreement:  
 (1) prorated to the effective date of the termination; and  
 (2) payable at the time when payment of rent would have been required under the rental agreement.

A protected individual whose rights and obligations under a rental agreement are terminated under this section is not liable for any other rent or fees that would be due only because of the early termination of the protected individual's rights and obligations under the rental agreement. If a protected individual terminates the rental agreement at least fourteen (14) days before the protected individual would first have the right to occupy the dwelling unit under the lease, the individual is not subject to any damages or penalties.

(e) Notwithstanding section 13 of this chapter, a protected individual is entitled to deposits, returns, and other refunds as if the tenancy terminated by expiring under the terms of the rental agreement.


 Ind. Code Ann. §§ 32-31-9-3 through 32-31-9-7 define the terms used in this provision. These definitions are included above in the section "Select Definitions."


<p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, of their housing-related rights and to provide landlords with this information.</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.</p>	
<p><b>Indiana Civil Protection Order Act: Construction.</b></p> <p>This chapter shall be construed to promote the:</p> <p>(1) protection and safety of all victims of domestic or family violence in a fair, prompt, and effective manner;</p> <p>(2) protection and safety of all victims of harassment in a fair, prompt, and effective manner; and</p> <p>(3) prevention of future domestic violence, family violence, and harassment.</p> <p> For additional information regarding civil protective orders for victims of family and domestic violence or harassment, <i>see</i> Ind. Code Ann. § 34-26-5-2 (persons authorized to file petition under Civil Protection Order Act); <i>id.</i> at § 34-26-5-3 (form of petition and order; verification and issuance of order); <i>id.</i> at § 34-26-5-4 (jurisdiction to issue order and file petition); <i>id.</i> at § 34-26-5-5 (continuing duty to inform court of certain information); <i>id.</i> at § 34-26-5-6 (rules applicable to order); <i>id.</i> at § 34-26-5-7 (nondisclosure of address on nonconfidential documents; circumstances under which address information to be provided to court); <i>id.</i> at § 34-26-5-8 (responsibility for completing and transmitting forms); <i>id.</i> at § 34-26-5-9 (ex parte orders; relief available; availability of GPS tracking and victim notification); <i>id.</i> at § 34-26-5-10 (hearing after ex parte order; availability of relief;</p>	<p>Ind. Code Ann. § 34-26-5-1.</p>

<p>continuation); <i>id.</i> at § 34-26-5-11 (waiver or nullification of order); <i>id.</i> at § 34-26-5-12 (dismissal of case); <i>id.</i> at § 34-26-5-13 (lapse of time between act of violence or harassment and filing of petition); <i>id.</i> at § 34-26-5-14 (mutual orders of protection); <i>id.</i> at § 34-26-5-15 (mediation); <i>id.</i> at § 34-26-5-16 (fees and costs); <i>id.</i> at § 34-26-5-17 (foreign protection order); <i>id.</i> at § 34-26-5-18 (orders required to be entered into IDACS); <i>id.</i> at § 34-26-5-19 (appointment of guardian ad litem); <i>id.</i> at § 34-26-5-20 (orders issued before July 1, 2002); <i>id.</i> at § 34-26-5-21 (definitions; court powers on mobile phone providers). Some of these provisions are included below.</p> <p> Victims of workplace violence may petition for a restraining order under Ind. Code Ann. §§ 34-26-6-1 through 34-26-6-15.</p>	
<p><b>Indiana Civil Protection Order Act: Right of Victims of Domestic and Family Violence, Victims of Harassment and Parents, Guardians and Representatives of Minor-Victims, to File a Petition for an Order of Protection Against Certain Persons.</b></p> <p>(a) A person who is or has been a victim of domestic or family violence may file a petition for an order for protection against a:</p> <ul style="list-style-type: none"> <li>(1) family or household member who commits an act of domestic or family violence; or</li> <li>(2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the petitioner.</li> </ul> <p>(b) A person who is or has been subjected to harassment may file a petition for an order for protection against a person who has committed repeated acts of harassment against the petitioner.</p> <p>(c) A parent, a guardian, or another representative may file a petition for an order for protection on behalf of a child against a:</p> <ul style="list-style-type: none"> <li>(1) family or household member who commits an act of domestic or family violence;</li> <li>(2) person who has committed stalking under IC 35-45-10-5 or a sex offense under IC 35-42-4 against the child;</li> </ul>	<p>Ind. Code Ann. § 34-26-5-2.</p>

<p>(3) person who has committed repeated acts of harassment against the child; or (4) person who engaged in a course of conduct involving repeated or continuing contact with a child that is intended to prepare or condition a child for sexual activity (as defined in IC 35-42-4-13).</p> <p>(d) A court may issue only one (1) order for each respondent. If a petitioner files a petition against more than one (1) respondent, the court shall: (1) assign a new case number; and (2) maintain a separate court file; for each respondent.</p> <p>(e) If a petitioner seeks relief against an unemancipated minor, the case may originate in any court of record and, if it is an emergency matter, be processed the same as an ex parte petition. When a hearing is set, the matter may be transferred to a court with juvenile jurisdiction.</p> <p>(f) If a petition for an order for protection is filed by a person or on behalf of an unemancipated minor, the court shall determine, after reviewing the petition or making an inquiry, whether issuing the order for protection may impact a school corporation's ability to provide in-person instruction for the person or the unemancipated minor. If the court determines that issuing the order for protection may impact a school corporation's ability to provide in-person instruction for the person or the unemancipated minor, then the court may not issue the order for protection until the following requirements are met: (1) Notice is provided to the school corporation, by registered mail or certified mail, that includes: (A) notice of the petition for the order for protection; and (B) the date for the hearing on the petition for the order for protection, if applicable. (2) Upon receipt of the notice, the school corporation is allowed to: (A) respond to the notice not later than three (3) business days after receipt of the notice; and (B) testify at the hearing on the petition for the order for protection.</p>	
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If the school corporation fails to respond to the notice of the petition for the order for protection as described in subdivision (2), then the court may issue the order for protection described in this subsection.

 For additional information regarding civil protective orders for victims of family and domestic violence or harassment, *see* Ind. Code Ann. § 34-26-5-2 (persons authorized to file petition under Civil Protection Order Act); *id.* at § 34-26-5-3 (form of petition and order; verification and issuance of order); *id.* at § 34-26-5-4 (jurisdiction to issue order and file petition); *id.* at § 34-26-5-5 (continuing duty to inform court of certain information); *id.* at § 34-26-5-6 (rules applicable to order); *id.* at § 34-26-5-7 (nondisclosure of address on nonconfidential documents; circumstances under which address information to be provided to court); *id.* at § 34-26-5-8 (responsibility for completing and transmitting forms); *id.* at § 34-26-5-9 (ex parte orders; relief available; availability of GPS tracking and victim notification); *id.* at § 34-26-5-10 (hearing after ex parte order; availability of relief; continuation); *id.* at § 34-26-5-11 (waiver or nullification of order); *id.* at § 34-26-5-12 (dismissal of case); *id.* at § 34-26-5-13 (lapse of time between act of violence or harassment and filing of petition); *id.* at § 34-26-5-14 (mutual orders of protection); *id.* at § 34-26-5-15 (mediation); *id.* at § 34-26-5-16 (fees and costs); *id.* at § 34-26-5-17 (foreign protection order); *id.* at § 34-26-5-18 (orders required to be entered into IDACS); *id.* at § 34-26-5-19 (appointment of guardian ad litem); *id.* at § 34-26-5-20 (orders issued before July 1, 2002); *id.* at § 34-26-5-21 (definitions; court powers on mobile phone providers). Some of these provisions are included above and below.

 Victims of workplace violence may petition for a restraining order under Ind. Code Ann. §§ 34-26-6-1 through 34-26-6-15.

**Indiana Civil Protection Order Act: Victims' Right to Nondisclosure of Address on Nonconfidential Documents When Petitioning for a Civil Order of Protection; Circumstances Under Which Victims Must Provide Address to Court When Petitioning for a Civil Order of Protection.**

Ind. Code Ann. § 34-26-5-7.

A petitioner may omit the petitioner's address from all nonconfidential documents filed with a court. However, a petitioner must provide the court with complete information concerning the protected address on the uniform statewide confidential form and on other confidential forms developed by the office of judicial administration under section 3 of this chapter. A petitioner shall also provide the clerk with a public mailing address for purposes of serving pleadings, notices, and court orders. The petitioner may use the address confidentiality program under IC 5-26.5. If disclosure of a petitioner's address is necessary to determine jurisdiction or to consider venue, the court may order the disclosure to be made:

- (1) after receiving a petitioner's consent;
- (2) orally in the judge's chambers and out of the presence of a respondent with a sealed record made; or
- (3) after a hearing in which the court considers the safety of a petitioner and finds that disclosure of the address is in the interest of justice.



For additional information regarding civil protective orders for victims of family and domestic violence or harassment, *see* Ind. Code Ann. § 34-26-5-2 (persons authorized to file petition under Civil Protection Order Act); *id.* at § 34-26-5-3 (form of petition and order; verification and issuance of order); *id.* at § 34-26-5-4 (jurisdiction to issue order and file petition); *id.* at § 34-26-5-5 (continuing duty to inform court of certain information); *id.* at § 34-26-5-6 (rules applicable to order); *id.* at § 34-26-5-7 (nondisclosure of address on nonconfidential documents; circumstances under which address information to be provided to court); *id.* at § 34-26-5-8 (responsibility for completing and transmitting forms); *id.* at § 34-26-5-9 (ex parte orders; relief available; availability of GPS tracking and victim

<p>notification); <i>id.</i> at § 34-26-5-10 (hearing after ex parte order; availability of relief; continuation); <i>id.</i> at § 34-26-5-11 (waiver or nullification of order); <i>id.</i> at § 34-26-5-12 (dismissal of case); <i>id.</i> at § 34-26-5-13 (lapse of time between act of violence or harassment and filing of petition); <i>id.</i> at § 34-26-5-14 (mutual orders of protection); <i>id.</i> at § 34-26-5-15 (mediation); <i>id.</i> at § 34-26-5-16 (fees and costs); <i>id.</i> at § 34-26-5-17 (foreign protection order); <i>id.</i> at § 34-26-5-18 (orders required to be entered into IDACS); <i>id.</i> at § 34-26-5-19 (appointment of guardian ad litem); <i>id.</i> at § 34-26-5-20 (orders issued before July 1, 2002); <i>id.</i> at § 34-26-5-21 (definitions; court powers on mobile phone providers). Some of these provisions are included above and below.</p>	
<p><b>Indiana Civil Protection Order Act: Ex Parte Orders and Modifications; Relief Available; Availability of GPS Tracking and Victim Notification.</b></p> <p>(a) If it appears from a petition for an order for protection or from a petition to modify an order for protection that domestic or family violence has occurred or that a modification of an order for protection is required, a court may:</p> <ol style="list-style-type: none"> <li>(1) without notice or hearing, immediately issue an order for protection ex parte or modify an order for protection ex parte; or</li> <li>(2) upon notice and after a hearing, whether or not a respondent appears, issue or modify an order for protection.</li> </ol> <p>(b) If it appears from a petition for an order for protection or from a petition to modify an order for protection that harassment has occurred, a court:</p> <ol style="list-style-type: none"> <li>(1) may not, without notice and a hearing, issue an order for protection ex parte or modify an order for protection ex parte; but</li> <li>(2) may, upon notice and after a hearing, whether or not a respondent appears, issue or modify an order for protection.</li> </ol> <p>A court must hold a hearing under this subsection not later than thirty (30) days after the petition for an order for protection or the petition to modify an order for protection is filed.</p>	<p>Ind. Code Ann. § 34-26-5-9.</p>

(c) A court may grant the following relief without notice and hearing in an ex parte order for protection or in an ex parte order for protection modification under subsection (a):

- (1) Enjoin a respondent from threatening to commit or committing acts of domestic or family violence against a petitioner and each designated family or household member.
- (2) Prohibit a respondent from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with a petitioner.
- (3) Remove and exclude a respondent from the residence of a petitioner, regardless of ownership of the residence.
- (4) Order a respondent to stay away from the residence, school, or place of employment of a petitioner or a specified place frequented by a petitioner and each designated family or household member.
- (5) Order that a petitioner has the exclusive possession, care, custody, or control of any animal owned, possessed, kept, or cared for by the petitioner, respondent, minor child of either the petitioner or respondent, or any other family or household member.
- (6) Prohibit a respondent from removing, transferring, injuring, concealing, harming, attacking, mistreating, threatening to harm, or otherwise disposing of an animal described in subdivision (5).
- (7) Order possession and use of the residence, an automobile, and other essential personal effects, regardless of the ownership of the residence, automobile, and essential personal effects. If possession is ordered under this subdivision or subdivision (5), the court may direct a law enforcement officer to accompany a petitioner to the residence of the parties to:
  - (A) ensure that a petitioner is safely restored to possession of the residence, automobile, animal, and other essential personal effects; or
  - (B) supervise a petitioner's or respondent's removal of personal belongings and animal.
- (8) Order other relief necessary to provide for the safety and welfare of a petitioner and each designated family or household member.

(d) A court may grant the following relief after notice and a hearing, whether or not a respondent appears, in an order for protection or in a modification of an order for protection:

- (1) Grant the relief under subsection (c).
- (2) Specify arrangements for parenting time of a minor child by a respondent and:
  - (A) require supervision by a third party; or



<p>(B) deny parenting time; if necessary to protect the safety of a petitioner or child.</p> <p>(3) Order a respondent to:</p> <p>(A) pay attorney's fees;</p> <p>(B) pay rent or make payment on a mortgage on a petitioner's residence;</p> <p>(C) if the respondent is found to have a duty of support, pay for the support of a petitioner and each minor child;</p> <p>(D) reimburse a petitioner or other person for expenses related to the domestic or family violence or harassment, including:</p> <p>(i) medical expenses;</p> <p>(ii) counseling;</p> <p>(iii) shelter; and</p> <p>(iv) repair or replacement of damaged property;</p> <p>(E) pay the costs and expenses incurred in connection with the use of a GPS tracking device under subsection (j); or</p> <p>(F) pay the costs and fees incurred by a petitioner in bringing the action.</p> <p>(4) Prohibit a respondent from using or possessing a firearm, ammunition, or a deadly weapon specified by the court, and direct the respondent to surrender to a specified law enforcement agency the firearm, ammunition, or deadly weapon for the duration of the order for protection unless another date is ordered by the court.</p> <p>(5) Permit the respondent and petitioner to occupy the same location for any purpose that the court determines is legitimate or necessary. The court may impose terms and conditions upon a respondent when granting permission under this subdivision.</p> <p>An order issued under subdivision (4) does not apply to a person who is exempt under 18 U.S.C. 925.</p> <p>(e) The court shall:</p> <p>(1) cause the order for protection to be delivered to the county sheriff for service;</p> <p>(2) make reasonable efforts to ensure that the order for protection is understood by a petitioner and a respondent if present;</p> <p>(3) electronically notify each law enforcement agency:</p> <p>(A) required to receive notification under IC 5-2-9-6; or</p>	
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<p>(B) designated by the petitioner;</p> <p>(4) transmit a copy of the order to the clerk for processing under IC 5-2-9;</p> <p>(5) indicate in the order if the order and the parties meet the criteria under 18 U.S.C. 922(g)(8); and</p> <p>(6) require the clerk of court to enter or provide a copy of the order to the Indiana protective order registry established by IC 5-2-9-5.5.</p> <p>(f) An order for protection issued ex parte or upon notice and a hearing, or a modification of an order for protection issued ex parte or upon notice and a hearing, is effective for two (2) years after the date of issuance unless another date is ordered by the court. The sheriff of each county shall provide expedited service for an order for protection.</p> <p>(g) A finding that domestic or family violence or harassment has occurred sufficient to justify the issuance of an order under this section means that a respondent represents a credible threat to the safety of a petitioner or a member of a petitioner's household. Upon a showing of domestic or family violence or harassment by a preponderance of the evidence, the court shall grant relief necessary to bring about a cessation of the violence or the threat of violence. The relief may include an order directing a respondent to surrender to a law enforcement officer or agency all firearms, ammunition, and deadly weapons:</p> <p>(1) in the control, ownership, or possession of a respondent; or</p> <p>(2) in the control or possession of another person on behalf of a respondent;</p> <p>for the duration of the order for protection unless another date is ordered by the court.</p> <p>(h) An order for custody, parenting time, or possession or control of property issued under this chapter is superseded by an order issued from a court exercising dissolution, legal separation, paternity, or guardianship jurisdiction over the parties.</p> <p>(i) The fact that an order for protection is issued under this chapter does not raise an inference or presumption in a subsequent case or hearings between the parties.</p> <p>(j) Upon a finding of a violation of an order for protection, the court may:</p> <p>(1) require a respondent to wear a GPS tracking device; and</p>	
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(2) prohibit the respondent from approaching or entering certain locations where the petitioner may be found.

If the court requires a respondent to wear a GPS tracking device under subdivision (1), the court shall, if available, require the respondent to wear a GPS tracking device with victim notification capabilities.

(k) The court may permit a victim, a petitioner, another person, an organization, or an agency to pay the costs and expenses incurred in connection with the use of a GPS tracking device under subsection (j).



For additional information regarding civil protective orders for victims of family and domestic violence or harassment, *see* Ind. Code Ann. § 34-26-5-2 (persons authorized to file petition under Civil Protection Order Act); *id.* at § 34-26-5-3 (form of petition and order; verification and issuance of order); *id.* at § 34-26-5-4 (jurisdiction to issue order and file petition); *id.* at § 34-26-5-5 (continuing duty to inform court of certain information); *id.* at § 34-26-5-6 (rules applicable to order); *id.* at § 34-26-5-7 (nondisclosure of address on nonconfidential documents; circumstances under which address information to be provided to court); *id.* at § 34-26-5-8 (responsibility for completing and transmitting forms); *id.* at § 34-26-5-9 (ex parte orders; relief available; availability of GPS tracking and victim notification); *id.* at § 34-26-5-10 (hearing after ex parte order; availability of relief; continuation); *id.* at § 34-26-5-11 (waiver or nullification of order); *id.* at § 34-26-5-12 (dismissal of case); *id.* at § 34-26-5-13 (lapse of time between act of violence or harassment and filing of petition); *id.* at § 34-26-5-14 (mutual orders of protection); *id.* at § 34-26-5-15 (mediation); *id.* at § 34-26-5-16 (fees and costs); *id.* at § 34-26-5-17 (foreign protection order); *id.* at § 34-26-5-18 (orders required to be entered into IDACS); *id.* at § 34-26-5-19 (appointment of guardian ad litem); *id.* at § 34-26-5-20 (orders issued before July 1, 2002); *id.* at § 34-26-5-21 (definitions; court powers on mobile phone providers). Some of these provisions are included above and below.

**Indiana Civil Protection Order Act: Hearing on Petition After Ex Parte Order; Available Relief.**

Ind. Code Ann. § 34-26-5-10.

(a) Except as provided in subsection (b), if a court issues:

- (1) an order for protection ex parte; or
- (2) a modification of an order for protection ex parte;

and provides relief under section 9(c) of this chapter, upon a request by either party not more than thirty (30) days after service of the order or modification, the court shall set a date for a hearing on the petition. The hearing must be held not more than thirty (30) days after the request for a hearing is filed unless continued by the court for good cause shown. The court shall notify both parties by first class mail of the date and time of the hearing.

(b) A court shall set a date for a hearing on the petition not more than thirty (30) days after the filing of the petition if a court issues an order for protection ex parte or a modification of an order of protection ex parte and:

- (1) a petitioner requests or the court provides relief under section 9(c)(3), 9(c)(5), 9(c)(6), 9(c)(7), or 9(c)(8) of this chapter; or
- (2) a petitioner requests relief under section 9(d)(2), 9(d)(3), or 9(d)(4) of this chapter.


The hearing must be given precedence over all matters pending in the court except older matters of the same character.


(c) In a hearing under subsection (a) or (b):


- (1) relief under section 9 of this chapter is available; and
- (2) if a respondent seeks relief concerning an issue not raised by a petitioner, the court may continue the hearing at the petitioner's request.




For additional information regarding civil protective orders for victims of family and domestic violence or harassment, *see* Ind. Code Ann. § 34-26-5-2 (persons authorized to file petition under Civil Protection Order Act); *id.* at § 34-26-5-3 (form of petition and order; verification and issuance of order); *id.* at § 34-26-5-4 (jurisdiction to issue order and file petition); *id.* at § 34-26-5-5 (continuing duty to inform court of certain information); *id.* at


<p>§ 34-26-5-6 (rules applicable to order); <i>id.</i> at § 34-26-5-7 (nondisclosure of address on nonconfidential documents; circumstances under which address information to be provided to court); <i>id.</i> at § 34-26-5-8 (responsibility for completing and transmitting forms); <i>id.</i> at § 34-26-5-9 (ex parte orders; relief available; availability of GPS tracking and victim notification); <i>id.</i> at § 34-26-5-10 (hearing after ex parte order; availability of relief; continuation); <i>id.</i> at § 34-26-5-11 (waiver or nullification of order); <i>id.</i> at § 34-26-5-12 (dismissal of case); <i>id.</i> at § 34-26-5-13 (lapse of time between act of violence or harassment and filing of petition); <i>id.</i> at § 34-26-5-14 (mutual orders of protection); <i>id.</i> at § 34-26-5-15 (mediation); <i>id.</i> at § 34-26-5-16 (fees and costs); <i>id.</i> at § 34-26-5-17 (foreign protection order); <i>id.</i> at § 34-26-5-18 (orders required to be entered into IDACS); <i>id.</i> at § 34-26-5-19 (appointment of guardian ad litem); <i>id.</i> at § 34-26-5-20 (orders issued before July 1, 2002); <i>id.</i> at § 34-26-5-21 (definitions; court powers on mobile phone providers). Some of these provisions are included above and below.</p>	
<p><b>Indiana Civil Protection Order Act: Invitation by Victim-Petitioner to Residence Does Not Waive or Nullify Order.</b></p> <p>If a respondent is excluded from the residence of a petitioner or ordered to stay away from a petitioner, an invitation by the petitioner to do so does not waive or nullify an order for protection.</p> <p> For additional information regarding civil protective orders for victims of family and domestic violence or harassment, <i>see</i> Ind. Code Ann. § 34-26-5-2 (persons authorized to file petition under Civil Protection Order Act); <i>id.</i> at § 34-26-5-3 (form of petition and order; verification and issuance of order); <i>id.</i> at § 34-26-5-4 (jurisdiction to issue order and file petition); <i>id.</i> at § 34-26-5-5 (continuing duty to inform court of certain information); <i>id.</i> at § 34-26-5-6 (rules applicable to order); <i>id.</i> at § 34-26-5-7 (nondisclosure of address on nonconfidential documents; circumstances under which address information to be provided to court); <i>id.</i> at § 34-26-5-8 (responsibility for completing and transmitting forms); <i>id.</i> at § 34-26-5-9 (ex parte orders; relief available; availability of GPS tracking and victim notification); <i>id.</i> at § 34-26-5-10 (hearing after ex parte order; availability of relief;</p>	<p>Ind. Code Ann. § 34-26-5-11.</p>

<p>continuation); <i>id.</i> at § 34-26-5-11 (waiver or nullification of order); <i>id.</i> at § 34-26-5-12 (dismissal of case); <i>id.</i> at § 34-26-5-13 (lapse of time between act of violence or harassment and filing of petition); <i>id.</i> at § 34-26-5-14 (mutual orders of protection); <i>id.</i> at § 34-26-5-15 (mediation); <i>id.</i> at § 34-26-5-16 (fees and costs); <i>id.</i> at § 34-26-5-17 (foreign protection order); <i>id.</i> at § 34-26-5-18 (orders required to be entered into IDACS); <i>id.</i> at § 34-26-5-19 (appointment of guardian ad litem); <i>id.</i> at § 34-26-5-20 (orders issued before July 1, 2002); <i>id.</i> at § 34-26-5-21 (definitions; court powers on mobile phone providers). Some of these provisions are included above and below.</p>	
<p><b>Indiana Civil Protection Order Act: Dismissal by Victim-Petitioner.</b></p> <p>If a petitioner:</p> <p>(1) files a written request for dismissal with a court; or</p> <p>(2) makes an oral request on the record to dismiss the case in open court;</p> <p>the court shall without delay or any conditions dismiss the case without prejudice.</p> <p> For additional information regarding civil protective orders for victims of family and domestic violence or harassment, <i>see</i> Ind. Code Ann. § 34-26-5-2 (persons authorized to file petition under Civil Protection Order Act); <i>id.</i> at § 34-26-5-3 (form of petition and order; verification and issuance of order); <i>id.</i> at § 34-26-5-4 (jurisdiction to issue order and file petition); <i>id.</i> at § 34-26-5-5 (continuing duty to inform court of certain information); <i>id.</i> at § 34-26-5-6 (rules applicable to order); <i>id.</i> at § 34-26-5-7 (nondisclosure of address on nonconfidential documents; circumstances under which address information to be provided to court); <i>id.</i> at § 34-26-5-8 (responsibility for completing and transmitting forms); <i>id.</i> at § 34-26-5-9 (ex parte orders; relief available; availability of GPS tracking and victim notification); <i>id.</i> at § 34-26-5-10 (hearing after ex parte order; availability of relief; continuation); <i>id.</i> at § 34-26-5-11 (waiver or nullification of order); <i>id.</i> at § 34-26-5-12 (dismissal of case); <i>id.</i> at § 34-26-5-13 (lapse of time between act of violence or harassment</p>	<p>Ind. Code Ann. § 34-26-5-12.</p>

<p>and filing of petition); <i>id.</i> at § 34-26-5-14 (mutual orders of protection); <i>id.</i> at § 34-26-5-15 (mediation); <i>id.</i> at § 34-26-5-16 (fees and costs); <i>id.</i> at § 34-26-5-17 (foreign protection order); <i>id.</i> at § 34-26-5-18 (orders required to be entered into IDACS); <i>id.</i> at § 34-26-5-19 (appointment of guardian ad litem); <i>id.</i> at § 34-26-5-20 (orders issued before July 1, 2002); <i>id.</i> at § 34-26-5-21 (definitions; court powers on mobile phone providers). Some of these provisions are included above and below.</p>	
<p><b>Indiana Civil Protection Order Act: Lapse of Time Between Act and Filing Petition.</b></p> <p>A court may not deny a petitioner relief under section 9 of this chapter solely because of a lapse of time between an act of domestic or family violence or harassment and the filing of a petition.</p> <p> For additional information regarding civil protective orders for victims of family and domestic violence or harassment, <i>see</i> Ind. Code Ann. § 34-26-5-1 (construction of Civil Protection Order Act); <i>id.</i> at § 34-26-5-2 (persons authorized to file petition under Civil Protection Order Act); <i>id.</i> at § 34-26-5-3 (form of petition and order; verification and issuance of order); <i>id.</i> at § 34-26-5-4 (jurisdiction to issue order and file petition); <i>id.</i> at § 34-26-5-5 (continuing duty to inform court of certain information); <i>id.</i> at § 34-26-5-6 (rules applicable to order); <i>id.</i> at § 34-26-5-7 (nondisclosure of address on nonconfidential documents; circumstances under which address information to be provided to court); <i>id.</i> at § 34-26-5-8 (responsibility for completing and transmitting forms); <i>id.</i> at § 34-26-5-9 (ex parte orders; relief available; availability of GPS tracking and victim notification); <i>id.</i> at § 34-26-5-10 (hearing after ex parte order; availability of relief; continuation); <i>id.</i> at § 34-26-5-11 (waiver or nullification of order); <i>id.</i> at § 34-26-5-12 (dismissal of case); <i>id.</i> at § 34-26-5-14 (mutual orders of protection); <i>id.</i> at § 34-26-5-15 (fees and costs); <i>id.</i> at § 34-26-5-16 (foreign protection order); <i>id.</i> at § 34-26-5-18 (orders required to be entered into IDACS); <i>id.</i> at § 34-26-5-19 (appointment of guardian ad litem); <i>id.</i> at § 34-26-5-20 (orders issued before July 1, 2002); <i>id.</i> at § 34-26-5-21 (court powers on mobile phone providers). Some of these provisions are included above and below.</p>	<p>Ind. Code Ann. § 34-26-5-13.</p>

<p><b>Indiana Civil Protection Order Act: Appointment of Guardian ad Litem.</b></p> <p>In a proceeding under this chapter, a court may appoint a guardian ad litem to represent the interests of a child of one (1) or both parents.</p> <p> For additional information regarding civil protective orders for victims of family and domestic violence or harassment, <i>see</i> Ind. Code Ann. § 34-26-5-1 (construction of Civil Protection Order Act); <i>id.</i> at § 34-26-5-2 (persons authorized to file petition under Civil Protection Order Act); <i>id.</i> at § 34-26-5-3 (form of petition and order; verification and issuance of order); <i>id.</i> at § 34-26-5-4 (jurisdiction to issue order and file petition); <i>id.</i> at § 34-26-5-5 (continuing duty to inform court of certain information); <i>id.</i> at § 34-26-5-6 (rules applicable to order); <i>id.</i> at § 34-26-5-7 (nondisclosure of address on nonconfidential documents; circumstances under which address information to be provided to court); <i>id.</i> at § 34-26-5-8 (responsibility for completing and transmitting forms); <i>id.</i> at § 34-26-5-9 (ex parte orders; relief available; availability of GPS tracking and victim notification); <i>id.</i> at § 34-26-5-10 (hearing after ex parte order; availability of relief; continuation); <i>id.</i> at § 34-26-5-11 (waiver or nullification of order); <i>id.</i> at § 34-26-5-12 (dismissal of case); <i>id.</i> at § 34-26-5-13 (lapse of time between act of violence or harassment and filing of petition); <i>id.</i> at § 34-26-5-14 (mutual orders of protection); <i>id.</i> at § 34-26-5-15 (fees and costs); <i>id.</i> at § 34-26-5-16 (foreign protection order); <i>id.</i> at § 34-26-5-18 (orders required to be entered into IDACS); <i>id.</i> at § 34-26-5-20 (orders issued before July 1, 2002); <i>id.</i> at § 34-26-5-21 (court powers on mobile phone providers). Some of these provisions are included above.</p>	<p>Ind. Code Ann. § 34-26-5-19.</p>
<p><b>Law Enforcement’s Obligations to Victims When Responding to Incidents of Domestic or Family Violence: Transportation; Assistance Removing Belongings; Providing Notice of Rights; Confiscation of Firearms, Ammunition and Deadly Weapons.</b></p> <p>(a) A law enforcement officer responding to the scene of an alleged crime involving domestic or family violence shall use all reasonable means to prevent further violence, including the following:</p>	<p>Ind. Code Ann. § 35-33-1-1.5.</p>



<p>(1) Transporting or obtaining transportation for the alleged victim and each child to a designated safe place to meet with a domestic violence counselor, local family member, or friend.</p> <p>(2) Assisting the alleged victim in removing toiletries, medication, and necessary clothing.</p> <p>(3) Giving the alleged victim immediate and written notice of the rights under IC 35-40.</p> <p>(b) A law enforcement officer may confiscate and remove a firearm, ammunition, or a deadly weapon from the scene if the law enforcement officer has:</p> <p>(1) probable cause to believe that a crime involving domestic or family violence has occurred;</p> <p>(2) a reasonable belief that the firearm, ammunition, or deadly weapon:</p> <p>(A) exposes the victim to an immediate risk of serious bodily injury; or</p> <p>(B) was an instrumentality of the crime involving domestic or family violence; and</p> <p>(3) observed the firearm, ammunition, or deadly weapon at the scene during the response.</p> <p>(c) If a firearm, ammunition, or a deadly weapon is removed from the scene under subsection (b), the law enforcement officer shall provide for the safe storage of the firearm, ammunition, or deadly weapon during the pendency of a proceeding related to the alleged act of domestic or family violence.</p> <p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p><b>Victims' Right to Present their Opinion Regarding a Plea Agreement; Victims' Right to Make a Statement at Sentencing; Prosecutor's Obligation to Certify That They Offered to Show Proposed Plea Recommendation to Victims.</b></p> <p>(a) As a part of the recommendation submitted to the court, the prosecuting attorney must certify that he has offered to show the proposed recommendation to the victims of the felony,</p>	<p>Ind. Code Ann. § 35-35-3-5.</p>

if any, and that they have been offered an opportunity to present their opinion of the recommendation to the prosecuting attorney and the court.

(b) A victim present at sentencing in a felony or misdemeanor case shall be advised by the court of a victim's right to make a statement concerning the crime and the sentence. The court shall also offer the victim, if present, an opportunity to make a statement concerning the crime and the sentence. If unable to attend the hearing, the victim may mail a written statement to the court, which must be included in the presentence report made with respect to the defendant.

(c) However, this section gives no additional rights to the defendant. Failure to comply gives no grounds for postconviction relief.



Ind. Code Ann. § 35-35-3-6 governs the procedure for meeting the requirements of this rule when the victim is deceased, under the age of eighteen or a corporation, limited liability company, association or governmental entity. Ind. Code Ann. § 35-35-3-7 governs the procedure for meeting the requirements of this rule when there are more than three victims. These provisions are included below.






If the prosecutor is unable to certify that they offered to show the proposed plea recommendation to the victim because they cannot find the victim, they may certify this fact to the court under Ind. Code Ann. § 35-35-3-7, which is included below.








Indiana also affords victims a general right, outside of the plea setting, to be informed of their right to make a statement at sentencing, if present, under Ind. Code Ann. §§ 35-38-1-2 and 35-38-1-8(b). These provisions are included below.



Ind. Code Ann. § 35-40-5-5 affords victims the right to be heard at any proceeding involving sentencing. This provision is included above.

<p> Ind. Code Ann. § 35-40-5-6 provides victims with the right to make a statement for use in the preparation of a presentence report. This provision is included above.</p>	
<p><b>Victims' Rights to Present their Opinion Regarding a Plea Agreement and to Make a Statement at Sentencing When Victims are Deceased, Under the Age of Eighteen or a Corporation, Limited Liability Company, Association or Governmental Entity.</b></p> <p>If the victim is deceased or is under the age of eighteen (18) years, the prosecuting attorney shall certify that he has completed the procedure required by section 5 of this chapter with at least one (1) of the next of kin or the parent, guardian, or custodian of the victim. If the victim is a corporation, limited liability company, association, or governmental entity, the prosecuting attorney shall certify that he has completed the procedure with a responsible officer or agent of the entity. If the victim is a partnership, the prosecuting attorney shall certify that he has completed the procedure with at least one (1) partner.</p> <p> Ind. Code Ann. § 35-35-3-5 requires that victims be afforded an opportunity to provide their opinions regarding a plea agreement and to give a statement at sentencing. This provision is included above.</p> <p> If the prosecutor is unable to certify that they offered to show the proposed plea recommendation to the victim because they cannot find the victim, they may certify this fact to the court under Ind. Code Ann. § 35-35-3-7, which is included below.</p>	<p>Ind. Code Ann. § 35-35-3-6(a).</p>

<p><b>Victims' Rights to Present Their Opinion Regarding a Plea Agreement and to Make a Statement at Sentencing When There are More than Three Victims.</b></p> <p>If there are more than three (3) victims, the prosecuting attorney shall complete the procedure required by section 5 of this chapter with the three (3) who he believes have suffered the most.</p> <p> Ind. Code Ann. § 35-35-3-5 requires that victims be afforded an opportunity to provide their opinions regarding a plea agreement and to give a statement at sentencing. This provision is included above.</p> <p> If the prosecutor is unable to certify that they offered to show the proposed plea recommendation to the victim because they cannot find the victim, they may certify this fact to the court under Ind. Code Ann. § 35-35-3-7, which is included below.</p> <p> A promising practice is to have a policy and procedure in place for how the prosecutor determines which victims have “suffered the most.”</p>	<p>Ind. Code Ann. § 35-35-3-6(b).</p>
<p><b>Prosecuting Attorney's Obligation Regarding Certification That They Offered to Show a Proposed Plea Recommendation to the Victim When the Victim Cannot Be Located Through Reasonable Efforts.</b></p> <p>If the prosecuting attorney is unable to make a certification required under section 5 or 6 of this chapter because he was unable, after a reasonable effort, to locate the victim or his next of kin, then he shall certify this fact to the court. He may then submit the recommendation, and the court may act upon it.</p>	<p>Ind. Code Ann. § 35-35-3-7.</p>

<p> Ind. Code Ann. §§ 35-35-3-5 and 35-35-3-6 require prosecuting attorneys to certify that they have offered to show a proposed plea recommendation to a victim or the victim's representative, subject to certain limitations.</p> <p> A promising practice is to have a policy and procedure in place establishing what constitutes a "reasonable effort" to locate a victim or their next of kin.</p>	
<p><b>Evidence and Protection of Certain Victim-Witnesses: Admissibility of Evidence of Past Sexual Conduct; Procedure.</b></p> <p>(a) In a prosecution for an offense described in IC 11-8-8-4.5(a):          (1) evidence of the victim's past sexual conduct;          (2) evidence of the past sexual conduct of a witness other than the accused;          (3) opinion evidence of the victim's past sexual conduct;          (4) opinion evidence of the past sexual conduct of a witness other than the accused;          (5) reputation evidence of the victim's past sexual conduct; and          (6) reputation evidence of the past sexual conduct of a witness other than the accused;          may not be admitted, nor may reference be made to this evidence in the presence of the jury, except as provided in this chapter.</p> <p>(b) Notwithstanding subsection (a), evidence:          (1) of the victim's or a witness's past sexual conduct with the defendant;          (2) which in a specific instance of sexual activity shows that some person other than the defendant committed the act upon which the prosecution is founded; or          (3) that the victim's pregnancy at the time of trial was not caused by the defendant;          may be introduced if the judge finds, under the procedure provided in subsection (c), that it is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.</p>	<p>Ind. Code Ann. § 35-37-4-4.</p>

(c) If the defendant or the state proposes to offer evidence described in subsection (b), the following procedure must be followed:

(1) The defendant or the state shall file a written motion not less than ten (10) days before trial stating that it has an offer of proof concerning evidence described in subsection (b) and its relevancy to the case. This motion shall be accompanied by an affidavit in which the offer of proof is stated.

(2) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, and at the hearing allow the questioning of the victim or witness regarding the offer of proof made by the defendant or the state.

At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant or the state regarding the sexual conduct of the victim or witness is admissible under subsection (b), the court shall make an order stating what evidence may be introduced by the defendant or the state and the nature of the questions to be permitted. The defendant or the state may then offer evidence under the order of the court.

(d) If new information is discovered within ten (10) days before trial or during the course of the trial that might make evidence described in subsection (b) admissible, the judge shall order a hearing out of the presence of the jury to determine whether the proposed evidence is admissible under this chapter.

(e) This section does not limit the right of either the state or the accused to impeach credibility by a showing of prior felony convictions.

(f) If:

(1) a defendant files a motion under subsection (c)(1) concerning evidence described in subsection (b)(3); and

(2) the state acknowledges that the victim's pregnancy is not due to the conduct of the defendant;

the court shall instruct the jury that the victim's pregnancy is not due to the conduct of the defendant. However, other evidence concerning the pregnancy may not be admitted, and further reference to the pregnancy may not be made in the presence of the jury.

<p><b>Evidence and Protection of Certain Victim-Witnesses: Admissibility of Certain Victims' Videotaped Statements as Evidence.</b></p> <p>(a) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(1) or (c)(2):</p> <ol style="list-style-type: none"> <li>(1) Sex crimes (IC 35-42-4).</li> <li>(2) A battery offense included in IC 35-42-2 upon a child less than fourteen (14) years of age.</li> <li>(3) Kidnapping and confinement (IC 35-42-3).</li> <li>(4) Incest (IC 35-46-1-3).</li> <li>(5) Neglect of a dependent (IC 35-46-1-4).</li> <li>(6) Human and sexual trafficking crimes (IC 35-42-3.5).</li> </ol> <p>(b) This section applies to a criminal action involving the following offenses where the victim is a protected person under subsection (c)(3):</p> <ol style="list-style-type: none"> <li>(1) Exploitation of a dependent or endangered adult (IC 35-46-1-12).</li> <li>(2) A sex crime (IC 35-42-4).</li> <li>(3) A battery offense included in IC 35-42-2.</li> <li>(4) Kidnapping, confinement, or interference with custody (IC 35-42-3).</li> <li>(5) Home improvement fraud (IC 35-43-6).</li> <li>(6) Fraud (IC 35-43-5).</li> <li>(7) Identity deception (IC 35-43-5-3.5).</li> <li>(8) Synthetic identity deception (IC 35-43-5-3.8) (before its repeal).</li> <li>(9) Theft (IC 35-43-4-2).</li> <li>(10) Conversion (IC 35-43-4-3).</li> <li>(11) Neglect of a dependent (IC 35-46-1-4).</li> <li>(12) Human and sexual trafficking crimes (IC 35-42-3.5).</li> </ol> <p>(c) As used in this section, "protected person" means:</p> <ol style="list-style-type: none"> <li>(1) a child who is less than fourteen (14) years of age;</li> </ol>	<p>Ind. Code Ann. § 35-37-4-6.</p>
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(2) an individual with a mental disability who has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

- (A) is manifested before the individual is eighteen (18) years of age;
- (B) is likely to continue indefinitely;
- (C) constitutes a substantial impairment of the individual's ability to function normally in society; and
- (D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; or

(3) an individual who is:

- (A) at least eighteen (18) years of age; and
- (B) incapable by reason of mental illness, intellectual disability, dementia, or other physical or mental incapacity of:
  - (i) managing or directing the management of the individual's property; or
  - (ii) providing or directing the provision of self-care.

(d) A statement or videotape that:

- (1) is made by a person who at the time of trial is a protected person;
- (2) concerns an act that is a material element of an offense listed in subsection (a) or (b) that was allegedly committed against the person; and
- (3) is not otherwise admissible in evidence;

is admissible in evidence in a criminal action for an offense listed in subsection (a) or (b) if the requirements of subsection (e) are met.

(e) A statement or videotape described in subsection (d) is admissible in evidence in a criminal action listed in subsection (a) or (b) if, after notice to the defendant of a hearing and of the defendant's right to be present, all of the following conditions are met:

- (1) The court finds, in a hearing:
  - (A) conducted outside the presence of the jury; and
  - (B) attended by the protected person in person or by using closed circuit television testimony as described in section 8(f) and 8(g) of this chapter;



that the time, content, and circumstances of the statement or videotape provide sufficient indications of reliability.

(2) The protected person:

(A) testifies at the trial; or

(B) is found by the court to be unavailable as a witness for one (1) of the following reasons:

(i) From the testimony of a psychiatrist, physician, or psychologist, and other evidence, if any, the court finds that the protected person's testifying in the physical presence of the defendant will cause the protected person to suffer serious emotional distress such that the protected person cannot reasonably communicate.

(ii) The protected person cannot participate in the trial for medical reasons.

(iii) The court has determined that the protected person is incapable of understanding the nature and obligation of an oath.

(f) If a protected person is unavailable to testify at the trial for a reason listed in subsection (e)(2)(B), a statement or videotape may be admitted in evidence under this section only if the protected person was available for cross-examination:

(1) at the hearing described in subsection (e)(1); or

(2) when the statement or videotape was made.

(g) A statement or videotape may not be admitted in evidence under this section unless the prosecuting attorney informs the defendant and the defendant's attorney at least ten (10) days before the trial of:

(1) the prosecuting attorney's intention to introduce the statement or videotape in evidence; and

(2) the content of the statement or videotape.

(h) If a statement or videotape is admitted in evidence under this section, the court shall instruct the jury that it is for the jury to determine the weight and credit to be given the statement or videotape and that, in making that determination, the jury shall consider the following:

(1) The mental and physical age of the person making the statement or videotape.

(2) The nature of the statement or videotape.

<p>(3) The circumstances under which the statement or videotape was made.                  (4) Other relevant factors.</p> <p>(i) If a statement or videotape described in subsection (d) is admitted into evidence under this section, a defendant may introduce a:</p> <p>(1) transcript; or                  (2) videotape;                  of the hearing held under subsection (e)(1) into evidence at trial.</p>	
<p><b>Evidence and Protection of Certain Victim-Witnesses: Proof of Victims' Pecuniary Losses.</b></p> <p>(a) Except as provided in subsection (b), whenever an element of an offense involves a pecuniary loss or a pecuniary gain, then the element shall be established by proof of the fair market value of the property at the time of the offense.</p> <p>(b) For purposes of IC 35-43-1-8, "pecuniary loss" includes:</p> <p>(1) damage to the victim's property caused, directly or indirectly, by commission of the offense, based on the actual cost of securing, repairing, or replacing a computer, a computer system, computer software, a network, and data; and                  (2) revenue, salary, or wages lost by the victim as a result of the crime.</p>	<p>Ind. Code Ann. § 35-37-4-7.</p>
<p><b>Evidence and Protection of Certain Victim-Witnesses: Testimony Outside of the Courtroom, Via Closed-Circuit Television; Prosecutors' Motion for Use of Closed-Circuit Television for Testimony of Protected Person; Use of Videotape at Trial.</b></p> <p>(a) This section applies to a criminal action under the following:</p> <p>(1) Sex crimes (IC 35-42-4).                  (2) A battery offense included in IC 35-42-2 upon a child less than fourteen (14) years of age.</p>	<p>Ind. Code Ann. § 35-37-4-8.</p>

(3) Kidnapping and confinement (IC 35-42-3).  
(4) Incest (IC 35-46-1-3).  
(5) Neglect of a dependent (IC 35-46-1-4).  
(6) Human and sexual trafficking crimes (IC 35-42-3.5).

(b) As used in this section, “protected person” has the meaning set forth in section 6 of this chapter.

(c) On the motion of the prosecuting attorney, the court may order that the testimony of a protected person be taken in a room other than the courtroom, and that the questioning of the protected person by the prosecution and the defense be transmitted using a two-way closed circuit television arrangement that:

- (1) allows the protected person to see the accused and the trier of fact; and
- (2) allows the accused and the trier of fact to see and hear the protected person.


(d) On the motion of the prosecuting attorney or the defendant, the court may order that the testimony of a protected person be videotaped for use at trial. The videotaping of the testimony of a protected person under this subsection must meet the requirements of subsection (c).







(e) The court may not make an order under subsection (c) or (d) unless:





- (1) the testimony to be taken is the testimony of a protected person who:
  - (A) is the alleged victim of an offense listed in subsection (a) for which the defendant is being tried or is a witness in a trial for an offense listed in subsection (a); and
  - (B) is found by the court to be a protected person who should be permitted to testify outside the courtroom because:
    - (i) the court finds from the testimony of a psychiatrist, physician, or psychologist and any other evidence that the protected person’s testifying in the physical presence of the defendant would cause the protected person to suffer serious emotional harm and the court finds that the protected person could not reasonably communicate in the physical presence of the defendant to the trier of fact;

<p>(ii) a physician has certified that the protected person cannot be present in the courtroom for medical reasons; or</p> <p>(iii) evidence has been introduced concerning the effect of the protected person's testifying in the physical presence of the defendant, and the court finds that it is more likely than not that the protected person's testifying in the physical presence of the defendant creates a substantial likelihood of emotional or mental harm to the protected person;</p> <p>(2) the prosecuting attorney has informed the defendant and the defendant's attorney of the intention to have the protected person testify outside the courtroom; and</p> <p>(3) the prosecuting attorney informed the defendant and the defendant's attorney under subdivision (2) at least ten (10) days before the trial of the prosecuting attorney's intention to have the protected person testify outside the courtroom.</p> <p>(f) If the court makes an order under subsection (c), only the following persons may be in the same room as the protected person during the protected person's testimony:</p> <p>(1) A defense attorney if:</p> <p>(A) the defendant is represented by the defense attorney; and</p> <p>(B) the prosecuting attorney is also in the same room.</p> <p>(2) The prosecuting attorney if:</p> <p>(A) the defendant is represented by a defense attorney; and</p> <p>(B) the defense attorney is also in the same room.</p> <p>(3) Persons necessary to operate the closed circuit television equipment.</p> <p>(4) Persons whose presence the court finds will contribute to the protected person's well-being.</p> <p>(5) A court bailiff or court representative.</p> <p>(g) If the court makes an order under subsection (d), only the following persons may be in the same room as the protected person during the protected person's videotaped testimony:</p> <p>(1) The judge.</p> <p>(2) The prosecuting attorney.</p> <p>(3) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).</p> <p>(4) Persons necessary to operate the electronic equipment.</p>	
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<p>(5) The court reporter.</p> <p>(6) Persons whose presence the court finds will contribute to the protected person's well-being.</p> <p>(7) The defendant, who can observe and hear the testimony of the protected person with the protected person being able to observe or hear the defendant. However, if the defendant is not represented by an attorney, the defendant may question the protected person.</p> <p>(h) If the court makes an order under subsection (c) or (d), only the following persons may question the protected person:</p> <p>(1) The prosecuting attorney.</p> <p>(2) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).</p> <p>(3) The judge.</p>	
<p><b>Evidence and Protection of Certain Victim-Witnesses: Obligation of Courts to Safeguard Victims and Minimize Contact with Offenders and Their Families; Secure Waiting Areas.</b></p> <p>(a) During court proceedings a court shall provide safeguards necessary to minimize the contact of the victim of an offense or delinquent act with:</p> <p>(1) a defendant accused of the offense or a juvenile accused of committing the delinquent act; and</p> <p>(2) the relatives and friends of:</p> <p>(A) a defendant accused of the offense; or</p> <p>(B) a juvenile accused of committing the delinquent act.</p> <p>(b) The safeguards required under subsection (a) may include courthouse waiting areas for victims that are separated from those waiting areas specified for defendants, juveniles alleged to be delinquent children, and the relatives and friends of accused persons.</p>	<p>Ind. Code Ann. § 35-37-4-11.</p>



<p>(c) A county is not required under this section, or by mandate of a court, to expend any funds to change the physical configuration of a courthouse in the county to meet the requirements of this section.</p> <p> Although this provision is directed at courts, the same obligations can and should be applied to law enforcement interactions with victims, victims' families and witnesses.</p>	
<p><b>Evidence and Protection of Certain Victim-Witnesses: Victims' Right, When Physical Safety in Danger, to Nondisclosure of Personal Information.</b></p> <p>(a) If the physical safety of a victim or the victim's immediate family is in danger, a victim may not be required to give personal information during the course of sworn testimony regarding the following:</p> <ul style="list-style-type: none"> <li>(1) Telephone numbers.</li> <li>(2) Place of employment.</li> <li>(3) Residential address.</li> </ul> <p>(b) In any hearing to determine the introduction into evidence of the personal information specified in subsection (a), the court, if the court finds an actual danger to the victim or the victim's immediate family exists, may require the party possessing the personal information to disclose the personal information to the court for in camera review.</p>	<p>Ind. Code Ann. § 35-37-4-12.</p>
<p><b>Sex Crime Victims' Rights Regarding Polygraphs and Other Truth Telling Device Examinations: Law Enforcement Officer May Not Require Victims to Submit to Such Examinations.</b></p> <p>A law enforcement officer may not require an alleged victim of an offense described in IC 35-42-4 to submit to a polygraph or other truth telling device examination.</p>	<p>Ind. Code Ann. § 35-37-4.5-2.</p>


<p> Ind. Code Ann. 35-37-4.5-1 defines the term “polygraph” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> Ind. Code Ann. § 35-42-4 provides the definitions of sex crimes.</p> <p> A promising practice is to ensure that officers who work with victims of sex crimes are aware that they cannot require victims to submit to a polygraph examination or other truth-telling device examination.</p>	
<p><b>Sex Crime Victims’ Rights Regarding Polygraphs and Other Truth Telling Device Examinations: Law Enforcement Officer May Not Refuse to Investigate, Charge or Prosecute a Sex Offense Solely Because the Victim Has Not Submitted to a Truth Telling Device Examination.</b></p> <p>A law enforcement officer may not refuse to investigate, charge, or prosecute an offense under IC 35-42-4 solely because the alleged victim of the offense has not submitted to a polygraph or other truth telling device examination.</p> <p> Ind. Code Ann. 35-37-4.5-1 defines the term “polygraph” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> Ind. Code Ann. § 35-42-4 provides the definitions of sex crimes.</p> <p> A promising practice is to ensure that officers who work with victims of sex crimes are aware that they cannot refuse to investigate, charge or prosecute a sex offense on the ground that the victim has not submitted to a polygraph or other truth telling device examination.</p>	<p>Ind. Code Ann. § 35-37-4.5-3.</p>



<p><b>Sex Crime Victims' Rights Regarding Polygraphs and Other Truth Telling Device Examinations: Victims' Right to Voluntarily Submit to a Truth Telling Device Examination.</b></p> <p>This chapter does not prohibit an alleged victim of an offense under IC 35-42-4 from voluntarily submitting to a polygraph or other truth telling device examination.</p> <p> Ind. Code Ann. § 35-37-4.5-1 defines the term “polygraph” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> Ind. Code Ann. § 35-42-4 provides the definitions of sex crimes.</p> <p> A promising practice is to ensure that officers who work with victims of sex crimes are aware that victims may voluntarily submit to a polygraph or other truth telling device examination.</p>	<p>Ind. Code Ann. § 35-37-4.5-4.</p>
<p><b>Victim Advocate-Victim Privilege: Privilege Does Not Limit Other Privileges.</b></p> <p>This chapter does not limit any other testimonial privilege available to a person.</p> <p> Ind. Code Ann. §§ 35-37-6-1 through 35-37-6-5 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-37-6-7.</p>
<p><b>Victim Advocate-Victim Privilege: Privilege Does Not Relieve Duty to Report Abuse.</b></p> <p>This chapter does not relieve a victim advocate of any duty to report suspected abuse, neglect, battery, or exploitation under IC 12-10-3, IC 31-33, or IC 35-46-1-13.</p>	<p>Ind. Code Ann. § 35-37-6-8.</p>








 Ind. Code Ann. §§ 35-37-6-1 through 35-37-6-5 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”	
<p><b>Victim Advocate-Victim Privilege: Confidential Communications; Compelling Testimony; Records; Temporary Emergency Shelters; Consent to Disclosure.</b></p> <p>(a) The following persons or entities may not be compelled to give testimony, to produce records, or to disclose any information concerning confidential communications and confidential information to anyone or in any judicial, legislative, or administrative proceeding:</p> <p>(1) A victim.</p> <p>(2) A victim advocate or victim service provider unless the victim specifically consents to the disclosure in a written authorization that contains the date the consent expires.</p> <p>(b) A victim advocate, victim service provider, or victim may not be compelled to provide testimony in any judicial, legislative, or administrative proceeding that would identify the name, address, location, or telephone number of any facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.</p> <p>(c) A victim service provider or victim advocate may not require a victim to consent to the disclosure of information concerning confidential communications and confidential information as a condition of the victim receiving services.</p> <p>(d) This section does not prohibit a victim from providing testimony concerning an offense.</p> <p>(e) The consent to disclose information on behalf of:</p> <p>(1) a child who is less than eighteen (18) years of age and is unemancipated; or</p> <p>(2) an incapacitated victim;</p>	<p>Ind. Code Ann. § 35-37-6-9.</p>


<p>may be made by a custodial parent, custodian, guardian, or guardian ad litem in a written authorization that contains the date the consent expires.</p> <p>(f) A consent under subsection (e) may not be given by a custodial parent, custodian, guardian, or guardian ad litem of the victim if the custodial parent, custodian, guardian, or guardian ad litem:</p> <p>(1) committed; or</p> <p>(2) is alleged to have committed; an offense against the victim.</p> <p> Ind. Code Ann. §§ 35-37-6-1 through 35-37-6-5 define the terms used in this provision. These definitions are included above in the section "Select Definitions."</p>	
<p><b>Victim Advocate-Victim Privilege: Victims' Waiver of Privilege.</b></p> <p>(a) A victim does not waive the protections afforded by this chapter by testifying in court about an offense. However, if the victim partially discloses the contents of a confidential communication in the course of testifying, either party may request the court to rule that justice requires the protections of this chapter to be waived, to the extent they apply to that portion of the communication.</p> <p>(b) A waiver under this section applies only to the extent necessary to require any witness to respond to questions concerning the confidential communication that are relevant to the facts and circumstances of the case.</p> <p> Ind. Code Ann. §§ 35-37-6-1 through 35-37-6-5 define the terms used in this provision. These definitions are included above in the section "Select Definitions."</p>	<p>Ind. Code Ann. § 35-37-6-10.</p>



<p><b>Victim Advocate-Victim Privilege: Victim Advocates May Not Waive Privilege, But Disclosure Permissible Under Certain Circumstances.</b></p> <p>A victim advocate may not waive the protections afforded to a victim under this chapter. However, if:</p> <p>(1) a victim brings suit against a victim advocate or victim service provider in which the victim advocate was employed or served as a volunteer at the time of the counseling relationship; and</p> <p>(2) the suit alleges malpractice during the relationship;</p> <p>the victim advocate may testify or produce records regarding confidential communications with the victim and is not liable for doing so.</p> <p> Ind. Code Ann. §§ 35-37-6-1 through 35-37-6-5 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-37-6-11.</p>
<p><b>Victim Advocate-Victim Privilege: Victims’ Authorization for Release of Information.</b></p> <p>(a) Except as provided in subsection (d):</p> <p>(1) a victim; or</p> <p>(2) in the case of a deceased victim, the victim’s personal representative;</p> <p>may authorize a victim advocate or victim service provider to release confidential information or other information by signing a written authorization that specifies what information will be released and to whom the information will be released.</p> <p>(b) The authorization described in subsection (a) must include a date the authorization expires.</p>	<p>Ind. Code Ann. § 35-37-6-13.</p>

<p>(c) A victim advocate shall make reasonable attempts to notify a victim when a victim service provider or victim advocate is required to disclose confidential information or confidential communications.</p> <p>(d) A consent for release may not be given by a personal representative of the victim if the personal representative:</p> <ol style="list-style-type: none"> <li>(1) abused or killed the victim;</li> <li>(2) is alleged to have abused or killed the victim; or</li> <li>(3) assisted another person in abusing or killing the victim.</li> </ol> <p> Ind. Code Ann. §§ 35-37-6-1 through 35-37-6-5 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	
<p><b>Victim Advocate-Victim Privilege: Obligation of Prosecuting Attorney; Impeachment of Victim; Waiver of Victim Privileges or Confidentiality Protections.</b></p> <p>(a) This section does not:</p> <ol style="list-style-type: none"> <li>(1) relieve a prosecuting attorney of the constitutional and ethical obligation to disclose exculpatory evidence; and</li> <li>(2) prohibit impeachment of a victim as permitted by the Indiana Rules of Evidence.</li> </ol> <p>(b) A victim does not waive any privileges or confidentiality protections under this chapter if the victim:</p> <ol style="list-style-type: none"> <li>(1) testifies about underlying acts of domestic violence, dating violence, sexual assault, or stalking; or</li> <li>(2) reveals that he or she used or attempted to use the services of a victim service provider or victim advocate.</li> </ol> <p> Ind. Code Ann. §§ 35-37-6-1 through 35-37-6-5 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-37-6-14.</p>

<p><b>Victim Advocate-Victim Privilege: Effect of Partial Disclosure on Privilege.</b></p> <p>The partial disclosure of a confidential communication under this chapter does not waive any privilege concerning the remainder of the confidential communication.</p> <p> Ind. Code Ann. §§ 35-37-6-1 through 35-37-6-5 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-37-6-15.</p>
<p><b>Victim Advocate-Victim Privilege: Victims’ or Advocates’ Refusal to Testify or Disclose Information; No Negative Inferences or Presumptions Raised.</b></p> <p>The fact that a victim or victim advocate refuses to testify or disclose information because of a privilege under this chapter does not raise any negative inferences or presumptions.</p> <p> Ind. Code Ann. §§ 35-37-6-1 through 35-37-6-5 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-37-6-16.</p>
<p><b>Victim Advocate-Victim Privilege: Compliance with Data Collection Requirements; Identification of Victim.</b></p> <p>A victim service provider may disclose information in the aggregate that does not identify a victim regarding services and demographic information to comply with federal or state data collection requirements.</p> <p> Ind. Code Ann. §§ 35-37-6-1 through 35-37-6-5 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-37-6-17.</p>

<p><b>Victims' Right at Sentencing to Notice, if Present, of Right to Make Statement; Designation of Victim Representative.</b></p> <p>Upon entering a conviction, the court shall set a date for sentencing within thirty (30) days, unless for good cause shown an extension is granted. If a presentence report is not required, the court may sentence the defendant at the time the judgment of conviction is entered. However, the court may not pronounce sentence at that time without:</p> <p>(1) inquiring as to whether an adjournment is desired by the defendant; and</p> <p>(2) informing the victim, if present, of a victim's right to make a statement concerning the crime and the sentence.</p> <p>When an adjournment is requested, the defendant shall state its purpose and the court may allow a reasonable time for adjournment.</p> <p> Ind. Code Ann. § 35-38-1-8(b) also requires the court to advise victims present at sentencing of their right to make a statement concerning the crime and the sentence. This provision is included below.</p>	<p>Ind. Code Ann. § 35-38-1-2(b).</p>
<p><b>Victims' Right, Upon Felony Conviction, to Designation of Victim Representative When Victim is Deceased, Incapacitated or Less than Eighteen Years of Age.</b></p> <p>Upon entering a conviction for a felony, the court shall designate a victim representative if the victim is deceased, incapacitated, or less than eighteen (18) years of age.</p> <p> Ind. Code Ann. § 35-38-1-2(a) defines the term "victim representative" for the purposes of this statutory provision. This definition is included above in the section "Select Definitions."</p>	<p>Ind. Code Ann. § 35-38-1-2(e).</p>

<p><b>Sentencing Court’s Discretion, Upon Motion by the State or Application by the Victim, to Issue an Order for the Correction of the Credit History of a Victim of a Crime of Deception.</b></p> <p>(b) This section applies to an offender who has been convicted of a crime of deception.</p> <p>(c) During or after the sentencing of a person convicted of a crime of deception, the court may, upon motion by the state or upon application by a victim or a victim’s representative, issue an order:</p> <p>(1) describing the person whose credit history may be affected by the offender’s crime of deception, with sufficient identifying information to assist another person in correcting the credit history; and</p> <p>(2) stating that the person described in subdivision (1) was the victim of a crime of deception that may have affected the person’s credit history.</p> <p>(d) The order described in subsection (c) may be used to correct the credit history of any person described in the order.</p> <p> Ind. Code Ann. § 35-38-1-2.5(a) defines the term “crime of deception” for the purposes of this statutory provision. This definition is included above in the section “Select Definitions.”</p>	<p>Ind. Code Ann. § 35-38-1-2.5(b)–(d).</p>
<p><b>Courts’ Obligation to Inform Victims, When Present at Sentencing, of Their Right to Make a Statement at Sentencing.</b></p> <p>A victim present at sentencing in a felony or misdemeanor case shall be advised by the court of a victim’s right to make a statement concerning the crime and the sentence.</p>	<p>Ind. Code Ann. § 35-38-1-8(b).</p>

<p> Ind. Code Ann. § 35-38-1-12(a) also requires the court to offer victims, if present, an opportunity to make a statement at sentencing. This provision is included below.</p> <p> Ind. Code Ann. § 35-40-5-5 affords victims the right to be heard at any proceeding involving sentencing. This provision is included above.</p>	
<p><b>Victims' Rights Related to Sentencing: Notice of Hearing; Right to Make an Impact Statement; Right to Submit or Refuse to Submit Written or Oral Impact Statement; Right to Refuse to Participate; Probation Officers' Obligations to Victims Regarding Notice and Presentence Reports; Contents of Presentence Reports.</b></p> <p>(a) A probation officer who is conducting a presentence investigation shall send written notification of the following to each victim or each victim representative designated by the court under section 2(e) of this chapter:</p> <ol style="list-style-type: none"> <li>(1) The date, time, and place of the sentencing hearing set by the court.</li> <li>(2) The right of the victim or victim representative to make an oral or written statement to the court at the sentencing hearing.</li> <li>(3) The right of the victim or victim representative to submit or refuse to submit to the probation officer a written or oral statement of the impact of the crime upon the victim for inclusion by the probation officer in a victim impact statement.</li> </ol> <p>(b) The notification required by subsection (a) must be sent at least seven (7) days before the date of the sentencing hearing to the last known address of the victim or the victim representative.</p> <p>(c) The probation officer shall prepare a victim impact statement for inclusion in the convicted person's presentence report. The victim impact statement consists of information about each victim and the consequences suffered by a victim or a victim's family as a result of the crime.</p>	<p>Ind. Code Ann. § 35-38-1-8.5.</p>



(d) Unless the probation officer certifies to the court under section 9 of this chapter that a victim or victim representative could not be contacted or elected not to submit a statement to the probation officer concerning the crime, the victim impact statement required under this section must include the following information about each victim:

(1) A summary of the financial, emotional, and physical effects of the crime on the victim and the victim's family.

(2) Personal information concerning the victim, excluding telephone numbers, place of employment, and residential address.

(3) Any written statements submitted by a victim or victim representative to the probation officer.

(4) If the victim desires restitution, the basis and amount of a request for victim restitution.

(e) A victim or victim representative is not required to submit a statement or to cooperate in the preparation of the victim impact statement required under this section.



Ind. Code Ann. § 35-40-5-6 provides victims with the right to make a statement for use in the preparation of a presentence report. This provision is included above.




A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.








A promising practice is to let victims know, upon first contact, of their obligation to keep their contact information current.



A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your jurisdiction's law, victims may choose to: (1) read or speak their impact statement aloud at the sentencing proceeding, or have another person do it for them; (2) submit a written victim

<p>impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.</p> <p> A promising practice is to inform victims that they are entitled to restitution upon the conviction of defendant for losses caused by defendant's criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p><b>Rights of Victims' of Sex Offenses or Offenses Relating to Controlled Substances to Notice of Offender's Positive HIV Test and to Counseling.</b></p> <p>(a) The state department of health shall notify victims of an offense relating to a criminal sexual act or an offense relating to controlled substances if tests conducted under section 10.5 of this chapter or IC 16-41-8-5 confirm that the person tested had antibodies for the human immunodeficiency virus (HIV).</p> <p>(b) The state department of health shall provide counseling to persons notified under this section.</p>	<p>Ind. Code Ann. § 35-38-1-10.6.</p>
<p><b>Victims' Rights Regarding Offenders' Petitions to Expunge Criminal Records: Right to Notice, Where Court Has Discretion to Grant Petition.</b></p> <p>The prosecuting attorney shall inform the victim of the victim's rights under IC 35-40-6 by contacting the victim at the victim's last known address. However, if a court has no discretion in granting an expungement petition under this chapter, the prosecuting attorney is not required to inform the victim of the victim's rights under this subsection.</p>	<p>Ind. Code Ann. § 35-38-9-8(f).</p>

<p> Ind. Code Ann. § 35-40-6 governs the obligations of prosecuting attorneys and victim assistance programs. Provisions from this chapter are included above.</p> <p> A promising practice is to let victims know, upon first contact, of their obligation to keep their contact information current.</p>	
<p><b>Right of Victims of Human and Sex Trafficking to Restitution.</b></p> <p>In addition to any sentence or fine imposed for a conviction of an offense under sections 1 through 1.4 of this chapter, the court shall order the person convicted to make restitution to the victim of the crime under IC 35-50-5-3.</p> <p> Ind. Code Ann. § 35-42-3.5-0.5 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> Ind. Code Ann. § 35-50-5-3 governs restitution orders. This provision is included below.</p> <p> A promising practice is to inform victims that they are entitled to restitution upon the conviction of defendant for losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	<p>Ind. Code Ann. § 35-42-3.5-2.</p>
<p><b>Rights of Victims of Human and Sex Trafficking: Treatment of Victims; Right Not to Penalized for Being a Victim; Law Enforcement Agency’s Declaration.</b></p> <p>(a) An alleged victim of an offense under sections 1 through 1.4 of this chapter:</p>	<p>Ind. Code Ann. § 35-42-3.5-4.</p>

(1) may not be detained in a facility that is inappropriate to the victim's status as a crime victim;

(2) may not be jailed, fined, or otherwise penalized due to having been the victim of the offense; and

(3) shall be provided protection if the victim's safety is at risk or if there is danger of additional harm by recapture of the victim by the person who allegedly committed the offense, including:

(A) taking measures to protect the alleged victim and the victim's family members from intimidation and threats of reprisals and reprisals from the person who allegedly committed the offense or the person's agent; and


(B) ensuring that the names and identifying information of the alleged victim and the victim's family members are not disclosed to the public.

This subsection shall be administered by law enforcement agencies and the Indiana criminal justice institute as appropriate.

(b) Not more than fifteen (15) days after the date a law enforcement agency first encounters an alleged victim of an offense under sections 1 through 1.4 of this chapter, the law enforcement agency shall provide the alleged victim with a completed Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (LEA Declaration, Form I-914 Supplement B) in accordance with 8 CFR 214.11(f)(1). However, if the law enforcement agency finds that the grant of an LEA Declaration is not appropriate for the alleged victim, the law enforcement agency shall, not more than fifteen (15) days after the date the agency makes the finding, provide the alleged victim with a letter explaining the grounds for the denial of the LEA Declaration. After receiving a denial letter, the alleged victim may submit additional evidence to the law enforcement agency. If the alleged victim submits additional evidence, the law enforcement agency shall reconsider the denial of the LEA Declaration not more than seven (7) days after the date the agency receives the additional evidence.

(c) If a law enforcement agency detains an alleged victim of an offense under sections 1 through 1.4 of this chapter who is less than eighteen (18) years of age, the law enforcement agency shall immediately notify the department of child services that the alleged victim:

(1) has been detained; and

<p>(2) may be a victim of child abuse or neglect.</p> <p> Ind. Code Ann. § 35-42-3.5-0.5 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	
<p><b>Victims’ Right to Restitution; Procedure Regarding Issuance of Restitution Order.</b></p> <p>(a) Except as provided in subsection (i), (j), (l), or (m), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim’s estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of:</p> <ul style="list-style-type: none"> <li>(1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);</li> <li>(2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;</li> <li>(3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;</li> <li>(4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the investigation or trial of the crime; and</li> <li>(5) funeral, burial, or cremation costs incurred by the family or estate of a homicide victim as a result of the crime.</li> </ul> <p>(b) A restitution order under subsection (a), (i), (j), (l), or (m) is a judgment lien that:</p> <ul style="list-style-type: none"> <li>(1) attaches to the property of the person subject to the order;</li> <li>(2) may be perfected;</li> <li>(3) may be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person’s assignee; and</li> <li>(4) expires;</li> </ul> <p>in the same manner as a judgment lien created in a civil proceeding.</p>	<p>Ind. Code Ann. § 35-50-5-3.</p>

(c) When a restitution order is issued under subsection (a), the issuing court may order the person to pay the restitution, or part of the restitution, directly to:

(1) the victim services division of the Indiana criminal justice institute in an amount not exceeding:

- (A) the amount of the award, if any, paid to the victim under IC 5-2-6.1; and
- (B) the cost of the reimbursements, if any, for emergency services provided to the victim under IC 16-10-1.5 (before its repeal) or IC 16-21-8; or

(2) a probation department that shall forward restitution or part of restitution to:

- (A) a victim of a crime;
- (B) a victim's estate; or
- (C) the family of a victim who is deceased.

The victim services division of the Indiana criminal justice institute shall deposit the restitution it receives under this subsection in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(d) When a restitution order is issued under subsection (a), (i), (j), (l), or (m), the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. The restitution order must include the following information:

- (1) The name and address of the person that is to receive the restitution.
- (2) The amount of restitution the person is to receive.

Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by IC 33-32-3-2. The clerk shall also notify the department of insurance of an order of restitution under subsection (i).

(e) An order of restitution under subsection (a), (i), (j), (l), or (m) does not bar a civil action for:

- (1) damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damage that is the basis of restitution ordered by the court; and
- (2) other damages suffered by the victim.

(f) Regardless of whether restitution is required under subsection (a) as a condition of probation or other sentence, the restitution order is not discharged by the completion of any probationary period or other sentence imposed for a felony or misdemeanor.

(g) A restitution order under subsection (a), (i), (j), (l), or (m) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6, IC 34-1-12, or IC 34-2-7 before their repeal).

(h) The attorney general may pursue restitution ordered by the court under subsections (a) and (c) on behalf of the victim services division of the Indiana criminal justice institute established under IC 5-2-6-8.

(i) The court may order the person convicted of an offense under IC 35-43-9 to make restitution to the victim of the crime. The court shall base its restitution order upon a consideration of the amount of money that the convicted person converted, misappropriated, or received, or for which the convicted person conspired. The restitution order issued for a violation of IC 35-43-9 must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for a violation of IC 35-43-9.

(j) The court may order the person convicted of an offense under IC 35-43-5-3.5 to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of the amount of fraud or harm caused by the convicted person and any reasonable expenses (including lost wages) incurred by the victim in correcting the victim's credit report and addressing any other issues caused by the commission of the offense under IC 35-43-5-3.5. If, after a person is sentenced for an offense under IC 35-43-5-3.5, a victim, a victim's estate, or the family of a victim discovers or incurs additional expenses that result from the convicted person's commission of the offense under IC 35-43-5-3.5, the court may issue one (1) or more restitution orders to require the convicted person to make restitution, even if the court issued a restitution order at the time of sentencing. For purposes of entering a restitution order after

sentencing, a court has continuing jurisdiction over a person convicted of an offense under IC 35-43-5-3.5 for five (5) years after the date of sentencing. Each restitution order issued for a violation of IC 35-43-5-3.5 must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for an offense under IC 35-43-5-3.5.

(k) The court shall order a person convicted of an offense under IC 35-42-3.5 to make restitution to the victim of the crime in an amount equal to the greater of the following:

- (1) The gross income or value to the person of the victim's labor or services.
- (2) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of:
  - (A) the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-209); or
  - (B) IC 22-2-2 (Minimum Wage);whichever is greater.

(l) The court shall order a person who:

- (1) is convicted of dealing in methamphetamine under IC 35-48-4-1.1 or manufacturing methamphetamine under IC 35-48-4-1.2; and
  - (2) manufactured the methamphetamine on property owned by another person, without the consent of the property owner;
- to pay liquidated damages to the property owner in the amount of ten thousand dollars (\$10,000) or to pay actual damages to the property owner, including lost rent and the costs of decontamination by a qualified inspector certified under IC 16-19-3.1.

(m) The court shall order a person who:

- (1) is convicted of dealing in marijuana under IC 35-48-4-10(a)(1)(A); and
  - (2) manufactured the marijuana on property owned by another person, without the consent of the property owner;
- to pay liquidated damages to the property owner in the amount of two thousand dollars (\$2,000).





A promising practice is to inform victims that they are entitled to restitution upon the conviction of defendant for losses caused by defendant's criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.

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