

## Select Victims' Rights – North Dakota

### USING THIS RESOURCE

This resource is intended to provide a base of knowledge regarding crime victims' rights in North Dakota 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 North Dakota, see the companion resource: *Law Enforcement-Based Victim Services in North Dakota: 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>North Dakota Constitutional Provisions and Statutes</b></p>
<p><b>Constitutional Victims' Rights Definition of "Victim".</b></p> <p>As used in this section, a "victim" is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. If a victim is deceased, incompetent, incapacitated, or a minor, the victim's spouse, parent, grandparent, child, sibling, grandchild, or guardian, and any person with a relationship to the victim that is substantially similar to a listed relationship, may also exercise these rights. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim.</p> <p> This definition applies to North Dakota's constitutional victims' rights provisions, N.D. Const. art. I, § 25(1)-(4). These constitutional provisions are included below in the section "Select Crime Victims' Rights."</p>	<p>N.D. Const. art. I, § 25(4).</p>
<p><b>Statutory Victims' Rights and Fair Treatment Definitions.</b></p> <p>In this chapter, unless the context or subject matter otherwise requires:</p> <ol style="list-style-type: none"> <li>1. "Court" means a forum established by law for the adjudication of juvenile petitions, criminal complaints, informations, or indictments.</li> <li>2. "Crime" includes all felony offenses; class A misdemeanors, excluding violations of section 6-08-16.1 for no-account checks; all violations of chapters 12.1-17 and 12.1-20,</li> </ol>	<p>N.D. Cent. Code Ann. § 12.1-34-01.</p>



<p>including all corresponding violations of municipal ordinances; and any of the offenses in this subsection that may result in adjudication of delinquency.</p> <p>3. “Crime of violence” means any crime in which force, as defined by section 12.1-01-04, or threat of force was used against the victim.</p> <p>4. “Custodial authority” includes city jail, county jail, juvenile detention center, regional corrections center, halfway house, state penitentiary or Missouri River correctional center, state hospital, or any other inpatient mental health or treatment facility to which a criminal defendant may be sentenced or referred.</p> <p>5. “Disposition” means the sentencing or determination of penalty or punishment to be imposed upon a person convicted of a crime or found delinquent or against whom a finding of sufficient facts for conviction or finding of delinquency is made.</p> <p>6. “Family member” includes a spouse, child, sibling, parent, grandparent, grandchild, legal guardian, or custodian of a victim, and any person with a relationship to the victim which is substantially similar to a relationship specified in this section.</p> <p>7. “Prosecuting attorney” includes city attorney, state’s attorney, attorney general, or their assistants.</p> <p>8. “Registered victim” or “registered witness” means a victim or witness registered with the statewide automated victim information and notification system.</p> <p>9. “System” means the statewide automated victim information and notification system.</p> <p>10. “Victim” means a person who suffers direct or threatened physical, financial, or psychological harm as the result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. The term “victim” does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim.</p>	
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<p>11. "Witness" means any person who has been or is expected to be summoned to testify for the prosecution whether or not any action or proceeding has yet been commenced.</p> <p> These definitions apply to North Dakota's statutory victims' rights provisions and laws regarding the fair treatment of victims and witnesses, N.D. Cent. Code Ann. §§ 12.1-34-01 through 12.1-34-08. These statutory provisions are included below in the section "Select Crime Victims' Rights."</p>	
<p><b>Child Victim and Witness Fair Treatment Standards Definitions.</b></p> <p>In this chapter, unless the context or subject matter otherwise requires:</p> <ol style="list-style-type: none"> <li>1. "Child" means an individual under the age of eighteen years.</li> <li>2. "Child development specialist" means an individual who demonstrates educational and work experience exhibiting an understanding of child development and behavior.</li> <li>3. "Court" means a forum established by law for the adjudication of juvenile petitions, criminal complaints, informations, or indictments.</li> <li>4. "Family member" means a spouse, child, sibling, parent, legal guardian, or custodian of a victim.</li> <li>5. "Prosecuting attorney" includes city attorney, state's attorney, attorney general, or their assistants.</li> <li>6. "Sex offense" includes all sex offenses defined as such in chapter 12.1-20.</li> <li>7. "Victim" means a living child who has suffered direct or threatened physical, financial, or emotional harm as a result of the commission or attempted commission of a crime.</li> </ol>	<p>N.D. Cent. Code Ann. § 12.1-35-01.</p>





<p>8. "Witness" means any living child who has been or is expected to be summoned to testify in a criminal case whether or not any action or proceeding has been commenced.</p> <p> These definitions apply to North Dakota's statutory victims' rights provisions regarding the fair treatment of child victims and witnesses, N.D. Cent. Code Ann. §§ 12.1-35-01 through 12.1-35-06. These statutory provisions are included below in the section "Select Crime Victims' Rights."</p>	
<p><b>Uniform Act on Prevention of and Remedies for Human Trafficking Definition of "Victim".</b></p> <p>"Victim" means an individual who is subjected to human trafficking or to conduct that would have constituted human trafficking had this chapter been in effect when the conduct occurred, regardless of whether a perpetrator is identified, apprehended, prosecuted, or convicted.</p> <p> This definition applies to North Dakota's Uniform Act on Prevention of and Remedies for Human Trafficking, N.D. Cent. Code Ann. §§ 12.1-41-01 through 12.1-41-21. Some of these provisions are included below in the section "Select Crime Victims' Rights."</p>	<p>N.D. Cent. Code Ann. § 12.1-41-01(12).</p>
<p><b>Disorderly Conduct Restraining Order Definition of "Disorderly Conduct".</b></p> <p>"Disorderly conduct" means intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person. For the purposes of this section, disorderly conduct includes human trafficking or attempted human trafficking as defined in this title. Disorderly conduct does not include constitutionally protected activity.</p>	<p>N.D. Cent. Code Ann. § 12.1-31.2-01(1).</p>


 This definition applies to North Dakota’s law regarding restraining orders for victims of disorderly conduct, N.D. Cent. Code Ann. § 12.1-31.2-01. This provision is included below in the section “Select Crime Victims’ Rights.”	
<p><b>Domestic Violence Protective Order and Confidentiality Definitions.</b></p> <ol style="list-style-type: none"> <li>1. “Department” means the state department of health.</li> <li>2. “Domestic violence” includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force, or assault, not committed in self-defense, on the complaining family or household members.</li> <li>3. “Domestic violence sexual assault organization” means a private, nonprofit organization whose primary purpose is to provide emergency housing, twenty-four-hour crisis lines, advocacy, supportive peer counseling, community education, and referral services for victims of domestic violence and sexual assault.</li> <li>4. “Family or household member” means a spouse, family member, former spouse, parent, child, persons related by blood or marriage, persons who are in a dating relationship, persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they are or have been married or have lived together at any time, and, for the purpose of the issuance of a domestic violence protection order, any other person with a sufficient relationship to the abusing person as determined by the court under section 14-07.1-02.</li> <li>5. “Health officer” means the state health officer of the department.</li> <li>6. “Law enforcement officer” means a public servant authorized by law or by a government agency to enforce the law and to conduct or engage in investigations of violations of law.</li> </ol>	<p>N.D. Cent. Code Ann. § 14-07.1-01.</p>





<p>7. “Predominant aggressor” means an individual who is the most significant, not necessarily the first, aggressor.</p> <p>8. “Willfully” means willfully as defined in section 12.1-02-02.</p> <p> These definitions apply to North Dakota’s domestic violence statutes, N.D. Cent. Code Ann. §§ 14-07.1-01 through 14-07.1-20. Some of these provision are included below in the section “Select Crime Victims’ Rights.”</p>	
<p><b>SELECT CRIME VICTIMS’ RIGHTS</b></p>	<p><b>North Dakota Constitutional Provisions, Statutes and Rules</b></p>
<p><b>Victims’ Right to Have Their Rights Protected in a Manner No Less Vigorous Than Protections Afforded to Criminal Defendants.</b></p> <p>To preserve and protect the right of crime victims to justice, to ensure crime victims a meaningful role throughout the criminal and juvenile justice systems, and to ensure that crime victims’ rights and interests are respected and protected by law in a manner no less vigorous than the protections afforded to criminal defendants and delinquent children, all victims shall be entitled to the following rights, beginning at the time of their victimization: [listing rights].</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p>	<p>N.D. Const. art. I, § 25(1).</p>
<p><b>Victims’ Right to Be Treated with Fairness and Respect for Dignity.</b></p>	<p>N.D. Const. art. I, § 25(1)(a).</p>


<p>[Victims have t]he right to be treated with fairness and respect for the victim’s dignity.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p>	
<p><b>Victims’ Right to Be Free from Intimidation, Harassment and Abuse.</b></p> <p>[Victims have t]he right to be free from intimidation, harassment, and abuse.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(e) affords victims the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family. This provision is included below.</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(11) affords victims the right to protection of identifying information. This provision is included below.</p>	<p>N.D. Const. art. I, § 25(1)(b).</p>
<p><b>Victims’ Right to Reasonable Protection from the Accused and Anyone Acting on Behalf of the Accused.</b></p> <p>[Victims have t]he right to be reasonably protected from the accused and any person acting on behalf of the accused.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p>	<p>N.D. Const. art. I, § 25(1)(c).</p>


<p> N.D. Cent. Code Ann. § 12.1-34-02(4) affords victims the rights to notice of pretrial release and information about the level of protection available from law enforcement. This provision is included below.</p>	
<p><b>Victims' Right to Have Their Safety and Welfare Considered Regarding Bail and Release.</b></p> <p>[Victims have t]he right to have the safety and welfare of the victim and the victim's family considered when setting bail or making release decisions.</p> <p> N.D. Const. art. I, § 25(4) defines the term "victim" for the purposes of this provision. This definition is included above in the section "Select Definitions."</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(4) affords victims the rights to notice of pretrial release and information about the level of protection available from law enforcement. This provision is included below.</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(18) affords victims the rights to notice and to participation in parole and pardon proceedings. This provision is included below.</p>	<p>N.D. Const. art. I, § 25(1)(d).</p>
<p><b>Victims' Right to the Nondisclosure of Locating Information and Confidential or Privileged Information.</b></p> <p>[Victims have t]he right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family, or which could disclose confidential or privileged information about the victim, and to be notified of any request for such information or records.</p>	<p>N.D. Const. art. I, § 25(1)(e).</p>


 N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”

 N.D. Const. art. I, § 25(b) affords victims the right to be free from intimidation, harassment and abuse. This provision is included above.





 N.D. Cent. Code Ann. § 12.1-34-02(1) also affords victims the rights to prevent the disclosure of confidential or privileged information about the victim or the victim’s family and to be notified of any request for identifying information or confidential or privileged information about the victim or the victim’s family. This provision is included below.






 N.D. Cent. Code Ann. § 12.1-34-02(5) affords victims, who have provided the prosecutor with their current address and telephone number, the right to have this information kept confidential. This provision is included below.






 N.D. Cent. Code Ann. § 12.1-34-02(11) affords victims the right not to be compelled to testify at any pretrial proceeding or at trial regarding identifying or personal information without the victim’s consent, unless there is a showing of good cause. This provision is included below.






 N.D. Cent. Code Ann. § 12.1-34-02(18) affords victims the right to the confidentiality of their testimony and written statements in connection with parole board and pardon proceedings. This provision is included below.

 N.D. Cent. Code Ann. § 12.1-35-03 affords child-victims the right to not have their identifying information appear in the public record. This provision is included below.






<p> N.D. Cent. Code Ann. § 12.1-41-10 affords victims of human trafficking and their families the right to confidentiality in their identity, pictures, and images. This provision is included below.</p>	
<p><b>Victims' Right to Privacy, Including the Right to Refuse an Interview, Deposition, or Other Discovery Request Made by the Defendant.</b></p> <p>[Victims have t]he right to privacy, which includes the right to refuse an interview, deposition, or other discovery request made by the defendant, the defendant's attorney, or any person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interaction to which the victim consents. Nothing in this section shall abrogate a defendant's sixth amendment rights under the Constitution of the United States nor diminish the state's disclosure obligations to a defendant.</p> <p> N.D. Const. art. I, § 25(4) defines the term "victim" for the purposes of this provision. This definition is included above in the section "Select Definitions."</p> <p> N.D. Const. art. I, § 25(1)(e) and N.D. Cent. Code Ann. § 12.1-34-02(1) afford victims the rights to prevent the disclosure of confidential or privileged information about the victim or the victim's family and to be notified of any request for identifying information or confidential or privileged information about the victim or the victim's family. These provisions are included above and below.</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(11) affords victims the right not to be compelled to testify at any pretrial proceeding or at trial regarding identifying or personal information without the victim's consent, unless there is a showing of good cause. This provision is included below.</p>	<p>N.D. Const. art. I, § 25(1)(f).</p>





<p> N.D. Cent. Code Ann. § 12.1-34-02(18) affords victims the right to the confidentiality of their testimony and written statements in connection with parole board and pardon proceedings. This provision is included below.</p> <p> N.D. Cent. Code Ann. § 12.1-35-03 affords child-victims the right to not have their identifying information appear in the public record and N.D. Cent. Code Ann. § 12.1-35-04 affords child-victims the right to limits on interviews and testimony. These provisions are included below.</p> <p> N.D. Cent. Code Ann. § 12.1-41-10 affords victims of human trafficking and their families the right to confidentiality in their identity, pictures, and images. This provision is included below.</p>	
<p><b>Victims' Right to be Notified and Present at Proceedings Related to Criminal Conduct.</b></p> <p>[Victims have t]he right to reasonable, accurate, and timely notice of, and to be present at, all proceedings involving the criminal or delinquent conduct, including release, plea, sentencing, adjudication, and disposition, and any proceeding during which a right of the victim is implicated.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> Numerous statutory provisions afford victims in North Dakota the right to be notified and/or present at certain proceedings. <i>See, e.g.</i>, N.D. Cent. Code Ann. § 12.1-34-02(4) (right to notice of pretrial release hearings); <i>id.</i> at § 12.1-34-02(5) (right to notice of all court proceedings); <i>id.</i> at § 12.1-34-02(12) (right to be present at trial); <i>id.</i> at § 12.1-34-02(14) (right to notice of plea and sentencing hearings); <i>id.</i> at § 12.1-34-02(15) (right to notice of</p>	<p>N.D. Const. art. I, § 25(1)(g).</p>

<p>and presence at sentencing); <i>id.</i> at § 12.1-34-02(18) (right to notice of and presence at certain proceedings related to parole and pardon). These provisions are included below.</p> <p> A victim’s right to be present should provide for the victim’s presence during the entirety of the trial.</p> <p> A promising practice is to have a policy and procedure in place to ensure that victims’ contact information is kept current. 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 Be Promptly Notified of any Release or Escape.</b></p> <p>[Victims have t]he right to be promptly notified of any release or escape of the accused.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(4), (17) and (18) afford victims rights to notice of custodial release or escape. These provisions are included below.</p> <p> A promising practice is to have a policy and procedure in place to ensure that victims’ contact information is kept current. 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>N.D. Const. art. I, § 25(1)(h).</p>

<p><b>Victims' Right to be Heard at Proceedings Involving Release, Plea, Sentencing, Adjudication, Disposition, Parole and Any Other Proceeding Where the Victims' Rights are Implicated.</b></p> <p>[Victims have t]he right to be heard in any proceeding involving release, plea, sentencing, adjudication, disposition, or parole, and any proceeding during which a right of the victim is implicated.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(4) affords victims the right to notice of pretrial release and N.D. Cent. Code Ann. § 12.1-34-02(14) affords victims the right to notice of plea and sentencing hearings. These provisions are included below.</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(15) affords victims the right to provide a victim impact statement. This provision is included below.</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(18) affords victims the right to be heard in connection with parole board and pardon decisions. This provision is included below.</p>	<p>N.D. Const. art. I, § 25(1)(i).</p>
<p><b>Victims' Right to Confer with the Prosecution.</b></p> <p>[Victims have t]he right, upon request, to confer with the attorney for the government.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p>	<p>N.D. Const. art. I, § 25(1)(j).</p>




<p> N.D. Cent. Code Ann. § 12.1-34-02(2) also affords victims upon request the right to confer with the prosecuting attorney. This provision is included below.</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(3) affords victims the related rights to be informed by the prosecuting attorney of criminal charges filed, of the procedural steps involved in a criminal case, and the pretrial status of each person arrested. This provision is included below.</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(14) affords victims the right to explanation of and consultation with the prosecutor regarding the details of any potential plea agreement or verdict. This provision is included below.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights.</p>	
<p><b>Victims’ Rights to Provide Impact Information for a Presentence Investigation and/or Report and to Have Such Information Considered in Sentencing Recommendations.</b></p> <p>[Victims have t]he right to provide information regarding the impact of the offender’s conduct on the victim and the victim’s family to the individual responsible for conducting any presentence or disposition investigation or compiling any presentence investigation report or recommendation regarding, and to have any such information considered in any sentencing or disposition recommendations.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p>	<p>N.D. Const. art. I, § 25(1)(k).</p>


<p> N.D. Cent. Code Ann. § 12.1-34-02(15) affords victims the right to have their impact statement included in a presentence investigation report, when ordered, or to provide a written impact statement to the office of the state’s attorney to be submitted to the sentencing court, when no presentence investigation is ordered. This provision is included below.</p>	
<p><b>Victims’ Right to Receive Copy of Presentence Report and Other Records Related to Their Rights.</b></p> <p>[Victims have t]he right, upon request, to receive a copy of any report or record relevant to the exercise of a victim’s right, except for those portions made confidential by law or unless a court determines disclosure would substantially interfere with the investigation of a case, and to receive a copy of any presentence report or plan of disposition when available to the defendant or delinquent child.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(20) affords child sexual abuse victims over the age of eighteen the right to request a copy of the law enforcement report corresponding with the victim’s case number. This provision is included below.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights.</p>	<p>N.D. Const. art. I, § 25(1)(1).</p>


**Victims' Right to Prompt Return of Property.**


N.D. Const. art. I, § 25(1)(m).


[Victims have t]he right, upon request, to the prompt return of the victim's property when no longer needed as evidence in the case.





 N.D. Const. art. I, § 25(4) defines the term "victim" for the purposes of this provision. This definition is included above in the section "Select Definitions."






 N.D. Cent. Code Ann. § 12.1-34-02(9) affords victims the right to have non-contraband property returned. This provision is included below.






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






 It is a promising practice to have a policy and procedure in place that clearly defines what "prompt" means in the context of the victim's right to return of property. Instructions should be ready and available to provide to victims, explaining how they may promptly obtain their property, in addition to the name of a person they may contact to check the status of the return.






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

<p><b>Victims' Right to Full and Timely Restitution for All Losses Suffered.</b></p> <p>[Victims have t]he right to full and timely restitution in every case and from each offender for all losses suffered by the victim as a result of the criminal or delinquent conduct. All monies and property collected from any person who has been ordered to make restitution shall be first applied to the restitution owed to the victim before paying any amounts owed to the government.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> N.D. Cent. Code Ann. § 12.1-32-08 is the general statutory provision addressing victims' right to restitution. This provision is included below.</p> <p> N.D. Cent. Code Ann. § 12.1-41-09 is the statutory provision addressing restitution in the context of victims of human trafficking. This provision is included below.</p> <p> A promising practice, when informing victims about their right to restitution, is to notify victims that they should collect and organize all documentation relating to their losses. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	<p>N.D. Const. art. I, § 25(1)(n).</p>
<p><b>Victims' Right to Proceedings Free from Unreasonable Delay and to a Prompt and Final Conclusion of the Case and Related Post-Judgment Proceedings.</b></p> <p>[Victims have t]he right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related post-judgment proceedings.</p>	<p>N.D. Const. art. I, § 25(1)(o).</p>





<p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(13) affords victims the right to a prompt disposition of the case. This provision is included below.</p> <p> N.D. Cent. Code Ann. § 12.1-35-05 affords child-victims the right to a prompt disposition of the case and to have their well-being considered when ruling on any motion or other request for a delay or continuance. This provision is included below.</p>	
<p><b>Victims’ Right to Notice of Defendant’s Conviction, Sentence, Release and Other Information.</b></p> <p>[Victims have t]he right, upon request, to be informed of the conviction, adjudication, sentence, disposition, place, and time of incarceration, detention, or other disposition of the offender, any scheduled release date of the offender, and the release of or the escape by the offender from custody or commitment.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> Numerous statutory provisions afford victims in North Dakota the right to be notified such information. <i>See, e.g.</i>, N.D. Cent. Code Ann. § 12.1-34-02(4) (right to notice of pretrial release); <i>id.</i> at § 12.1-34-02(14) (right to notice of plea and sentencing hearings); <i>id.</i> at § 12.1-34-02(17) (right to notice of custodial release, transfer and escape); <i>id.</i> at § 12.1-34-02(18) (right to notice of parolee or pardoned prisoner’s release from custody). These provisions are included below.</p>	<p>N.D. Const. art. I, § 25(1)(p).</p>




<p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p><b>Victims’ Rights Regarding Postconviction Notice, Participation and Release.</b></p> <p>[Victims have t]he right, upon request, to be informed in a timely manner of all post-judgment processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender. The parole authority shall extend the right to be heard to any person harmed by the offender.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(14) affords victims the right to notice of plea and sentencing hearings. This provision is included below.</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(16) affords victims the right to notice of final dispositions and parole procedures. This provision is included below.</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(17) affords victims the right to prompt notice of custodial release, transfer and escape. This provision is included below.</p>	<p>N.D. Const. art. I, § 25(1)(q).</p>




<p> N.D. Cent. Code Ann. § 12.1-34-02(18) affords victims the rights to notice of a parolee or pardoned prisoner’s release from custody and to provide a victim statement in connection with parole board and pardon decisions. This provision is included below.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights. 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 in place to establish what constitutes “timely” with respect to notification.</p>	
<p><b>Victims’ Rights to Be Notified and Heard Regarding Pardon, Commutation, Reprieve or Expungement Procedures; and to Have This Information Considered Before Decision is Made.</b></p> <p>[Victims have t]he right, upon request, to be informed in a timely manner of any pardon, commutation, reprieve, or expungement procedures, to provide information to the governor, the court, any pardon board, and other authority in these procedures, and to have that information considered before a decision is made, and to be notified of such decision in advance of any release of the offender.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(16) affords victims the right to notice of parole procedures. This provision is included below.</p>	<p>N.D. Const. art. I, § 25(1)(r).</p>





<p> N.D. Cent. Code Ann. § 12.1-34-02(18) affords victims the rights to notification of the pending review of a request for parole or pardon, to provide a victim statement in connection with parole board and pardon decisions and to notice of a parolee or pardoned prisoner's release from custody. This provision is included below.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully document a victim's request to exercise rights. 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 in place to establish what constitutes "timely" with respect to notification.</p>	
<p><b>Victims' Right to Be Informed of Rights and Ability to Seek Legal Advice Regarding Their Rights.</b></p> <p>[Victims have t]he right to be informed of these rights, and to be informed that victims can seek the advice of an attorney with respect to their rights. This information shall be made available to the general public and provided to all crime victims in what is referred to as a Marsy's Card.</p> <p> N.D. Const. art. I, § 25(4) defines the term "victim" for the purposes of this provision. This definition is included above in the section "Select Definitions."</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(6) affords victims the right to be informed of their right to seek the advice of an attorney. This provision is included below.</p>	<p>N.D. Const. art. I, § 25(1)(s).</p>





<p> A promising practice is to have a policy and procedure determining who is responsible for providing victims with such information regarding their rights and when. If the timing of notice is not otherwise specified, consideration should be given to providing such information at or promptly after the victims' initial contact with law enforcement. 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> A promising practice when notifying victims of their right to seek advice of counsel is to explain the different roles of a prosecuting attorney vs. an attorney hired by the victim to represent their interests and assert their rights.</p>	
<p><b>Victims' Rights to Assert and Enforce Their Rights.</b></p> <p>The victim, the retained attorney of the victim, a lawful representative of the victim, or the attorney for the government upon request of the victim may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, ensuring that no right is deprived without due process of law, and affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding disposition of a victim's right shall be clearly stated on the record.</p> <p> N.D. Const. art. I, § 25(4) defines the term "victim" for the purposes of this provision. This definition is included above in the section "Select Definitions."</p> <p> Standing by the attorney for the government to assert victims' rights upon request of the victim does not deny or diminish victims' standing to assert rights.</p>	<p>N.D. Const. art. I, § 25(2).</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> 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><b>Victims’ Rights Do Not Impair Victims’ Other Rights, Are Self-Enabling, and Do Not Create a Cause of Action Against the State.</b></p> <p>The granting of these rights to victims shall not be construed to deny or disparage other rights possessed by victims. All provisions of this section apply throughout criminal and juvenile justice processes and are self-enabling. This section does not create any cause of action for damages against the state, any political subdivision of the state, any officer, employee, or agent of the state or of any of its political subdivisions, or any officer or employee of the court.</p> <p> N.D. Const. art. I, § 25(4) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p>	<p>N.D. Const. art. I, § 25(3).</p>
<p><b>Victims’ Right to be Afforded Certain Rights.</b></p> <p>Victims and witnesses of crime must be afforded the following rights where applicable: [listing rights].</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02.</p>

<p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	
<p><b>Victims’ Rights to Information Regarding Registration with the Statewide Automated Victim Information and Notification System; to Prevent Disclosure of Confidential or Privileged Information; and to Notice of Requests for Disclosure of Identifying Information or Privileged or Confidential Information.</b></p> <p>Victims and witnesses of crime must be afforded the [right to be]: . . .</p> <p>Informed by those entities that have contact with the victim or witness as to the availability of and the methods available for registration with the statewide automated victim information and notification system. Those entities include law enforcement, prosecuting attorneys, the courts, and custodial authorities. A victim or witness who clearly objects to registration may not be required to register with the system or must be able to opt out of the system. A victim has the right to:</p> <ul style="list-style-type: none"> <li>a. Prevent the disclosure of confidential or privileged information about the victim or the victim’s family; and</li> <li>b. Be notified of any request for identifying information or confidential or privileged information about the victim or victim’s family.</li> </ul> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(e) also provides victim with the right to prevent the disclosure of confidential or privileged information about the victim and to be notified of any request for the victim’s identifying information or confidential or privileged records. This provision is included above.</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(1).</p>

<p> A promising practice is to have a policy and procedure determining who is responsible for providing victims with such information regarding their rights and when. If the timing of notice is not otherwise specified, consideration should be given to providing such information at or promptly after the victims' initial contact with law enforcement. 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 Be Informed Regarding the Status of the Investigation and to Confer with the Prosecutor.</b></p> <p>Victims and witnesses of crime must be afforded the [right to be]: . . .</p> <p>Informed as to status of investigation. Victims and witnesses, upon request, must be informed by law enforcement authorities investigating a criminal case of the status of the investigation, except where the prosecuting attorney or law enforcement authority determines that to disclose such information would unreasonably interfere with the investigation, until such time as the alleged offender is apprehended or the investigation is closed. A victim, upon request, must be allowed to confer with the prosecuting attorney.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."</p> <p> N.D. Const. art. I, § 25(1)(j) provides that, beginning at the time of their victimization, victims have the right, upon request, to confer with the attorney for the government. 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, and victims should</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(2).</p>

<p>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 in place to establish what constitutes “unreasonably interfere with the investigation,” so that this information can be clearly explained to victims.</p>	
<p><b>Victims’ Right to Be Informed of Criminal Charges Filed, to Information About the Criminal Process and to Pretrial Status/Conditions.</b></p> <p>Victims and witnesses of crime must be afforded the [right to be]: . . .</p> <p>Informed as to criminal charges filed. Victims must be promptly informed by the prosecuting attorney of any criminal charges, arising from an incident in which the person was a victim, filed against any person arrested. The prosecuting attorney shall also provide a brief statement in nontechnical language of the procedural steps involved in the processing of a criminal case. Victims must also be informed by the prosecuting attorney of the pretrial status of each person arrested, including bail and any pretrial release conditions.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(3).</p>
<p><b>Victims’ Right to Notice of Pretrial Release and Level of Protection Available from Law Enforcement.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Notice of pretrial release.</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(4).</p>

- a. Registered victims must be given prompt notice of any hearing in which the arrested person's pretrial release status will be determined. If the alleged offender is scheduled to be released prior to an appearance in court, prompt notice must be given to the registered victim and witness.
- b. Victims who are not registered must be given prompt notice, by the law enforcement agency that has made an arrest in any case involving a crime of violence, of any hearing in which the arrested person's pretrial release status will be determined. If the alleged offender in a crime of violence is scheduled to be released before an appearance in court, the custodial authority shall give prompt notice to the victim and witness or, if unavailable, to the arresting law enforcement agency, which shall provide the notice to the victim or witness. The law enforcement agency or custodial authority may fulfill its obligation to notify by registering the victim with the system.
- c. Victims and witnesses must be informed by the prosecuting attorney of the methods for enforcing any pretrial release conditions including information as to the level of protection available from law enforcement in the case of harm, threats, or intimidation made to the victim or witness.



N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."



A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time, including the information about the level of protection available from law enforcement. 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 to notify victims, at the first opportunity, that victims must register with the state's automated notification system to receive notification of certain events within the criminal justice process.

**Victims' Rights to Notice of All Court Proceedings and to Timely Notice of Cancellation; Victims' Obligation to Keep Contact Information Current.**

N.D. Cent. Code Ann. § 12.1-34-02(5).

Victims and witnesses of crime must be afforded the [right to]: . . .

Notice as to victims' and witnesses' participation in court proceedings. Victims must be informed by the prosecuting attorney of all court proceedings in a reasonable time prior to the proceedings. Witnesses must be informed by the prosecuting attorney of all court proceedings at which their presence is required in a reasonable time prior to the proceedings and informed in nontechnical language of the procedural steps involved in the processing of a criminal case. Victims and witnesses must be notified by the prosecuting attorney of the cancellation of any scheduled court proceeding in sufficient time to prevent an unnecessary appearance in court. All victims and witnesses shall provide the prosecuting attorney with current information as to address and telephone number, such information to be kept confidential subject to other provisions of this chapter. The notice given by the prosecuting attorney to the victims and witnesses must be given by any means reasonably calculated to give prompt notice.






N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."








N.D. Const. art. I, § 25(1)(e) provides that, beginning at the time of their victimization, victims have the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family, or which could disclose confidential or privileged information about the victim, and to be notified of any request for such information or records. This provision is included above.








N.D. Const. art. I, § 25(1)(g) provides that, beginning at the time of their victimization, victims have the right to reasonable, accurate, and timely notice of, and to be present at, all





<p>proceedings involving the criminal or delinquent conduct, including release, plea, sentencing, adjudication, and disposition, and any proceeding during which a right of the victim is implicated. This provision is included above.</p> <p> A promising practice is to have a policy in place to establish what constitutes a “reasonable time” prior to proceedings for the purposes of notification and what constitutes means “reasonably calculated to give prompt notice.”</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><b>Victims’ Rights to Information About Available Programs and Services and to Be Informed of the Right to Seek the Advice of an Attorney.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Services available. Victims and witnesses must be informed by the prosecuting attorney and arresting law enforcement agency of all appropriate and available public or private programs that provide counseling, treatment, or support for victims and witnesses, including rape crisis centers, victim and witness assistance programs, elderly victim services, victim assistance hotlines, social service agencies, and domestic violence programs. Victims and witnesses must be informed of the right to seek the advice of an attorney. The prosecuting attorney and law enforcement authority shall advise victims eligible for services of the relevant provisions of chapter 54-23.4.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(6).</p>











<p> N.D. Const. art. I, § 25(1)(s) provides that, beginning at the time of their victimization, victims have the rights to be informed of their constitutional rights and to be informed that they can seek the advice of an attorney with respect to their rights. This provision is included above.</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' Right to Employer Intercession to Minimize Losses from Court Appearances.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Employer intercession. Victims and witnesses upon request must be provided by the prosecuting attorney with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines 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, that victims must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, of their employment-related rights and to provide employers with this</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(7).</p>





<p>information.</p>	
<p><b>Victims' Right to Information Regarding Witness Fees.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Witness fee. Witnesses must be informed by the prosecuting attorney or the court of the procedures to be followed in order to apply for and receive any witness fee to which they are entitled under law.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(8).</p>
<p><b>Victims' Right to Return of Property.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Return of property. Victims shall have any personal property that was stolen or taken for evidentiary purposes, except contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, returned by the court, prosecuting attorney, or law enforcement agency within ten days after its taking or recovery if it is not needed for law enforcement, prosecution, or defense purposes or as expeditiously as possible when the property is no longer needed for law enforcement, prosecution, or defense purposes. If there is a defendant, the prosecuting attorney shall notify the defendant of the intent to return the property to the owner. Upon a motion made by the defendant and upon good cause shown that the property contains exculpatory evidence of the defendant's innocence, the court may order the law enforcement personnel in possession of the property not to release it to the owner.</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(9).</p>




<p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(m) provides that, beginning at the time of their victimization, victims have the right, upon request, to the prompt return of their property when no longer needed as evidence in the case. This provision is included above.</p> <p> It is a promising practice to have a policy and procedure in place to ensure that victims’ property is returned to them as soon as possible, once it is no longer needed for evidentiary purposes. Instructions should be ready and available to provide to victims, explaining how they may promptly obtain their property, in addition to the name of a person they may contact to check the status of the return.</p> <p> If the accused files a request for return of property, victims and the prosecution must be notified immediately to ensure that they are on notice and have an opportunity to be meaningfully heard on the matter.</p>	
<p><b>Victims’ Right to Separate Waiting Area, When Available and Practical, and to Other Safeguards.</b></p> <p>Victims and witnesses of crime must be afforded the [right to a]: . . .</p> <p>Waiting area. Victims and witnesses must be provided by prosecuting attorneys and defense attorneys as assisted by the court with a waiting area separate from the defendant, defendant’s relatives and friends, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victims’ and witnesses’ contact with the defendant, defendant’s relatives and friends, and defense witnesses during court proceedings.</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(10).</p>

<p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(b) provides that, beginning at the time of their victimization, victims have the right to be free from intimidation, harassment, and abuse. This provision is included above.</p> <p> N.D. Const. art. I, § 25(1)(c) provides that, beginning at the time of their victimization, victims have the right to be reasonably protected from the accused and any person acting on behalf of the accused. This provision is included above.</p> <p> Although this provision is directed at prosecuting and defense attorneys as assisted by the court, the same concept can and should be applied to law enforcement interactions with victims, victims’ families, and victims’ witnesses.</p>	
<p><b>Victims’ Right to Protection of Identifying or Locating Information.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Protection of identifying information. Victims and witnesses may not be compelled to testify at any pretrial proceeding or at trial for purposes of identifying the victims’ or witnesses’ address, telephone number, place of employment, or other personal identification except for name without the victims’ or witnesses’ consent, unless there is a showing of good cause as determined by the court. Records of a criminal justice agency as defined by section 44-04-18.7, a correctional facility as defined in section 12-44.1-01, and the department of corrections and rehabilitation containing the address, telephone number, place of employment, or other information that could be used to locate the victim or witness to a crime, are exempt.</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(11).</p>

<p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(e) provides that, beginning at the time of their victimization, victims have the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family, or which could disclose confidential or privileged information about the victim, and to be notified of any request for such information or records. This provision is included above.</p> <p> N.D. Const. art. I, § 25(1)(f) provides that, beginning at the time of their victimization, victims have the right to privacy. This provision is included above.</p>	
<p><b>Victims’ Right to Be Present Throughout Trial.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>[B]e present throughout trial. The victim must be informed by the prosecuting attorney of the victim’s right to be present throughout the trial of the defendant, except as provided by rule 615 of the North Dakota Rules of Evidence.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(g) provides that, beginning at the time of their victimization, victims have the right to be present at all proceedings involving the criminal or delinquent conduct. This provision is included above.</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(12).</p>


<p> N.D. Rule of Evidence 615 governs witness sequestration. The rule does not authorize excluding, <i>inter alia</i>, “a person authorized by law to be present.” N.D. R. Evid. 615(d).</p>	
<p><b>Victims’ Right to Prompt Disposition.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Prompt disposition of case. Victims and witnesses must be informed by the prosecuting attorney of their rights to a prompt disposition of the cases in which they are involved as victims or witnesses as defined by the docket currency standards of the North Dakota supreme court.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(o) provides that, beginning at the time of their victimization, victims have the rights to proceedings free from unreasonable delay and to a prompt and final conclusion of the case and any related post-judgment proceedings. This provision is included above.</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(13).</p>
<p><b>Victims’ Right to Notice of Scheduling of Pleas and Sentencing.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Notice as to scheduling of hearing. Registered victims must be informed of the date, time, and place of hearing at which a plea of guilty or not guilty will be entered and of a sentencing hearing. Victims who are not registered must be given the same information by the</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(14).</p>


<p>prosecuting attorney. The prosecuting attorney shall explain to and consult with the victim in nontechnical language details of any potential plea agreement or verdict.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(g) provides that, beginning at the time of their victimization, victims have the right to reasonable, accurate, and timely notice of, and to be present at, all proceedings involving the criminal or delinquent conduct, including plea and sentencing. This provision is included above.</p> <p> N.D. Const. art. I, § 25(1)(j) provides that, beginning at the time of their victimization, victims have the right, upon request, to confer with the attorney for the government. This provision is included above.</p> <p> A promising practice is to have a policy and procedure to notify victims, at the first opportunity, that victims must register with the state’s automated notification system to receive notification of certain events within the criminal justice process.</p>	
<p><b>Victims’ Right to Provide a Victim Impact Statement.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Victim impact statement. The victim must be informed by the prosecuting attorney, prior to sentencing, of the victim’s right to submit or make a written impact statement to the court in any criminal case. If a presentence investigation is ordered, the probation officer assigned the report shall include this information in the report. This statement may include an explanation by the victim of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim; an explanation of the extent of any</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(15).</p>


<p>economic loss or property damage suffered by the victim; an opinion of the need for and extent of restitution; and the victim’s recommendation for an appropriate sentence. The prosecuting attorney shall advise all victims that the presentence report is subject to review by the defendant and that the report will include the victim’s statement. If the sentencing court does not order a presentence investigation, the victim may submit a written impact statement, under oath, to the office of the state’s attorney which statement must be submitted to the sentencing court. The victim of violent crime may appear in court to make an oral crime impact statement at the sentencing of the defendant in appropriate circumstances at the discretion of the judge. This oral statement must be made under oath and is subject to cross-examination.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(g) provides victims with the right to be present at sentencing and N.D. Const. art. I § 25(1)(i) provides victims with the right to be heard at sentencing. These provisions are included above.</p> <p> N.D. Const. art. I, § 25(1)(k) provides that victims have the right to provide information regarding the impact of the offenders’ conduct on the victim and the victim’s family to the individual responsible for conducting any presentence or disposition investigation or compiling any presentence investigation report or recommendation regarding, and to have any such information considered in any sentencing or disposition recommendations. This provision is included above.</p>	
<p><b>Victims’ Right to Notice of Final Disposition and Parole Procedures.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(16).</p>





Notice of final disposition and parole procedures. Registered victims and witnesses must be informed of the final disposition of any criminal case. Victims who are not registered must be given the same notice by the prosecuting attorney. The prosecuting attorney shall explain to the victim the parole process and pardon process and further advise the victim of the necessity of advising the custodial authority and the parole board and the pardon clerk of the victim's address in order for the victim to receive further information under other provisions of this chapter.




 N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."



 N.D. Const. art. I, § 25(1)(p) provides that victims have the right, upon request, to be informed of the disposition of a case. This provision is included above.


 N.D. Const. art. I, § 25(1)(q) provides that victims have the rights, upon request, to be informed in a timely manner of all post-judgment processes and procedures; to participate in such processes and procedures; and to be notified of any release decision regarding the offender. This provision is included above.


 Final disposition and parole proceedings may take place long after the victim's initial contact with the justice system. 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.


 A promising practice is to have a policy and procedure to notify victims, at the first opportunity, that victims must register with the state's automated notification system to receive notification of certain events within the criminal justice process.


<p><b>Right to Prompt Notice of Custodial Release, Transfer and Escape.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Prompt notice of custodial release. Registered victims and witnesses must be informed whenever a criminal defendant receives a temporary, provisional, or final release from custody or whenever the defendant escapes from custody. Victims who are not registered must be given the same notice by the appropriate custodial authority. Notification must include the transfer of the defendant to a work-release program, a community residential program, or transfer to a mental health facility. All notices to the registered victim and witnesses concerning this release information must be within a reasonable time prior to the defendant’s release or transfer. The notice given by the custodial authority must be given by any means reasonably calculated to give prompt notice.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(h) provides that, beginning at the time of their victimization, victims have the right to be promptly notified of any release or escape of the accused; N.D. Const. art. I, § 25(1)(p) affords victims the right, upon request, to be informed an offender’s release or escape; and N.D. Const. art. I, § 25(1)(r) provides victims with the right to be informed of any pardon, commutation, reprieve, or expungement procedures; to provide information that is considered before a decision is made; and to be notified of such a decision in advance of any release of the offender.. These provisions are included above.</p> <p> N.D. Const. art. I, § 25(1)(q) provides that victims have the rights, upon request, to be informed in a timely manner of all post-judgment processes and procedures; to participate in such processes and procedures; and to be notified of any release decision regarding the offender. This provision is included above.</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(17).</p>
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 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><b>Victims' Right to Participate in Parole Board and Pardon Decisions.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Participation in parole board and pardon decision. Victims may submit a written statement for consideration by the parole board, the governor, or the pardon advisory board, if one has been appointed, prior to the parole board, the governor, or the pardon advisory board taking any action on a defendant's request for parole or pardon. A victim statement made under this subsection is a confidential record and may be disclosed only to the parole board, the governor, the pardon advisory board, or their authorized representative. Victims of violent crimes may at the discretion of the parole board, the governor, or the pardon advisory board personally appear and address the parole board, the governor, or the pardon advisory board. Victim testimony and written statements under this subsection are confidential and may be disclosed only to the parole board, the governor, the pardon advisory board, or their authorized representative. Notice must be given by the parole board or pardon clerk informing the registered victim of the pending review. The registered victim must be provided notice of the decision of the parole board or of the governor and the recommendations of the pardon advisory board, if any, and, if applicable, notice of the date of the prisoner's release on parole or the prisoner's pardon, conditional pardon, reprieve, commutation, or remission of fine. Notice must be given within a reasonable time after the parole board or the governor makes a decision but in any event before the parolee's or pardoned prisoner's release from custody.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(18).</p>




 N.D. Const. art. I, § 25(1)(d) provides that, beginning at the time of their victimization, victims have the right to have the safety and welfare of the victim and the victim's family considered when making release decisions. This provision is included above.



 N.D. Const. art. I, § 25(1)(i) provides that, beginning at the time of their victimization, victims have the right to be heard in any proceeding that implicates victims' rights, including parole proceedings. This provision is included above.




 N.D. Const. art. I, § 25(1)(q) provides that victims have the right, upon request, to be informed in a timely manner of all post-judgment processes and procedures; to participate in such processes and procedures; to provide information to the release authority to be considered before any release decision is made; and to be notified of any release decision regarding the offender. This provision is included above.


 N.D. Const. art. I, § 25(1)(r) provides that victims have the right, upon request, to be informed in a timely manner of any pardon, commutation, reprieve, or expungement procedures, to provide information to the governor, the court, any pardon board, and other authority in these procedures, and to have that information considered before a decision is made, and to be notified of such decision in advance of any release of the offender.

 Parole and pardon proceedings may take place long after the victim's initial contact with the justice system. 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><b>Victims' Rights in Juvenile Delinquency Proceedings and Minor Victims' and Witnesses' Right to Support Persons.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Victims and witnesses of crimes committed by juveniles are entitled to the same rights under this chapter in juvenile delinquency proceedings as in any other proceeding. In addition, every victim or a witness who is a minor is entitled to have that person's spouse, parent, guardian, and no more than two other designated adults present with that person during any juvenile delinquency proceedings.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(19).</p>
<p><b>Child Sexual Abuse Victims' Right to Access to Law Enforcement Report.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Access to law enforcement report. Upon request of the child sexual abuse victim over the age of eighteen, the prosecuting attorney or law enforcement authority shall provide the victim with a copy of the law enforcement report corresponding with the victim's case number.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."</p> <p> N.D. Const. art. I, § 25(1)(l) provides that, beginning at the time of their victimization, victims have the right, upon request, to receive a copy of any report or record relevant to the</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(20).</p>

<p>exercise of a victim’s right, except those portions made confidential by law or unless a court determines disclosure would substantially interfere with the investigation of a case, and to receive a copy of any presentence report or plan of disposition when available to the defendant or delinquent child. 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.</p>	
<p><b>Victims’ Right to Preservation of Evidence.</b></p> <p>Victims and witnesses of crime must be afforded the [right to]: . . .</p> <p>Preservation of evidence. A prosecuting attorney, law enforcement authority, criminal laboratory, or evidentiary storage facility may not destroy or dispose of any evidence to a criminal offense before the limitation period for prosecution for the offense has ended or the offense has been adjudicated.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(21).</p>
<p><b>Exercise of Victims’ Rights When Victims Are Deceased.</b></p> <p>If the victim is deceased, incompetent, incapacitated, or a minor, the victim’s spouse, parent, grandparent, child, sibling, grandchild, or guardian, and any person with a relationship to the victim which is substantially similar to a listed relationship, may exercise the rights granted to a victim under this chapter.</p>	<p>N.D. Cent. Code Ann. § 12.1-34-02(22).</p>

<p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	
<p><b>Victims’ Obligations to Aid in Prosecution of Crime: to Make a Timely Report; to Cooperate with Law Enforcement; to Testify at Trial; and to Notify System Participants, Where Appropriate, of Changes in Contact Information.</b></p> <p>Victims and witnesses have all of the following responsibilities to aid in the prosecution of crime:</p> <ol style="list-style-type: none"> <li>1. To make a timely report of the crime.</li> <li>2. To cooperate with law enforcement authorities throughout the investigation, prosecution, and trial.</li> <li>3. To testify at trial.</li> <li>4. To notify the system, law enforcement authorities, prosecuting attorney, custodial authority, parole board, pardon clerk, and court, where appropriate, of any change of contact information. Except for release to a domestic violence sexual assault organization as defined in section 14-07.1-01, all contact information provided must be kept confidential.</li> </ol> <p> N.D. Cent. Code Ann. § 12.1-34-01 and N.D. Cent. Code Ann. § 14-07.1-01 define the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(e) provides that, beginning at the time of their victimization, victims have the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family, or which could disclose confidential or privileged information about the victim, and to be notified of any request for such information or records. This provision is included above.</p>	<p>N.D. Cent. Code Ann. § 12.1-34-03.</p>

 A promising practice is to let victims know that some statutory rights may require cooperation with the investigation and prosecution of the crime, however, the exercise of victims' state constitutional rights are not so limited.	
<p><b>Prosecuting Attorneys' Obligations to Secure Victims' Rights and Services.</b></p> <p>Each prosecuting attorney is responsible for securing for victims and witnesses of crime the rights and services described in this chapter. Those services include all of the following:</p> <ol style="list-style-type: none"> <li>1. Court appearance notification services, including cancellations of appearances.</li> <li>2. Informational services relative to the availability of the collection of witness fees, victim compensation, or restitution.</li> <li>3. Escort and other transportation services related to the investigation or prosecution of the case, if necessary.</li> <li>4. Case process notification services.</li> <li>5. Employer intercession services.</li> <li>6. Expedited return of property services.</li> <li>7. Protection services.</li> <li>8. Family support services, including child and other dependent care services.</li> <li>9. Waiting facilities.</li> <li>10. Social service and other public or private agency referrals.</li> </ol>	<p>N.D. Cent. Code Ann. § 12.1-34-04.</p>



<p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Cent. Code Ann. § 12.1-34-02 provides victims with the rights and services identified here. This provision is included above, broken down by subsection.</p>	
<p><b>No Cause of Action for Damages or Injunctive Relief Under Victim and Witness Fair Treatment Standards.</b></p> <p>Nothing in this chapter may be construed as creating a cause of action for money damages or injunctive relief against the state, county, municipality, or any of their agencies, instrumentalities, or employees. Furthermore, the failure to provide a right, privilege, or notice to a victim under this chapter is not grounds for the defendant to seek to have the conviction or sentence set aside. This chapter does not limit any rights to which victims and witnesses of crime are otherwise entitled.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	<p>N.D. Cent. Code Ann. § 12.1-34-05.</p>
<p><b>Establishment of Automated Victim Information and Notification System; Victims’ Rights Regarding Notification System.</b></p> <p>1. The office of the attorney general shall maintain a statewide automated victim information and notification system that must:</p> <ul style="list-style-type: none"> <li>a. Permit a victim to register or update the victim’s registration information for the system by calling a toll-free telephone number or accessing a public website.</li> <li>b. Notify a registered victim by telephone, mail, text message, or electronic mail in accordance with this chapter.</li> </ul>	<p>N.D. Cent. Code Ann. § 12.1-34-06.</p>

- c. Notify a registered victim by telephone, mail, text message, or electronic mail when the offender has a scheduled court proceeding, a parole review, or a change in the status of the offender's parole or probation status, including a change in the offender's address.
- d. Notify a registered victim by telephone, mail, text message, or electronic mail when a protective order requested by the victim has been served upon the respondent.
- e. Permit a victim to receive a status report for an offender under the supervision or in the custody of the department of corrections and rehabilitation or other correctional facility by calling the system on a toll-free telephone number or by accessing the system through a public website.

2. The provision of offender and case data on a timely basis to the automated victim information and notification system satisfies any obligation under this chapter to notify a registered victim of an offender's custody and the status of the offender's scheduled court proceedings.

3. The user agency shall ensure that an offender's information contained in the system is updated to timely notify a victim that an offender has been released or discharged or has escaped. The failure of the system to provide notice to the victim does not establish a cause of action by the victim against the state or any custodial authority.

4. All affected entities, including custodial authorities, prosecuting attorneys, law enforcement agencies, courts, the attorney general's office, and the parole clerk, shall cooperate with the system operator in establishing and maintaining the statewide automated victim information and notification system.



N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."



North Dakota provides victims with a number of constitutional rights to notice. *See, e.g.,* N.D. Const. art. I, § 25(1)(g) (notice regarding all proceedings involving criminal or delinquent conduct during which a victims' right is implicated); *id.* at § 25(1)(h) (notice of

any release or escape of the accused); *id.* at § 25(1)(q) (notice of release decisions); *id.* at § 25(1)(r) (notice of decisions regarding pardon, commutation, reprieve or expungement). The state also provides victims with numerous statutory rights to notice. *See, e.g.*, N.D. Cent. Code Ann. § 12.1-34-02(4) (notice of hearings regarding pretrial release); *id.* at § 12.1-34-02(5) (notice of court proceedings); *id.* at § 12.1-34-02(14) (notice of a plea hearing); § 12.1-34-02(16) (notice of final disposition and parole procedures); *id.* at § 12.1-34-02(17) (notice of custodial release); *id.* at § 12.1-34-02(18) (notice of parole board decisions and release). These provisions are included above.




If victims are registered with the automatic notification system, they receive notice through that system; victims who are not registered may or must be given notice of such events by law enforcement, prosecutors or other entities or actors within the criminal justice system. *See, e.g., id.* at § 12.1-34-02(4) (registered victims receive notice of hearings regarding pretrial release via notification system; non-registered victims receive notice of such hearings from law enforcement); *id.* at § 12.1-34-02(17) (registered victims receive notice of custodial release; non-registered victims receive same notice from relevant custodial agency). In some instances, only victims registered with the automatic notification system will receive notice of an event within the criminal justice process. *See, e.g., id.* at § 12.1-34-02(18) (notification rights of registered victims regarding parole board and pardon hearings and decisions).









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 have a policy and procedure ensuring that, at the earliest possible time, victims are provided information regarding registration with and use of the state's automated notification system. 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 to notify victims, at the first opportunity, that victims must register with the state's automated notification system to receive notification of certain events within the criminal justice process.	
<p><b>Sex Crime Victims' Right to No Cost Forensic Medical Examinations; Victims' Right to Not Have Evidence Obtained During Forensic Medical Examination Used to Prosecute the Victim for a Separate Offense.</b></p> <p>1. An acute forensic medical examination is an examination performed on an alleged victim of criminal sexual conduct for the purpose of gathering evidence of an alleged crime and is performed within ninety-six hours after the alleged crime unless good cause is shown for the delay in performing the examination. When an acute forensic medical examination is performed, the costs incurred by a health care facility or health care professional for performing the acute forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged victim.</p> <p>2. A child forensic medical examination is an examination performed on an alleged child victim of criminal sexual conduct for the purpose of gathering evidence of an alleged crime. When a child forensic medical examination is performed, the costs incurred by a health care facility or health care professional for performing the child forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged child victim or the child's parent, guardian, or custodian.</p> <p>3. Upon submission of appropriate documentation, the attorney general, within the limits of legislative appropriations, shall reimburse the health care facility or a health care professional for the reasonable costs incurred in performing the medical screening and acute forensic medical examination. Beginning on April first of the final year of each biennium, the attorney general, subject to legislative appropriations, shall reimburse each accredited</p>	<p>N.D. Cent. Code Ann. § 12.1-34-07.</p>



<p>children’s advocacy center located in the state for a forensic interview that is not reimbursable by insurance, Medicaid, or crime victims compensation.</p> <p>4. Evidence obtained during a medical examination under this section may not be used against an alleged victim for the prosecution of the alleged victim for a separate offense.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	
<p><b>Victims’ Right to Information About Victims’ Rights.</b></p> <p>The attorney general shall develop a card containing the rights of victims as provided in this chapter and section 25 of article I of the Constitution of North Dakota to be distributed to all crime victims.</p> <p> N.D. Cent. Code Ann. § 12.1-34-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(s) provides that, beginning at the time of their victimization, victims have the right to be informed of their rights, and to be informed that victims can seek the advice of an attorney with respect to their rights. This provision is included above.</p> <p> A promising practice is to have a policy and procedure determining who is responsible for providing victims with such information regarding their rights and when. If the timing of notice is not otherwise specified, consideration should be given to providing such information at or promptly after the victims’ initial contact with law enforcement. 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>N.D. Cent. Code Ann. § 12.1-34-08.</p>





<p><b>Child-Victims' Fair Treatment Standards: State's Attorneys Encouraged to Provide Child-Victims with Additional Services.</b></p> <p>In addition to all rights afforded to victims and witnesses by law, state's attorneys are encouraged to provide the following additional services to children who are involved in criminal proceedings as victims or witnesses:</p> <ol style="list-style-type: none"><li>1. Explanations, in language understood by the child, of all legal proceedings in which the child will be involved.</li><li>2. Advice to the court concerning the ability of a child witness to cooperate with the prosecution and the potential effects of the proceedings on the child.</li><li>3. Information about, and referrals to, appropriate social services programs to assist the child and the child's family members in coping with the emotional impact of the crime and the subsequent proceedings in which the child is involved.</li><li>4. Information about the availability of a child development specialist to ensure questions asked of the witness are chronologically and developmentally appropriate.</li></ol> <p> N.D. Cent. Code Ann. § 12.1-35-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."</p> <p> This provision applies to any criminal proceedings, including a deposition or other discovery proceeding. N.D. Cent. Code Ann. § 12.1-35-05.3.</p>	<p>N.D. Cent. Code Ann. § 12.1-35-02.</p>
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<p><b>Child-Victims' Right to Nondisclosure of Identifying Information.</b></p> <p>1. In order to protect the child from possible trauma resulting from publicity, the name of the child victim or child witness of a crime, except as specified in subsection 2, and identifying biographical information may not appear on the indictment or any other public record. Instead, a Jane Doe or Joe Doe designation must appear in all public records. Sealed confidential records containing the child's name and necessary biographical information must be kept in order to ensure that no defendant is charged twice.</p> <p>2. Interviews and statements of child victims or child witnesses obtained during an investigation of a crime of a violent or sexual nature are exempt.</p> <p>3. Subsection 1 does not apply to the name and identifying biographical information of:</p> <ul style="list-style-type: none"> <li>a. A child victim or child witness of a criminal offense under title 39 or equivalent ordinance; and</li> <li>b. A child victim of a fire.</li> </ul> <p> N.D. Cent. Code Ann. § 12.1-35-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."</p> <p> This provision applies to any criminal proceedings, including a deposition or other discovery proceeding. N.D. Cent. Code Ann. § 12.1-35-05.3.</p> <p> N.D. Const. art. I, § 25(1)(e) provides that, beginning at the time of their victimization, victims have the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family, or which could disclose confidential or privileged information about the victim, and to be notified of any request for such information or records. This provision is included above.</p>	<p>N.D. Cent. Code Ann. § 12.1-35-03.</p>
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<p> N.D. Const. art. I, § 25(1)(f) provides that, beginning at the time of their victimization, victims have the right to privacy. This provision is included above.</p> <p> Title 39 of the North Dakota Code governs offenses involving motor vehicles.</p>	
<p><b>Child-Victims' Right to Limits on Interviews and Testimony.</b></p> <p>The prosecuting attorney, the court, and appropriate law enforcement personnel, to the extent possible, shall protect the [child] victim or witness from the psychological damage of repeated or lengthy interview, testimony, or discovery proceedings while preserving the rights of the public, the victim, and the person charged with the violation.</p> <p> N.D. Cent. Code Ann. § 12.1-35-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."</p> <p> This provision applies to any criminal proceedings, including a deposition or other discovery proceeding. N.D. Cent. Code Ann. § 12.1-35-05.3.</p> <p> N.D. Const. art. I, § 25(1)(f) provides that, beginning at the time of their victimization, victims have the right to privacy, which includes the right to refuse an interview, deposition, or other discovery request made by the defendant, the defendant's attorney, or any person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interaction to which the victim consents. This provision is included above.</p>	<p>N.D. Cent. Code Ann. § 12.1-35-04.</p>



<p><b>Child-Victims' Right to Prompt Disposition.</b></p> <p>In all criminal cases and juvenile proceedings involving a child victim or witness, the court and the state's attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement in the proceedings. In ruling on any motion or other request for a delay or a continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.</p> <p> N.D. Cent. Code Ann. § 12.1-35-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."</p> <p> N.D. Const. art. I, § 25(1)(o) provides that, beginning at the time of their victimization, victims have the right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related post-judgment proceedings. This provision is included above.</p>	<p>N.D. Cent. Code Ann. § 12.1-35-05.</p>
<p><b>Certain Child-Victims' Right to Support Person Presence During Proceedings; Courts' Discretion to Permit Support Person Presence Where Victim-Witness is Fourteen Years of Age or Older.</b></p> <p>Upon request of a witness who is under the age of fourteen, the court shall permit an individual selected by the court to sit with, accompany, or be in close proximity to the witness in order to provide support to the witness while that witness is giving testimony. In order to provide support to a witness who is fourteen years of age or older, while that witness is giving testimony, the court may permit an individual selected by the court to sit with, accompany, or be in close proximity to that witness.</p>	<p>N.D. Cent. Code Ann. § 12.1-35-05.1.</p>

<p> N.D. Cent. Code Ann. § 12.1-35-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> This provision applies to any criminal proceedings, including a deposition or other discovery proceeding. N.D. Cent. Code Ann. § 12.1-35-05.3.</p> <p> N.D. Cent. Code Ann. § 12.1-34-02(19) affords child-victims the right to support person presence in juvenile proceedings. 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</p>	
<p><b>Child Sex Offense Victims’ Right to Testimony in Closed Proceedings.</b></p> <p>In any criminal proceeding in which the defendant is charged with a violation of chapter 12.1-20 involving a child, the court, upon the motion of the prosecuting attorney, shall conduct a hearing to determine whether the testimony of and relating to a child may be closed to the public in order to protect the child’s reputation. In making the determination to close the proceedings, the court shall consider:</p> <ol style="list-style-type: none"> <li>1. The nature and seriousness of the offense;</li> <li>2. The age of the child;</li> <li>3. The extent to which the size of the community would preclude the anonymity of the victim;</li> <li>4. The likelihood of public opprobrium due to the status of the victim;</li> </ol>	<p>N.D. Cent. Code Ann. § 12.1-35-05.2.</p>

<p>5. Whether the prosecution has demonstrated a substantial probability that the identity of the witness would otherwise be disclosed to the public during the proceeding and that the disclosure would cause serious harm to the witness;</p> <p>6. Whether the witness has disclosed information concerning the case to the public through press conferences, public meetings, or other means; and</p> <p>7. Any other factor the court may find necessary to protect the interests of justice.</p> <p> N.D. Cent. Code Ann. § 12.1-35-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(f) provides that, beginning at the time of their victimization, victims have the right to privacy. This provision is included above.</p>	
<p><b>Child-Victims Fair Treatment Standards Apply to Any Criminal Proceedings, Including Discovery Proceedings.</b></p> <p>This chapter applies to any criminal proceeding, including a deposition or other discovery proceeding.</p>	<p>N.D. Cent. Code Ann. § 12.1-35-05.3.</p>
<p><b>No Cause of Action for Damages or Injunctive Relief Under Child-Victims’ Fair Treatment Standards.</b></p> <p>Nothing in this chapter may be construed as creating a cause of action for money damages or injunctive relief against the state, county, municipality, or any of their agencies, instrumentalities, or employees. Furthermore, the failure to provide a right, privilege, or notice to a child victim or witness under this chapter is not grounds for the defendant to seek</p>	<p>N.D. Cent. Code Ann. § 12.1-35-06.</p>

<p>to have the conviction or sentence set aside. This chapter does not limit any rights to which child victims and witnesses of crime are otherwise entitled.</p> <p> N.D. Cent. Code Ann. § 12.1-35-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p>	
<p><b>Disorderly Conduct Victims’ Right to Seek Restraining Orders; State’s Attorneys’ Assistance in Preparing Documents to Secure Restraining Orders.</b></p> <p>2. A person who is a victim of disorderly conduct or the parent or guardian of a minor who is a victim of disorderly conduct may seek a disorderly conduct restraining order from any court of competent jurisdiction in the manner provided in this section.</p> <p>3. A petition for relief must allege facts sufficient to show the name of the alleged victim, the name of the individual engaging in the disorderly conduct, and that the individual engaged in disorderly conduct. An affidavit made under oath stating the specific facts and circumstances supporting the relief sought must accompany the petition.</p> <p>4. If the petition for relief alleges reasonable grounds to believe that an individual has engaged in disorderly conduct, the court, pending a full hearing, may grant a temporary disorderly conduct restraining order ordering the individual to cease or avoid the disorderly conduct or to have no contact with the person requesting the order. A temporary restraining order may be entered only against the individual named in the petition. The court may issue the temporary restraining order without giving notice to the respondent. Unless otherwise terminated by the court, the temporary restraining order is in effect until a restraining order issued under subsection 5 is served.</p> <p>5. The court may grant a disorderly conduct restraining order ordering the respondent to cease or avoid the disorderly conduct or to have no contact with the applicant if:</p> <p>a. A person files a petition under subsection 3;</p>	<p>N.D. Cent. Code Ann. § 12.1-31.2-01(2)–(9).</p>

b. The sheriff serves the respondent with a copy of the temporary restraining order issued under subsection 4 and with notice of the time and place of the hearing;

c. The court sets a hearing for not later than fourteen days after issuance of the temporary restraining order or at a later date if good cause is shown; and

d. The court finds after the hearing that there are reasonable grounds to believe that the respondent has engaged in disorderly conduct. If a person claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.

6. A restraining order may be issued only against the individual named in the petition. Relief granted by the restraining order may not exceed a period of two years. The restraining order may be served on the respondent by publication pursuant to rule 4 of the North Dakota Rules of Civil Procedure.

7. A disorderly conduct restraining order must contain a conspicuous notice to the respondent providing:


a. The specific conduct that constitutes a violation of the order;

b. Notice that violation of the restraining order is a class A misdemeanor punishable by imprisonment of up to three hundred sixty days or a fine of up to three thousand dollars or both; and

c. Notice that a peace officer may arrest the respondent without a warrant and take the respondent into custody if the peace officer has probable cause to believe the respondent has violated an order issued under this section.

8. If the respondent knows of an order issued under subsection 4 or 5, violation of the order is a class A misdemeanor. If the existence of an order issued under subsection 3 or 4 can be verified by a peace officer, the officer, without a warrant, may arrest and take into custody an individual whom the peace officer has probable cause to believe has violated the order.

9. Whenever a restraining order is issued, extended, modified, or terminated under this section, the court shall transmit the order electronically to the bureau. Unless the order is a temporary order under subsection 4, the bureau shall enter the order electronically in the

<p>national crime information center database provided by the federal bureau of investigation, or its successor agency. The sheriff of the county in which the order was issued shall maintain and respond to inquiries regarding the order in the national crime information center database provided by the federal bureau of investigation, or its successor agency, pursuant to bureau and federal requirements. Whenever a restraining order is issued, the clerk of court shall forward a copy of the order to the local law enforcement agency with jurisdiction over the residence of the protected party by the close of business on the day the restraining order is issued. Once the bureau, after consultation with the state court administrator, determines and implements an electronic method to notify the sheriff of the county that issued the order, the clerk of court's requirement to forward the order to a law enforcement agency will be satisfied.</p> <p>10. Notwithstanding subsection 5 of section 11-16-05, a state's attorney may advise and assist any person in the preparation of documents necessary to secure a restraining order under this section.</p> <p>11. Fees for filing and service of process may not be charged to the petitioner in any proceeding seeking relief due to domestic violence under this chapter.</p> <p> N.D. Cent. Code Ann. § 12.1-31.2-01 defines "disorderly conduct" for the purposes of this provision. This definition is included above in the section "Select Definitions."</p>	
<p><b>Certain Victims' Right to Have Court Consider Issuance of No Contact Order When Charged or Arrested Individual Released from Custody Before Arraignment or Trial.</b></p> <p>1. If an individual who is charged with or arrested for a crime of violence or threat of violence, stalking, harassment, or a sex offense is released from custody before arraignment or trial, the court authorizing the release of the individual shall consider and may issue an order prohibiting the individual from having contact with the victim. The order must contain the court's directives and must inform the individual that any violation of the order constitutes a criminal offense. The state's attorney shall provide a copy of the order to the</p>	<p>N.D. Cent. Code Ann. § 12.1-31.2-02.</p>

victim. The court shall determine at the time of the individual's arraignment whether an order issued pursuant to this section will be extended. If the court issues an order pursuant to this section before the time the individual is charged, the order expires at the individual's arraignment or within seventy-two hours of issuance if charges against the individual are not filed.

2. If the court has probable cause to believe that the individual charged or arrested is likely to use, display, or threaten to use a firearm or dangerous weapon as defined in section 12.1-01-04 in any further act of violence, the court shall require that the individual surrender for safekeeping any firearm or specified dangerous weapon in or subject to the individual's immediate possession or control, to the sheriff of the county or chief of police of the city in which the individual resides.

3. Whenever an order prohibiting contact is issued, modified, extended, or terminated under this section, the clerk of court shall forward a copy of the order within one business day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency shall enter the order in the central warrant information system and the national crime information center database provided by the federal bureau of investigation, or its successor agency.

a. Once the bureau, after consultation with the state court administrator, determines and implements a method to transmit electronically to the bureau an order prohibiting contact, the court electronically shall send the full text of the order as issued, modified, extended, or terminated in accordance with this section and any data fields identified by the bureau. This electronic submission will fulfill the law enforcement agency's requirement to enter the order in the central warrant information system, but will not fulfill its requirement to enter, maintain, and respond to inquiries regarding the order in the national crime information center database provided by the federal bureau of investigation, or its successor agency.

b. Once the bureau, after consultation with the state court administrator, determines and implements an electronic method to notify law enforcement about the order, the clerk of court's requirement to forward the order to the law enforcement agency will be satisfied.

c. Once the bureau, after consultation with the director of state radio, determines and implements a method to enter the order into the national crime information center database

<p>provided by the federal bureau of investigation, or its successor agency, the bureau shall enter the order electronically in the national crime information center database provided by the federal bureau of investigation, or its successor agency. This electronic entry will fulfill the law enforcement agency's requirement to enter the order in the national crime information center database provided by the federal bureau of investigation, or its successor agency, but will not fulfill its requirement to maintain and respond to inquiries regarding the order in the national crime information center database provided by the federal bureau of investigation, or its successor agency.</p> <p>4. An individual who violates a court order issued under this section is guilty of a class A misdemeanor.</p> <p>5. A law enforcement officer shall arrest an individual without a warrant if the officer determines there is probable cause that the individual has committed the offense of violating an order prohibiting contact under this section, whether or not the violation was committed in the presence of the officer. A law enforcement officer who acts in good faith on probable cause and without malice is immune from any civil or criminal liability for making an arrest under this subsection.</p>	
<p><b>Victims' Right to Restitution.</b></p> <p>1. Before imposing restitution or reparation as a sentence or condition of probation, the court shall hold a hearing on the matter with notice to the prosecuting attorney and to the defendant as to the nature and amount of restitution. The court, when sentencing a person adjudged guilty of criminal activities that have resulted in pecuniary damages, in addition to any other sentence the court may impose, shall order that the defendant make restitution to the victim or other recipient as determined by the court. Restitution must include payment to the owner of real property that is contaminated by the defendant in the manufacturing of methamphetamine for the cost of removing the contamination and returning the property to the property's condition before contamination and to any other person that has incurred costs in decontaminating the property. In determining the amount of restitution, the court shall</p>	<p>N.D. Cent. Code Ann. § 12.1-32-08.</p>






take into account the reasonable damages sustained by the victim or victims of the criminal offense, which damages are limited to those directly related to the criminal offense and expenses actually incurred as a direct result of the defendant's criminal action. This can include an amount equal to the cost of necessary and related professional services and devices relating to physical, psychiatric, and psychological care. The defendant may be required as part of the sentence imposed by the court to pay the prescribed treatment costs for a victim of a sexual offense as defined in chapters 12.1-20 and 12.1-27.2. The court shall fix the amount of restitution or reparation and shall fix the manner of performance of any condition or conditions of probation established pursuant to this subsection. The court shall order restitution be paid to the division of adult services for any benefits the division has paid or may pay under chapter 54-23.4 unless the court, on the record, directs otherwise. Any payments made pursuant to the order must be deducted from damages awarded in a civil action arising from the same incident. An order that a defendant make restitution or reparation as a sentence or condition of probation may, unless the court directs otherwise, be filed without filing fee, transcribed, and enforced by the person entitled to the restitution or reparation or by the division of adult services in the same manner as civil judgments rendered by the courts of this state may be enforced. Upon thirty days' written notice to the victim's last known address, the court may order the judgment imposing a duty to pay restitution or reparation be docketed in the same manner as a civil judgment under section 29-26-22.1.




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3. The court may order the defendant to perform reasonable assigned work as a condition of probation, which assigned work need not be related to the offense charged, but must not be solely for the benefit of a private individual other than the victim.



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5. If the court finds that the defendant is unable to pay a fine, supervision fee, reimbursement for indigent defense costs and expenses, or restitution or reparations, the court may order the defendant to perform reasonable assigned work in lieu of all or part of a fine, a supervision





<p>fee, reimbursement for indigent defense costs and expenses, or restitution or reparations. The defendant may not perform reasonable assigned work in lieu of restitution or reparations unless the person entitled to restitution or reparations has consented in writing or on the record.</p> <p> N.D. Const. art. I, § 25(1)(n) provides that victims have the right to full and timely restitution in every case and from each offender for all losses suffered by the victim as a result of the criminal or delinquent conduct. All monies and property collected from any person who has been ordered to make restitution shall be first applied to the restitution owed to the victim before paying any amounts owed to the government. This provision is included above.</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> 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><b>Right of Victims of Human Trafficking to Restitution.</b></p> <p>1. The court shall order a person convicted of an offense under section 12.1-41-02, 12.1-41-03, or 12.1-41-04 to pay restitution to the victim of the offense for:</p> <ul style="list-style-type: none"> <li>a. Expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including reasonable attorney's fees and costs; and</li> <li>b. An amount equal to the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim:</li> </ul>	<p>N.D. Cent. Code Ann. § 12.1-41-09.</p>

<p>(1) The gross income to the defendant for, or the value to the defendant of, the victim’s labor or services or sexual activity;</p> <p>(2) The amount the defendant contracted to pay the victim; or</p> <p>(3) The value of the victim’s labor or services or sexual activity, calculated under the minimum wage and overtime provisions of the Fair Labor Standards Act, [29 U.S.C. 201 et seq.] or section 34-06-22, whichever is higher, even if the provisions do not apply to the victim’s labor or services or sexual activity.</p> <p>2. The court shall order restitution under subsection 1 even if the victim is unavailable to accept payment of restitution.</p> <p>3. If the victim does not claim restitution ordered under subsection 1 for five years after entry of the order, the restitution must be paid to the crime victims restitution and gift fund under section 54-23.4-05.</p> <p> N.D. Cent. Code Ann. § 12.1-41-01(12) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(n) provides that victims have the right to full and timely restitution in every case and from each offender for all losses suffered by the victim as a result of the criminal or delinquent conduct. All monies and property collected from any person who has been ordered to make restitution shall be first applied to the restitution owed to the victim before paying any amounts owed to the government. This provision is included above.</p> <p> N.D. Cent. Code Ann. § 12.1-32-08 is the general statutory provision addressing victims’ right to restitution. This provision is included above.</p>	
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<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> 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><b>Right of Victims of Human Trafficking and Their Family to Confidentiality.</b></p> <p>In an investigation of or a prosecution for an offense under this chapter, a law enforcement agency and state’s attorney shall keep confidential the identity, pictures, and images of the alleged victim and the family of the alleged victim, except to the extent that disclosure is:</p> <ol style="list-style-type: none"> <li>1. Necessary for the purpose of investigation or prosecution;</li> <li>2. Required by law or court order; or</li> <li>3. Necessary to ensure provision of services or benefits for the victim or the victim’s family.</li> </ol> <p> N.D. Cent. Code Ann. § 12.1-41-01(12) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(e) provides that, beginning at the time of their victimization, victims have the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family, or which could disclose confidential or privileged information about the victim, and to be notified of any request for such information or records. This provision is included above.</p>	<p>N.D. Cent. Code Ann. § 12.1-41-10.</p>

<p> N.D. Const. art. I, § 25(1)(f) provides that, beginning at the time of their victimization, victims have the right to privacy. This provision is included above.</p> <p> A promising practice is to have a policy in place to establish what constitutes “necessary for the purpose of investigation or prosecution” and “necessary to ensure provision of services or benefits” and to clearly explain all parameters to victims.</p>	
<p><b>Right of Victims of Human Trafficking to Access Services and Information About Available Services, Regardless of Immigration Status.</b></p> <ol style="list-style-type: none"> <li>1. A victim is eligible for a benefit or service available through the state, including compensation under chapter 54-23.4, regardless of immigration status.</li> <li>2. A minor who has engaged in commercial sexual activity is eligible for a benefit or service available through the state, regardless of immigration status.</li> <li>3. As soon as practicable after a first encounter with an individual who reasonably appears to law enforcement to be a victim or a minor who has engaged in commercial sexual activity, the law enforcement agency shall notify the victim services division of the department of corrections and rehabilitation that the individual may be eligible for a benefit or service under the law of this state.</li> </ol> <p>&lt;Text of subsec. 4 effective until Sept. 1, 2022.&gt;</p> <p>4. For purposes of this section, “a benefit or service available through the state” does not include a benefit or service of a program administered by the department of human services using federal or special funds, if the victim or minor does not meet program eligibility requirements including an eligibility requirement that is based on immigration status.</p> <p>&lt;Text of subsec. 4 effective Sept. 1, 2022.&gt;</p>	<p>N.D. Cent. Code Ann. § 12.1-41-17.</p>

<p>4. For purposes of this section, “a benefit or service available through the state” does not include a benefit or service of a program administered by the department of health and human services using federal or special funds, if the victim or minor does not meet program eligibility requirements including an eligibility requirement that is based on immigration status.</p> <p> N.D. Cent. Code Ann. § 12.1-41-01(12) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy and procedure defining “[a]s soon as practicable after a first encounter”, as well as 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>Obligation of Law Enforcement to Complete and Provide Immigration-Related Documentation for Victims of Human Trafficking.</b></p> <p>1. On request from an individual whom a law enforcement officer reasonably believes is a victim who is or has been subjected to a severe form of trafficking or criminal offense required for the individual to qualify for a nonimmigrant T or U visa under 8 U.S.C. 1101(a)(15)(T) or 8 U.S.C. 1101(a)(15)(U), or for continued presence under 22 U.S.C. 7105(c)(3), the law enforcement officer, as soon as practicable after receiving the request, shall complete, sign, and give to the individual the form I-914B or form I-918B provided by the United States citizenship and immigration services on its internet website and ask a federal law enforcement officer to request continued presence.</p> <p>2. If the law enforcement agency determines that an individual does not meet the requirements for the law enforcement agency to comply with subsection 1, the law enforcement agency shall inform the individual of the reason and that the individual may</p>	<p>N.D. Cent. Code Ann. § 12.1-41-18.</p>

<p>make another request under subsection 1 and submit additional evidence satisfying the requirements.</p> <p> N.D. Cent. Code Ann. § 12.1-41-01(12) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy in place to define what constitutes “as soon as practicable” so that this information can be communicated to victims.</p>	
<p><b>Right of Human Trafficking Victims to Advance Notice of Investigatory Contact in Cases Involving Forced or Coerced Abortion.</b></p> <p>Upon the request of the victim, a law enforcement agency investigating a violation of this section shall notify the victim not less than twenty-four hours before initially contacting the individual alleged to have committed a violation of this section.</p> <p> N.D. Cent. Code Ann. § 12.1-41-01(12) defines the term “victim” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	<p>N.D. Cent. Code Ann. § 12.1-41-21(3).</p>
<p><b>Domestic Violence Victims’ Rights Regarding Actions for Protective Orders.</b></p> <p>1. An action for a protection order commenced by a verified application alleging the existence of domestic violence may be brought in district court by any family or household member or by any other person if the court determines that the relationship between that</p>	<p>N.D. Cent. Code Ann. § 14-07.1-02.</p>

person and the alleged abusing person is sufficient to warrant the issuance of a domestic violence protection order. An action may be brought under this section, regardless of whether a petition for legal separation, annulment, or divorce has been filed.

2. Upon receipt of the application, the court shall order a hearing to be held not later than fourteen days from the date of the hearing order, or at a later date if good cause is shown.
3. Service must be made upon the respondent at least five days prior to the hearing. If service cannot be made, the court may set a new date.
4. Upon a showing of actual or imminent domestic violence, the court may enter a protection order after due notice and full hearing. The relief provided by the court may include any or all of the following:
  - a. Restraining any party from threatening, molesting, injuring, harassing, or having contact with any other person.
  - b. Excluding either the respondent or any person with whom the respondent lives from the dwelling they share, from the residence of another person against whom the domestic violence is occurring, or from a domestic violence care facility, if this exclusion is necessary to the physical or mental well-being of the applicant or others.
  - c. Awarding temporary custody or establishing temporary visitation rights with regard to minor children.
  - d. Recommending or requiring that either or both parties undergo counseling with a domestic violence program or other agency that provides professional services that the court deems appropriate. The court may request a report from the designated agency within a time period established by the court. The costs of the court-ordered initial counseling assessment and subsequent reports must be borne by the parties or, if indigent, by the respondent's county of residence.
  - e. Requiring a party to pay such support as may be necessary for the support of a party and any minor children of the parties and reasonable attorney's fees and costs.
  - f. Awarding temporary use of personal property, including motor vehicles, to either party.
  - g. Requiring the respondent to surrender for safekeeping any firearm or other specified dangerous weapon, as defined in section 12.1-01-04, in the respondent's immediate



possession or control or subject to the respondent's immediate control, if the court has probable cause to believe that the respondent is likely to use, display, or threaten to use the firearm or other dangerous weapon in any further acts of violence. If so ordered, the respondent shall surrender the firearm or other dangerous weapon to the sheriff, or the sheriff's designee, of the county in which the respondent resides or to the chief of police, or the chief's designee, of the city in which the respondent resides in the manner and at the time and place determined by that law enforcement officer. If the firearm or other dangerous weapon is not surrendered, the law enforcement officer may arrest the respondent pursuant to section 14-07.1-11 and take possession of the firearm or other dangerous weapon.


5. A court of competent jurisdiction may issue a dual protection order restricting both parties involved in a domestic violence dispute if each party has commenced an action pursuant to subsection 1 and the court, after a hearing, has made specific written findings of fact that both parties committed acts of domestic violence and that neither party acted in self-defense. The order must clearly define the responsibilities and restrictions placed upon each party so that a law enforcement officer may readily determine which party has violated the order if a violation is alleged to have occurred.

6. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

7. No order or agreement under this section affects title to any real property in any matter.

8. The petition for an order for protection must contain a statement listing each civil or criminal action involving both parties.

9. Upon the application of an individual residing within the state, a court may issue a domestic violence protection order or an ex parte temporary protection order under this chapter even though the actions constituting domestic violence occurred exclusively outside the state. In these cases, a respondent is subject to the personal jurisdiction of this state upon entry into this state. If the domestic violence justifying the issuance of a protection order under this chapter occurred exclusively outside the state, the relief that may be granted is

<p>limited to an order restraining the party from having contact with or committing acts of domestic violence on another person in this state.</p> <p>10. Whenever a protection order is issued, extended, modified, or terminated under this section, the court shall transmit the order electronically to the bureau. The bureau shall enter the order electronically in the national crime information center database provided by the federal bureau of investigation, or its successor agency. The sheriff of the county in which the order was issued shall maintain and respond to inquiries regarding the record in the national crime information center database provided by the federal bureau of investigation, or its successor agency, pursuant to bureau and federal requirements. Whenever a protection order is issued, the clerk of court shall forward a copy of the order to the local law enforcement agency with jurisdiction over the residence of the protected party by the close of business on the day the protection order is issued. Once the bureau, after consultation with the state court administrator, determines and implements an electronic method to notify the sheriff of the county that issued the order, the clerk of court's requirement to forward the order to a law enforcement agency will be satisfied.</p> <p> N.D. Cent. Code Ann. § 14-07.1-01 defines the terms used in this provision. These definitions are included above in the section "Select Definitions."</p>	
<p><b>Domestic Violence Victims' Rights Regarding Applications for Temporary Protective Orders.</b></p> <p>1. If an application under section 14-07.1-02 alleges an immediate and present danger of domestic violence to the applicant, based upon an allegation of a recent incident of actual domestic violence, the court may grant an ex parte temporary protection order, pending a full hearing, granting such relief as the court deems proper.</p> <p>2. An ex parte temporary protection order may include:</p> <p>a. Restraining any party from having contact with or committing acts of domestic violence on another person.</p>	<p>N.D. Cent. Code Ann. § 14-07.1-02.</p>

b. Excluding the respondent or any person with whom the respondent lives from the dwelling they share, from the residence of another person, or from a domestic violence shelter care facility.





c. Awarding temporary custody or establishing temporary visitation rights with regard to minor children.



d. Requiring the respondent to surrender for safekeeping any firearm or other specified dangerous weapon, as defined in section 12.1-01-04, in the respondent's immediate possession or control or subject to the respondent's immediate control, if the court has probable cause to believe that the respondent is likely to use, display, or threaten to use the firearm or other dangerous weapon in any further acts of violence. If so ordered, the respondent shall surrender the firearm or other dangerous weapon to the sheriff, or the sheriff's designee, of the county in which the respondent resides or the chief of police, or the chief's designee, of the city in which the respondent resides.

3. Unless otherwise terminated by the court, an ex parte temporary protection order remains in effect until an order issued under section 14-07.1-02 is served.




4. A full hearing as provided by section 14-07.1-02 must be set for not later than fourteen days from the issuance of the temporary order, or at a later date if good cause is shown. The respondent must be served forthwith with a copy of the ex parte order along with a copy of the application and notice of the date set for the hearing.



5. Whenever a temporary protection order is issued, extended, modified, or terminated under this section, the court shall transmit the order electronically to the bureau. Whenever a temporary protection order is issued, the clerk of court shall forward a copy of the order to the local law enforcement agency with jurisdiction over the residence of the protected party by the close of business on the day the order is issued. Once the bureau, after consultation with the state court administrator, determines and implements an electronic method to notify the sheriff of the county that issued the order, the clerk of court's requirement to forward the order will be satisfied.

<p>6. Fees for filing and service of process may not be assessed to the petitioner for any proceeding seeking relief under chapter 14-07.1.</p> <p> N.D. Cent. Code Ann. § 14-07.1-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Cent. Code Ann. § 14-07.1-08 governs emergency relief through an ex parte proceeding. This provision is included below.</p>	
<p><b>Domestic Violence Victims’ Right to Assistance of Law Enforcement in Placing Victim in Possession of Dwelling or Residence, Service or Execution of Protection Order, and Referrals to Domestic Violence Shelters.</b></p> <p>When an order is issued upon request of the applicant under section 14-07.1-02 or 14-07.1-03, the court shall order the sheriff or other appropriate law enforcement officer to accompany the applicant and assist in placing the applicant in possession of the dwelling or residence, or otherwise assist in execution or service of the protection order, which may include assistance in referral to a domestic violence shelter care facility.</p> <p> N.D. Cent. Code Ann. § 14-07.1-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Cent. Code Ann. § 14-07.1-02 governs actions for protective orders and N.D. Cent. Code Ann. § 14-07.1-03 governs applications for temporary protective orders. These provisions are included above.</p>	<p>N.D. Cent. Code Ann. § 14-07.1-04.</p>




<p><b>Domestic Violence Victims' Right to Apply for Emergency Relief.</b></p> <p>When the court is unavailable an application may be filed before a local magistrate, as defined by subsection 3 of section 29-01-14, who may grant relief in accordance with section 14-07.1-03, upon good cause shown in an ex parte proceeding, if it is deemed necessary to protect the applicant or others from domestic violence. Immediate and present danger of domestic violence to the applicant or others constitutes good cause for purposes of this section. Any order issued under this section expires seventy-two hours after its issuance, unless continued by the court, or the local magistrate in the event of continuing unavailability of the court. At that time, the applicant may seek a temporary order from the court. Any order issued under this section and any documentation in support of the order must be immediately certified to the court. The certification to the court has the effect of commencing proceedings under section 14-07.1-02.</p> <p> N.D. Cent. Code Ann. § 14-07.1-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Cent. Code Ann. § 14-07.1-02 governs actions for protective orders and N.D. Cent. Code Ann. § 14-07.1-03 governs applications for temporary protective orders. These provisions are included above.</p>	<p>N.D. Cent. Code Ann. § 14-07.1-08.</p>
<p><b>Law Enforcement's Obligation to Make Written Report of Domestic Violence Investigation and Allegations Regardless of Arrest.</b></p> <p>A law enforcement officer shall make a written report of the investigation of any allegation of domestic violence regardless of whether an arrest was made. If an officer determines through the course of an investigation that one of the individuals was the predominant aggressor, the report must include the name of that individual and a description of the evidence that supports the findings. The officer shall submit the report to the officer's</p>	<p>N.D. Cent. Code Ann. § 14-07.1-12.</p>

<p>supervisor or to any other person to whom the officer is required to submit similar reports.</p>	
<p><b>Confidentiality of Domestic Violence and Sexual Assault Program Records.</b></p> <p>1. All agents, employees, and volunteers participating in a domestic violence or sexual assault program shall maintain the confidentiality of the:</p> <ul style="list-style-type: none"> <li>a. Address, telephone number, and other identifying information of a safe home, and place of emergency safe housing;</li> <li>b. Name, address, telephone number, personally identifying information, and case file or history of any client receiving services from a domestic violence or sexual assault program; and</li> <li>c. Name, address, telephone number, and other identifying information of an agent, employee, or volunteer providing services under a domestic violence or sexual assault program.</li> </ul> <p>2. The information described in subsection 1 is not subject to section 44-04-18 and may not be disclosed unless:</p> <ul style="list-style-type: none"> <li>a. A client consents to the release of information that relates only to that client or the client's dependents;</li> <li>b. The agent, employee, or volunteer operating a domestic violence or sexual assault program determines the disclosure of the information necessary for the efficient and safe operation of a domestic violence or sexual assault program; or for the protection of the safety of an employee, agent, volunteer, or client of a domestic violence or sexual assault program; or for the protection of a third party reasonably thought to be in need of protection;</li> <li>c. A court of competent jurisdiction orders the disclosure after an in camera review and a written finding by the court that the information directly and specifically relates to a determination of child abuse and neglect under chapter 50-25.1 or termination of parental rights under sections 14-15-19, 27-20.3-20, 27-20.3-21, 27-20.3-22, 27-20.3-23, and 27-20.3-24; or</li> </ul>	<p>N.D. Cent. Code Ann. § 14-07.1-18.</p>

<p>d. An agent, employee, or volunteer working with a domestic violence or sexual assault program has knowledge or reasonable cause to suspect a child has been abused or neglected as defined by section 50-25.1-02.</p> <p>3. The address, telephone number, and other identifying information of a shelter are exempt records as defined in section 44-04-17.1.</p> <p>4. Any person who violates this section is guilty of an infraction.</p> <p> N.D. Cent. Code Ann. § 14-07.1-01 defines the terms used in this provision. These definitions are included above in the section “Select Definitions.”</p> <p> N.D. Const. art. I, § 25(1)(e) provides that, beginning at the time of their victimization, victims have the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family, or which could disclose confidential or privileged information about the victim, and to be notified of any request for such information or records.</p> <p> N.D. Const. art. I, § 25(1)(f) provides that, beginning at the time of their victimization, victims have the right to privacy. This provision is included above.</p>	
<p><b>Right of Victims of Domestic Violence or Disorderly Conduct Who Have Obtained Protective Orders to the Nondisclosure of Their Name Change and Other Identifying Information in Voter Registration.</b></p> <p>The state court administrator shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by divorce or any order or decree of the court since the last report. Any individual who has obtained a protection order under</p>	<p>N.D. Cent. Code Ann. § 16.1-02-07.</p>

<p>section 14-07.1-03 or who is protected by a disorderly conduct restraining order under section 12.1-31.2-01 must be listed in the central voter file with a “secured active” designation. A “secured active” designation means a record maintained as an active voter for pollbook purposes, but otherwise is an exempt record. The state court administrator or the bureau of criminal investigation shall make available upon request of the secretary of state the name of each individual who has obtained such an order.</p> <p> N.D. Cent. Code Ann. § 14-07.1-03 governs domestic violence protective orders and N.D. Cent. Code Ann. § 12.1-31.2-01 governs disorderly conduct restraining orders. Both of these provisions are included above.</p>	
<p><b>Victims’ Right to Request Redaction of Contact Information from Court Filings.</b></p> <p>Redacted Filings.</p> <p>(1) <i>In General.</i> Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual’s social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, a financial-account number, a party or nonparty making the filing must include only:</p> <ul style="list-style-type: none"> <li>(A) the last four digits of the social-security number and taxpayer-identification number;</li> <li>(B) the year of the individual’s birth;</li> <li>(C) the minor’s initials; and</li> <li>(D) the last four digits of the financial-account number.</li> </ul> <p>(2) <i>Victim Information.</i> If a victim requests, all victim contact information must be redacted from documents to be filed with the court in a criminal or delinquency case.</p> <p> N.D. Const. art. I, § 25(1)(e) provides that, beginning at the time of their victimization, victims have the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim’s family, or which could disclose confidential or</p>	<p>N.D. R. Ct. 3.4(a).</p>



<p>privileged information about the victim, and to be notified of any request for such information or records. This provision is included above.</p> <p> N.D. Const. art. I, § 25(1)(f) provides that, beginning at the time of their victimization, victims have the right to privacy. 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.</p> <p> To ensure compliance with this law, a promising practice is to have policies and procedures in place to ensure that victims’ locating and identifying information (e.g., dates of birth, social security numbers, official state or government issued driver licenses, official state or government issued identification numbers, addresses, telephone numbers, e-mail addresses and name or location of employment) is redacted when law enforcement compiles or reports victim information.</p>	
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