

Select Victims' Rights – Vermont

USING THIS RESOURCE

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

The following icons are used throughout this resource to highlight key moments for the user.



= Promising Practices: As used in this *Guide*, the “promising practices” indicator highlights procedures, methods or techniques, grounded in victim-centered and trauma-informed research and experience, that afford victims meaningful rights in the justice system.



= Take Note: As used in this *Guide*, the “take note” indicator provides context for the law cited or discussed. For example, if a law has a particularly narrow application or does not explicitly prohibit an action the “take note” indicator is used to highlight or provide clarity around the law.

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

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¹ This table of contents and index of rights provides specific page references for many of the victims' rights laws contained within this *Guide*. The referenced laws are often narrower in scope than the broader rights identified in the index and may contain components of multiple core rights. Not all of the laws contained within this *Guide* are referenced in the table of contents and index; therefore, it is recommended that this document be reviewed in full.

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<p>SELECT DEFINITIONS</p>	<p>Vermont Statutes and Rules</p>
<p>Crime Victims' Rights Definitions.</p> <p>As used in this chapter:</p> <p>(1) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon a person convicted of a crime or against whom a finding of sufficient facts for conviction is made.</p> <p>(2) "Family member" means a spouse, child, sibling, parent, next of kin, domestic partner, or legal guardian of a victim.</p> <p>(3) "Restitution" means money or services that a court orders a defendant to pay or render to a victim as a part of the disposition.</p> <p>(4) "Victim" means a person who sustains physical, emotional, or financial injury or death as a direct result of the commission or attempted commission of a crime or act of delinquency and shall also include the family members of a minor, a person who has been found to be incompetent, or a homicide victim.</p> <p>(5) "Affected person" means any of the following persons who has requested notification in writing from the court or the Department of Corrections:</p> <p>(A) witnesses;</p> <p>(B) jurors;</p> <p>(C) family members who are not covered by subdivision (4) of this section;</p> <p>(D) any other persons who demonstrate to the court that the release or escape of a defendant will constitute a threat of physical, emotional, or financial injury or death.</p>	<p>Vt. Stat. Ann., tit. 13, § 5301.</p>

(6) "Release" means release from a correctional facility to furlough or to probation or parole supervision, release from a correctional facility upon expiration of sentence or release from a correctional facility on bail after the defendant's initial appearance.


(7) "Listed crime" means any of the following offenses:



- (A) stalking as defined in section 1062 of this title;
- (B) aggravated stalking as defined in subdivision 1063(b) of this title;
- (C) domestic assault as defined in section 1042 of this title;
- (D) first degree aggravated domestic assault as defined in section 1043 of this title;
- (E) second degree aggravated domestic assault as defined in section 1044 of this title;
- (F) sexual assault as defined in section 3252 of this title or its predecessor as it was defined in section 3201 or 3202 of this title;
- (G) aggravated sexual assault as defined in section 3253 of this title;
- (H) lewd or lascivious conduct as defined in section 2601 of this title;
- (I) lewd or lascivious conduct with a child as defined in section 2602 of this title;
- (J) murder as defined in section 2301 of this title;
- (K) aggravated murder as defined in section 2311 of this title;
- (L) manslaughter as defined in section 2304 of this title;
- (M) aggravated assault as defined in section 1024 of this title;
- (N) assault and robbery with a dangerous weapon as defined in subsection 608(b) of this title;
- (O) arson causing death as defined in section 501 of this title;
- (P) assault and robbery causing bodily injury as defined in subsection 608(c) of this title;
- (Q) maiming as defined in section 2701 of this title;
- (R) kidnapping as defined in section 2405 of this title or its predecessor as it was defined in section 2401 of this title;
- (S) unlawful restraint in the second degree as defined in section 2406 of this title;
- (T) unlawful restraint in the first degree as defined in section 2407 of this title;
- (U) recklessly endangering another person as defined in section 1025 of this title;
- (V) violation of abuse prevention order as defined in section 1030 of this title, excluding violation of an abuse prevention order issued pursuant to 15 V.S.A. § 1104 (emergency relief) or 33 V.S.A. § 6936 (emergency relief);

<p>(W) operating vehicle under the influence of alcohol or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(f) and (g); (X) negligent or grossly negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b); (Y) leaving the scene of an accident with serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c); (Z) burglary into an occupied dwelling as defined in subsection 1201(c) of this title; (AA) the attempt to commit any of the offenses listed in this section; (BB) abuse (section 1376 of this title), abuse by restraint (section 1377 of this title), neglect (section 1378 of this title), sexual abuse (section 1379 of this title), financial exploitation (section 1380 of this title), and exploitation of services (section 1381 of this title); (CC) aggravated sexual assault of a child in violation of section 3253a of this title; (DD) human trafficking in violation of section 2652 of this title; and (EE) aggravated human trafficking in violation of section 2653 of this title.</p> <p> These definitions apply to Vermont’s victims’ rights provisions, Vt. Stat. Ann., tit. 13, §§ 5301 through 5322. These statutory provisions are included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Abuse, Sexual Assault or Stalking Victims’ Housing-Related Rights Definitions.</p> <p>As used in this subchapter:</p> <p>(1) “Abuse” has the same meaning as in 15 V.S.A. § 1101.</p> <p>(2) “Protected tenant” means a tenant who is: (A) a victim of abuse, sexual assault, or stalking; (B) a parent, foster parent, legal guardian, or caretaker with at least partial physical custody of a victim of abuse, sexual assault, or stalking.</p> <p>(3) “Sexual assault” and “stalking” have the same meaning as in 12 V.S.A. § 5131.</p>	<p>Vt. Stat. Ann. tit. 9, § 4471.</p>


<p> These definitions apply to Vermont’s laws regarding housing discrimination and victims of domestic and sexual violence, Vt. Stat. Ann., tit. 9, §§ 4471 through 4475. Some of these statutory provisions are included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Crisis Worker-Victim Privilege Definitions.</p> <p>(1) “Crisis worker” means an employee or volunteer who:</p> <ul style="list-style-type: none"> (A) provides direct services to victims of abuse or sexual assault for a domestic violence program or sexual assault crisis program incorporated or organized for the purpose of providing assistance, counseling, or support services; (B) has undergone 20 hours of training; (C) works under the direction of a supervisor of the program, supervises employees or volunteers, or administers the program; and (D) is certified by the director of the program. <p>(2) A communication is “confidential” if not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of services to the victim or those reasonably necessary for the transmission of the communication.</p> <p> These definitions apply to the crisis worker-victim privilege, Vt. Stat. Ann., tit. 12, § 1614(b). Some of these statutory provisions are included below in the section “Select Crime Victims’ Rights.”</p>	<p>Vt. Stat. Ann. tit. 12, § 1614(a).</p>

<p>Stalking and Sexual Assault Protective Orders Definitions.</p> <p>As used in this chapter:</p> <p>(1)(A) “Course of conduct” means two or more acts over a period of time, however short, in which a person follows, monitors, surveils, threatens, or makes threats about another person, or interferes with another person’s property. This definition shall apply to acts conducted by the person directly or indirectly, and by any action, method, device, or means. Constitutionally protected activity is not included within the meaning of “course of conduct.”</p> <p>(B) As used in subdivision (A) of this subdivision (1), threaten shall not be construed to require an express or overt threat.</p> <p>(2) Repealed by 2015, Adj. Sess., No. 162, § 2, eff. July 1, 2016.</p> <p>(3) “Nonphysical contact” includes telephone calls, mail, e-mail, social media commentary or comment, or other electronic communication, fax, and written notes.</p> <p>(4) “Reasonable person” means a reasonable person in the victim’s circumstances.</p> <p>(5) “Sexually assaulted the plaintiff” means that the defendant engaged in conduct that meets elements of lewd and lascivious conduct as defined in 13 V.S.A. § 2601, lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602, sexual assault as defined in 13 V.S.A. § 3252, aggravated sexual assault as defined in 13 V.S.A. § 3253, use of a child in a sexual performance as defined in 13 V.S.A. § 2822, or consenting to a sexual performance as defined in 13 V.S.A. § 2823, and that the plaintiff was the victim of the offense.</p> <p>(6) “Stalk” means to engage purposefully in a course of conduct directed at a specific person that the person engaging in the conduct knows or should know would cause a reasonable person to:</p> <p>(A) fear for his or her safety or the safety of a family member; or</p>	<p>Vt. Stat. Ann. tit. 12, § 5131.</p>
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<p>(B) suffer substantial emotional distress as evidenced by: (i) a fear of unlawful sexual conduct, unlawful restraint, bodily injury, or death; or (ii) significant modifications in the person’s actions or routines, including moving from an established residence, changes to established daily routes to and from work that cause a serious disruption in the person’s life, changes to the person’s employment or work schedule, or the loss of a job or time from work.</p> <p>(7) “Stay away” means to refrain from knowingly: (A) initiating or maintaining a physical presence near the plaintiff; (B) engaging in nonphysical contact with the plaintiff directly or indirectly; or (C) engaging in nonphysical contact with the plaintiff through third parties who may or may not know of the order.</p> <p>(8) Repealed by 2015, Adj. Sess., No. 162, § 2, eff. July 1, 2016.</p> <p> These definitions apply to the statutes governing stalking and sexual assault protective orders, Vt. Stat. Ann., tit. 12, §§ 5131 through 5138. Some of these statutory provisions are included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Human Trafficking Victims’ Right to File a Motion to Vacate Conviction Definitions.</p> <p>As used in this section:</p> <p>(1) “Qualifying crime” means a criminal offense in this State that is not listed in 33 V.S.A. § 5204(a).</p> <p>(2) “Victim of human trafficking” means: (A) a victim of a violation of section 2652 or 2653 of this title; or (B) “a victim of a severe form of trafficking” as defined by 22 U.S.C. § 7102(14) (federal Trafficking Victims Protection Act).</p>	<p>Vt. Stat. Ann. tit. 13, § 2658(a).</p>




<p> These definitions apply to the statute governing a human trafficking victim’s motion to vacate their conviction, Vt. Stat. Ann. tit 13, § 2658. This statutory provision is included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Victims’ Right to Restitution Definition of “Material Loss”.</p> <p>(1) Restitution shall be considered in every case in which a victim of a crime, as defined in subdivision 5301(4) of this title, has suffered a material loss.</p> <p>(2) For purposes of this section, “material loss” means uninsured property loss, uninsured out-of-pocket monetary loss, uninsured lost wages, and uninsured medical expenses.</p> <p>(3) In cases where restitution is ordered to the victim as a result of a human trafficking conviction under chapter 60 of this title, “material loss” shall also mean:</p> <p>(A) attorney’s fees and costs; and</p> <p>(B) the greater of either:</p> <p>(i) the gross income or value of the labor performed for the offender by the victim; or</p> <p>(ii) the value of the labor performed by the victim as guaranteed by the minimum wage and overtime provisions of 21 V.S.A. § 385.</p> <p> This definition of “material loss” applies to Vt. Stat. Ann. tit 13, § 7043. This statutory provision is included below in the section “Select Crime Victims’ Rights.”</p>	<p>Vt. Stat. Ann. tit. 13, § 7043(a)(2).</p>
<p>Abuse Prevention Orders Definitions.</p> <p>The following words as used in this chapter shall have the following meanings:</p> <p>(1) “Abuse” means the occurrence of one or more of the following acts between family or household members:</p>	<p>Vt. Stat. Ann. tit. 15, § 1101.</p>


<p>(A) Attempting to cause or causing physical harm.</p> <p>(B) Placing another in fear of imminent serious physical harm.</p> <p>(C) Abuse to children as defined in 33 V.S.A. chapter 49, subchapter 2.</p> <p>(D) Stalking as defined in 12 V.S.A. § 5131(6).</p> <p>(E) Sexual assault as defined in 12 V.S.A. § 5131(5).</p> <p>(2) “Household members” means persons who, for any period of time, are living or have lived together, are sharing or have shared occupancy of a dwelling, are engaged in or have engaged in a sexual relationship, or minors or adults who are dating or who have dated. “Dating” means a social relationship of a romantic nature. Factors that the court may consider when determining whether a dating relationship exists or existed include:</p> <p>(A) the nature of the relationship;</p> <p>(B) the length of time the relationship has existed;</p> <p>(C) the frequency of interaction between the parties; and</p> <p>(D) the length of time since the relationship was terminated, if applicable.</p> <p>(3) A “foreign abuse prevention order” means any protection order issued by the court of any other state that contains provisions similar to relief provisions authorized under this chapter, the Vermont Rules for Family Proceedings, 33 V.S.A. chapter 69, or 12 V.S.A. chapter 178.</p> <p>(4) “Other state” and “issuing state” shall mean any state other than Vermont and any federally recognized Indian tribe, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia.</p> <p>(5) A “protection order” means any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil and criminal courts, other than support or child custody orders, whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of a person seeking protection.</p>	
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<p>(6) Repealed by 2015, No. 23, § 152, eff. July 1, 2015.</p> <p> These definitions apply to Vermont laws regarding abuse prevention orders, Vt. Stat. Ann. tit. 15, §§ 1101 through 1115. Some of these provisions are included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Address Confidentiality Program Definitions.</p> <p>Unless the context clearly requires otherwise, the definitions in this section apply throughout the subchapter.</p> <p>(1) “Actual address” means the physical location where the applicant resides and may include a school address or work address of an individual, as specified on the individual’s application to be a Program participant under this chapter.</p> <p>(2) “Agency” means any subdivision of the State of Vermont, a municipality, or a subdivision of a municipality.</p> <p>(3) “Domestic violence” means an act of abuse as defined in subdivision 1101(1) of this title and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.</p> <p>(4) “Human trafficking” means conduct prohibited by 13 V.S.A. § 2652 or 2653, and includes a threat of such, regardless of whether the conduct or threat of conduct has been reported to law enforcement officers.</p> <p>(5) “Law enforcement agency” means the Department of Public Safety, a municipal police department, a sheriff’s department, the Attorney General’s Office, a State’s Attorney’s Office, or certified law enforcement officers of the Department of Motor Vehicles, Agency</p>	<p>Vt. Stat. Ann. tit. 15, § 1151.</p>

<p>of Natural Resources, or Department of Liquor and Lottery. “Law enforcement agency” shall also mean the Department for Children and Families when engaged in:</p> <ul style="list-style-type: none"> (A) the investigation of child abuse and neglect; (B) the delivery of services to families and children with whom the Department is working pursuant to the provisions of 33 V.S.A. chapters 51, 52, and 53; or (C) the performance of the Department’s responsibilities pursuant to an interstate compact to which the State is a party. <p>(6) “Law enforcement purpose” means all matters relating to:</p> <ul style="list-style-type: none"> (A) the prevention, investigation, prosecution, or adjudication of criminal offenses, civil matters, or juvenile matters; (B) the investigation, prosecution, adjudication, detention, supervision, or correction of persons suspected, charged, or convicted of criminal offenses or juvenile delinquencies; (C) the protection of the general health, welfare, and safety of the public or the State of Vermont; (D) the execution and enforcement of court orders; (E) service of criminal or civil process or court orders; (F) screening for criminal justice employment; (G) other actions taken in performance of official duties, as set forth by statutes, rules, policies, judicial case law, and the U.S. and Vermont Constitutions; and (H) criminal identification activities, including the collection, storage, and dissemination of criminal history records, as defined in 20 V.S.A. § 2056a(a)(1), sex offender registry information, and DNA material and information. <p>(7) “Program participant” means a person certified as a Program participant under this chapter.</p> <p>(8) “Public record” means a public record as defined in 1 V.S.A. § 317.</p> <p>(9) “Secretary” means the Vermont Secretary of State.</p>	
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<p>(10) “Sexual assault” means an act of assault as defined in 13 V.S.A. § 3252(a) or (b) (sexual assault) or 3253(a) (aggravated sexual assault), and includes a threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.</p> <p>(11) “Stalking” means conduct as defined in 13 V.S.A. § 1061 (stalking) or 1063 (aggravated stalking), and includes a threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.</p> <p>(12) “Substitute address” means the Secretary’s designated address for the Address Confidentiality Program.</p> <p> These definitions apply to Vermont’s Address Confidentiality Program, Vt. Stat. Ann. tit 15, §§ 1150 through 1160. Some of these provisions are included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Victims’ Employment-Related Rights Regarding Unpaid Leave Definitions.</p> <p>As used in this section:</p> <p>(1) “Employer” means an individual, organization, governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air, or express company doing business in or operating within this State.</p> <p>(2) “Employee” means a person who is a crime victim as defined in section 495d of this chapter and, in consideration of direct or indirect gain or profit, has been continuously employed by the same employer for a period of six months for an average of at least 20 hours per week.</p>	<p>Vt. Stat. Ann. tit. 21, § 472c(a).</p>

<p> These definitions apply to Vt. Stat. Ann. tit. 21, § 472c. This provision is included below in the section “Select Crime Victims’ Rights.”</p>	
<p>Victims’ Rights Regarding Parole Hearings Definitions.</p> <p>As used in this section, “victim” means:</p> <p>(1) a victim of the listed crime for which the Parole Board is determining the inmate’s eligibility for parole; and</p> <p>(2) a victim of a listed crime of which the inmate was convicted other than the listed crime for which the Parole Board is determining the inmate’s eligibility for parole.</p> <p> This definition applies to Vt. Stat. Ann. tit. 28, § 507, which is included below.</p>	<p>Vt. Stat. Ann. tit. 28, § 507(d).</p>
<p>SELECT CRIME VICTIMS’ RIGHTS</p>	<p>Vermont Statutes and Rules</p>
<p>Victims’ Rights Dependent on Victims Reporting Crime to Law Enforcement.</p> <p>Victims are eligible for the services set forth under this chapter only if the crime has been reported to law enforcement authorities.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Vt. Stat. Ann., tit. 13, § 5302.</p>

<p>Legislative Purpose of Victims' Rights Laws; Victims' Right to Be Treated with Dignity, Respect, Courtesy and Sensitivity.</p> <p>(a) The fundamental objective underlying this chapter is the protection of victims of crime. This chapter seeks to ensure that crime victims are treated with the dignity and respect they deserve while functioning in a system in which they find themselves through no fault of their own. This chapter seeks to accommodate that objective and balance crime victims' needs and rights with criminal defendants' rights.</p> <p>(b) This chapter also seeks to reduce the financial, emotional, and physical consequences of criminal victimization, to prevent victimization by the law enforcement and criminal justice system, and to assist victims with problems that result from their victimization.</p> <p>(c) Victims of crime shall be treated with courtesy and sensitivity by the court system and the State's Attorney's office. Those responsible should ensure that the process of criminal prosecution moves smoothly and expeditiously and, after the conclusion of a prosecution, should cooperate in an appropriate manner with victims who seek to enforce their civil rights and remedies, which cooperation may include preserving and producing evidence, documents, and testimony to the victims for use in such efforts.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Vt. Stat. Ann., tit. 13, § 5303.</p>
<p>Victims' Right to Information from the Victim Assistance Program Regarding Protection, Witness Fees, Restitution, and Presence at Sentencing.</p> <p>The Center for Crime Victim Services shall create and maintain a Victims Assistance Program. Except as otherwise provided by law, victim advocates shall provide victims the following services:</p>	<p>Vt. Stat. Ann., tit. 13, § 5304(a)(1).</p>

<p>... Information. Victims shall be informed as to the level of protection available, procedures to be followed in order to receive applicable witness fees, the right to seek restitution as an element of the final disposition of the case, and the right to appear at sentencing in accordance with section 7006 of this title.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> Vt. Stat. Ann., tit. 13, § 5304(b) provides that victims may decline any service provided by the Victims Assistance Program. This provision is included below.</p> <p> Although Vt. Stat. Ann., tit. 13, § 7006 was repealed in 1999, other Vermont laws give victims the right to appear at sentencing, including Vt. Stat. Ann., tit. 13, § 5321 and Vt. R. Crim. P. 32(c)(4)(D). This statutory provision and rule are included below.</p> <p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. 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 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>Victims’ Right to Notification from the Victim Assistance Program Regarding Court Schedule, Final Disposition of the Case and Defendant’s Release or Escape.</p>	<p>Vt. Stat. Ann., tit. 13, § 5304(a)(2).</p>

The Center for Crime Victim Services shall create and maintain a Victims Assistance Program. Except as otherwise provided by law, victim advocates shall provide victims the following services:

. . . Notification. Victims, other than victims of acts of delinquency, shall be notified in a timely manner when a court proceeding involving their case is scheduled to take place and when a court proceeding to which they have been summoned will not take place as scheduled. Victims shall also be notified as to the final disposition of the case, and shall be notified of their right to request notification of a person's release or escape under section 5305 of this title.



Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."



Vt. Stat. Ann., tit. 13, § 5304(b) provides that victims may decline any service provided by the Victims Assistance Program. This provision is included below.




Vt. Stat. Ann., tit. 13, § 5305 governs victims' requests for notifications of a defendant's release or escape. This provision is included below.








Vt. R. Crim. P. 32(c)(4)(D) provides victims with the right to notice of sentencing and Vt. R. Crim. P. 49(a)(2) governs how prosecutors are to provide victims with such notice. This statutory provision and rule are 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 maintain documentation of a victim's request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their

<p>participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Victims' Right to Services from the Victim Assistance Program.</p> <p>The Center for Crime Victim Services shall create and maintain a Victims Assistance Program. Except as otherwise provided by law, victim advocates shall provide victims the following services:</p> <p>. . . Services. Victims shall be entitled to:</p> <ul style="list-style-type: none"> (A) receive short-term counseling and support from the victim advocate and referrals for further services; (B) assistance in obtaining financial assistance and minimizing loss of pay or other benefits resulting from involvement in the criminal justice process; (C) assistance in documenting and preparing requests for restitution and insurance reimbursement; (D) assistance in obtaining protection through local law enforcement agencies from harm and threats of harm arising out of their cooperation with the court system; (E) assistance in the return of property from law enforcement agencies; (F) assistance and support in dealing with law enforcement agencies; and (G) transportation as needed to court proceedings. <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Vt. Stat. Ann., tit. 13, § 5304(a)(1).</p>

<p> Vt. Stat. Ann., tit. 13, § 5304(b) provides that victims may decline any service provided by the Victims Assistance Program. This provision is included below.</p> <p> A promising practice is to inform victims that they are entitled to restitution upon the conviction of defendant for losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p> <p> 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>Victims’ Right to Decline Services Provided by the Victims Assistance Program.</p> <p>A victim may decline any service provided by the Victims Assistance Program under this section.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> Vt. Stat. Ann., tit. 13, § 5304(a)(1)–(3) outlines the services provided by the Victim Service Program. These statutory provisions are included above.</p>	<p>Vt. Stat. Ann., tit. 13, § 5304(b).</p>

Victims' Rights Regarding Defendants' Release: Right to Notice; Right to Be Heard by Parole Board; Right to Information Regarding Parole Board's Decision; Prosecutors' Obligation to Provide Victims with Notice of Scheduled Release Date and Conditions of Release.

Vt. Stat. Ann., tit. 13, § 5305.

(a) Victims, other than victims of acts of delinquency, and affected persons shall have the right to request notification by the agency having custody of the defendant before the defendant is released, including a release on bail or conditions of release, furlough, or other community program, upon termination or discharge from probation, or whenever the defendant escapes, is recaptured, dies, or receives a pardon or commutation of sentence. Notice shall be given to the victim or affected person as expeditiously as possible at the address or telephone number provided to the agency having custody of the defendant by the person requesting notice. Any address or telephone number so provided shall be kept confidential. The prosecutor's office shall ensure that victims are made aware of their right to notification of an offender's scheduled release date pursuant to this section.

(b) If the defendant is released on conditions at arraignment, the prosecutor's office shall inform the victim of a listed crime of the conditions of release.



(c) If requested by a victim of a listed crime, the Department of Corrections shall:
 (1) at least 30 days before a parole board hearing concerning the defendant, inform the victim of the hearing and of the victim's right to testify before the parole board or to submit a written statement for the parole board to consider; and
 (2) promptly inform the victim of the decision of the parole board, including providing to the victim any conditions attached to the defendant's release on parole.











Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."









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



<p>carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p> <p> A promising practice is to let victims know, upon first contact, of their obligation to keep their contact information current.</p>	
<p>Victim Advocates to Carry Out Provisions of the Victims Assistance Program.</p> <p>In order to carry out the provisions of the Victims Assistance Program, State’s Attorneys are authorized to hire victim advocates who shall serve at their pleasure unless otherwise modified by a collective bargaining agreement entered into pursuant to 3 V.S.A. chapter 27. Nothing in this section shall be construed to limit the subjects for bargaining pursuant to 3 V.S.A. § 904.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Vt. Stat. Ann. tit. 13, § 5306.</p>
<p>Prosecutors, Law Enforcement, Social Services and Courts to Cooperate to Afford Victims’ Rights and Services; Victim Advocates May Not Delegate Responsibilities to Other Agencies.</p> <p>State’s attorneys, local law enforcement agencies, local social service agencies, and courts shall cooperate to afford victims of crimes the right and services described in this chapter; however, victim advocates shall not delegate to these agencies or to the courts the duties imposed on them under section 5304 of this title.</p>	<p>Vt. Stat. Ann. tit. 13, § 5307.</p>



<p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Victims’ Rights to Notice of and Presence at Arraignment; Prosecutors’ Obligation to Inform Victim About Issues Concerning Bail and Convey Victims’ Position to the Court.</p> <p>If practicable the victim of a listed crime shall be given notice of the defendant’s arraignment by the law enforcement agency that issued the citation or made the arrest. The victim of a listed crime shall have the right to be present at the defendant’s arraignment. The prosecutor’s office shall inform the victim about the issues concerning bail and the prosecutor shall advise the court of the victim’s position regarding bail.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Vt. Stat. Ann. tit. 13, § 5308.</p>
<p>Victims’ Right to Be Present During Court Proceedings.</p> <p>The victim of a listed crime shall be entitled to be present during all court proceedings subject to the provisions of Rule 615 of the Vermont Rules of Evidence.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> A victim’s right to be present should provide for the victim’s presence during the entirety of the trial. Even if the victim is to be a witness and the court concludes that the victim’s testimony would be materially altered if the victim hears other testimony, consider</p>	<p>Vt. Stat. Ann. tit. 13, § 5309.</p>




<p>discussing with the prosecutor the possibility of the victim testifying first to best ensure the victim's right to be present during the entirety of the trial.</p> <p> Vt. R. Evid. 615, which governs witness sequestration, is included below.</p>	
<p>Victims' Right to Nondisclosure of Certain Personal Information.</p> <p>A witness testifying in a criminal proceeding, including any discovery proceedings, shall not be compelled to disclose the victim's residential address or place of employment on the record unless the court finds, based upon a preponderance of the evidence, that nondisclosure of the information will prejudice the defendant.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> Vt. R. Crim. P. 16(d)(3) limits the prosecutor's pretrial disclosure of a victim's residential address or place of employment during discovery. This rule is included above.</p>	<p>Vt. Stat. Ann. tit. 13, § 5310.</p>
<p>Victims' Right to the Prompt Return of Property.</p> <p>A law enforcement agency holding property of any individual shall take reasonable care of the property. Upon authorization of the prosecutor, the law enforcement agency holding the property, unless it is contraband or subject to forfeiture, shall promptly notify the individual that the property is no longer needed for evidentiary purposes and may be picked up by the individual.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Vt. Stat. Ann. tit. 13, § 5311.</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>Victims' Rights Regarding Speedy Prosecution: to Notice of Motions that May Result in Substantial Delays; Prosecutors' Obligation to Inform the Court of Notice to Victims and Victims' Position on Motions; Courts' Obligation to Consider Victims' Objection to Delay.</p> <p>(a) The prosecutor's office shall make every effort to inform a victim of a listed crime of any pending motion that may substantially delay any deposition, change of plea, trial, sentencing hearing, or restitution hearing. The prosecutor shall inform the court of how the victim was notified and the victim's position on the motion, if any. In the event the victim was not notified, the prosecutor shall inform the court why notification did not take place.</p> <p>(b) If a victim of a listed crime objects to a delay, the court shall consider the victim's objection.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Vt. Stat. Ann. tit. 13, § 5312.</p>

<p>Victims' Right to Not Be Discharged or Disciplined by Employer for Honoring a Subpoena to Testify.</p> <p>An employer may not discharge or discipline a victim of a listed crime or a victim's family member or representative for honoring a subpoena to testify.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, of their employment-related rights and to provide employers with this information.</p> <p> Vt. Stat. Ann. tit. 21, § 472c provides victims with the right to take unpaid leave to attend certain depositions or court proceedings in a criminal case. This provision is included below.</p>	<p>Vt. Stat. Ann. tit. 13, § 5313.</p>
<p>Victims' Right to Information from Law Enforcement; Law Enforcement's Obligations Regarding Provision of Information to Victims.</p> <p>(a) Information to all victims. After initial contact between a victim and a law enforcement agency responsible for investigating a crime, the agency shall promptly give in writing to the victim:</p> <ul style="list-style-type: none"> (1) an explanation of the victim's rights under this chapter and chapter 167 of this title; (2) information concerning the availability of: <ul style="list-style-type: none"> (A) assistance to victims, including medical, housing, counseling, and emergency services; (B) compensation for victims under chapter 167 of this title, and the name, street address, and telephone number of the Center for Crime Victim Services; (C) protection for the victim, including protective court orders; and 	<p>Vt. Stat. Ann. tit. 13, § 5314.</p>

<p>(D) access by the victim and the defendant to records related to the case which are public under the provisions of 1 V.S.A. chapter 5, subchapter 3 (access to public records).</p> <p>(b) Information to victims of listed crimes. As soon as practicable, the law enforcement agency shall use reasonable efforts to give to the victim of a listed crime, as relevant, all of the following:</p> <ol style="list-style-type: none"> (1) Information as to the accused’s identity unless inconsistent with law enforcement purposes. (2) Information as to whether the accused has been taken into custody. (3) The file number of the case and the name, office street address, and telephone number of the law enforcement officer currently assigned to investigate the case. (4) The prosecutor’s name, office street address, and telephone number. (5) An explanation that no individual is under an obligation to respond to questions that may be asked outside a courtroom or deposition. (6) Information concerning any bail or conditions of release imposed on the defendant by a judicial officer prior to arraignment or an initial court appearance. <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p>Victims’ Right to Notice of Appeal; Prosecutors’ Obligation to Inform Victim of Appeal and Its Significance; Notice of Hearing and Decision.</p> <p>If the defendant appeals or pursues a post-conviction remedy, the prosecutor’s office shall promptly inform the victim of a listed crime of that fact, shall explain the significance of</p>	<p>Vt. Stat. Ann. tit. 13, § 5315.</p>

<p>such a proceeding and shall promptly notify the victim of the date, time, and place of any hearing and of the decision.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Obligation of Prosecution and Defense to Identify Themselves to Victims.</p> <p>Any individual associated with the prosecution or defense of a listed crime, including attorneys, investigators, or experts, who comes in contact with the victim or the victim’s family shall properly identify himself or herself and by whom he or she is employed.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Vt. Stat. Ann. tit. 13, § 5316.</p>
<p>Victims’ Right to Information Upon Request.</p> <p>(a) The information required to be furnished to victims under this chapter shall be provided upon request of the victim and, unless otherwise specifically provided, may be furnished either orally or in writing.</p> <p>(b) A person responsible for furnishing information may rely upon the most recent name, address, and telephone number furnished by the victim.</p> <p>(c) The court, State’s Attorneys, public defenders, law enforcement agencies, and the Departments of Corrections and of Public Safety shall develop and implement an automated notification system to deliver the information required to be furnished to victims under this chapter.</p>	<p>Vt. Stat. Ann. tit. 13, § 5317.</p>

<p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p> <p> A promising practice is to let victims know, upon first contact, of their obligation to keep their contact information current.</p>	
<p>Derivative Rights of Member of Victims’ Family.</p> <p>(a) If the victim is a minor or is unable to exercise his or her rights under the provisions of this chapter, section 7006 of this title, or 28 V.S.A. § 507, a family member of the victim shall be permitted to do so in place of the victim. If more than one family member of the victim’s family attempts to exercise the victim’s rights, the court may designate one of them to exercise those rights based on the best interests of the victim. If no family member is able to exercise such rights, a victim’s advocate or other representative may, in situations where a victim is authorized by law to address the court or Parole Board, attend and read to the court or Parole Board a written statement prepared by the victim or the victim’s family member without the assistance of the prosecutor or a law enforcement officer.</p> <p>(b) If a victim is a minor or is incapacitated, incompetent, or deceased, a family member of the victim may exercise the rights of the victim under sections 5305, 5308-5317, and 7006 of this title; 28 V.S.A. §§ 205, 252, and 507; and 33 V.S.A. § 5233.</p>	<p>Vt. Stat. Ann. tit. 13, § 5318.</p>

<p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Victim Not a Party in Criminal Proceedings.</p> <p>The rights of victims contained in this chapter do not entitle a victim to be a party in any proceeding, or to any procedural rights that are not specifically provided for in this chapter, including any right to request a delay or rescheduling of any proceeding.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Vt. Stat. Ann. tit. 13, § 5319.</p>
<p>Victims’ Rights Regarding Sentencing or Change of Plea Proceedings: to Notice, to Presence, to Be Heard and to Confer with the Prosecution.</p> <p>(a) The victim of a crime has the following rights in any sentencing proceedings concerning the person convicted of that crime, or in the event a proposed plea agreement filed with the court recommends a deferred sentence, at any change of plea hearing concerning the person charged with committing that crime:</p> <p>(1) to be given advance notice by the prosecutor’s office of the date of the proceedings; and</p> <p>(2) to appear, personally, to express reasonably his or her views concerning the crime, the person convicted, and the need for restitution.</p> <p>(b) The change of plea hearing or sentencing shall not be delayed or voided by reason of the failure to give the victim the required notice or the failure of the victim to appear.</p> <p>(c) In accordance with court rules, at the sentencing or change of plea hearing, the court shall ask if the victim is present and, if so, whether the victim would like to be heard regarding sentencing or the proposed deferral of sentencing. In imposing the sentence or considering</p>	<p>Vt. Stat. Ann. tit. 13, § 5321.</p>

whether to defer sentencing, the court shall consider any views offered at the hearing by the victim. If the victim is not present, the court shall ask whether the victim has expressed, either orally or in writing, views regarding sentencing or the proposed deferral of sentencing and shall take those views into consideration in imposing the sentence or considering whether to defer sentencing.


(d) At or before the sentencing hearing, the prosecutor's office shall instruct the victim of a listed crime, in all cases where the court imposes a sentence that includes a period of incarceration, that a sentence of incarceration is to the custody of the Commissioner of Corrections and that the Commissioner of Corrections has the authority to affect the actual time the defendant shall serve in incarceration through earned time credit, furlough, work-release, and other early release programs. In addition, the prosecutor's office shall explain the significance of a minimum and maximum sentence to the victim, explain the function of parole and how it may affect the actual amount of time the defendant may be incarcerated, and inform the victim of the maximum amount of earned time that the defendant could accrue and that earned time only affects when a defendant is eligible for parole consideration but does not necessarily result in the defendant's release.


(e) At or before a change of plea hearing where the plea agreement filed with the court proposes a deferred sentence, the prosecutor's office shall instruct the victim of a listed crime about the significance of a deferred sentence and the potential consequences of a violation of conditions imposed by the court. In addition, the prosecutor's office shall consult with the victim concerning any proposed probation conditions prior to the hearing.


(f) The prosecutor's office shall use all reasonable efforts to keep the victim informed and consult with the victim throughout the plea agreement negotiation process in any case involving a victim of a listed crime.






Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."

<p>Victims' Right to the Nondisclosure of Identifying Information.</p> <p>When responding to a request for public records, or on any State website or State payment report, the State of Vermont shall not disclose to the public the name or any other identifying information, including the town of residence or the type or purpose of the payment, of an applicant to the Victims Compensation Program, a victim named in a restitution judgment order, or a recipient of the Domestic and Sexual Violence Survivors' Transitional Employment Program.</p> <p> Vt. Stat. Ann., tit. 13, § 5301 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Vt. Stat. Ann. tit. 13, § 5322.</p>
<p>Victims' Right to Restitution When Defendant Enters a Diversion Program; Restitution Unit's Obligations Regarding Documentation of Victims' Losses.</p> <p>(a) A diversion program may refer an individual who has suffered a pecuniary loss as a direct result of a delinquent act or crime alleged to have been committed by a juvenile or adult accepted to its program to the Restitution Unit established by 13 V.S.A. § 5362 for the purpose of application for an advance payment pursuant to 13 V.S.A. § 5363(d)(1). The Restitution Unit may enter into a repayment contract with a juvenile or adult accepted into diversion and shall have the authority to bring a civil action to enforce the repayment contract in the event that the juvenile or adult defaults in performing the terms of the contract.</p> <p>(b) The Restitution Unit and the diversion program shall develop a process for documenting victim loss, information sharing between the Unit and diversion programs regarding the amount of restitution paid by the Unit and diversion participants' contractual agreements to reimburse the unit, transmittal of payments from participants to the Unit, and maintenance of the confidentiality of diversion information.</p>	<p>Vt. Stat. Ann. tit. 3, § 164a.</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>Abuse, Sexual Assault or Stalking Victims’ Right to Terminate Rental Agreements; Victim-Tenants’ Obligations Regarding Termination of Rental Agreements.</p> <p>(b) Not less than 30 days before the date of termination, the protected tenant shall provide to the landlord:</p> <ul style="list-style-type: none"> (1) a written notice of termination; and (2) documentation from one or more of the following sources supporting his or her reasonable belief that it is necessary to vacate the dwelling unit: <ul style="list-style-type: none"> (A) a court, law enforcement, or other government agency; (B) an abuse, sexual assault, or stalking assistance program; (C) a legal, clerical, medical, or other professional from whom the tenant, or the minor or dependent of the tenant, received counseling or other assistance concerning abuse, sexual assault, or stalking; or (D) a self-certification of a protected tenant’s status as a victim of abuse, sexual assault, or stalking, signed under penalty of perjury, on a standard form adopted for that purpose by: <ul style="list-style-type: none"> (i) a federal or State government entity, including the federal Department of Housing and Urban Development or the Vermont Department for Children and Families; or (ii) a nonprofit organization that provides support services to protected tenants. <p>(c) A notice of termination provided pursuant to subsection (b) of this section may be revoked and the rental agreement shall remain in effect if:</p> <ul style="list-style-type: none"> (1)(A) the protected tenant provides a written notice to the landlord revoking the notice of termination; and (B) the landlord has not entered into a rental agreement with another tenant prior to the date of the revocation; or (2)(A) the protected tenant has not vacated the premises as of the date of termination; and 	<p>Vt. Stat. Ann. tit. 9, § 4472.</p>

<p>(B) the landlord has not entered into a rental agreement with another tenant prior to the date of termination.</p> <p> Vt. Stat. Ann., tit. 9, § 4471 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Abuse, Sexual Assault or Stalking Victims’ Right to Request that Landlord Change Locks and/or Install Other Security Measures.</p> <p>Notwithstanding any contrary provision of a rental agreement or of subchapter 2 of this chapter:</p> <p>(1) Subject to subdivision (2) of this subsection, a protected tenant may request that a landlord change the locks of a dwelling unit within 48 hours following the request:</p> <p>(A) based on a fear of imminent harm to any protected tenant due to abuse, sexual assault, or stalking; or</p> <p>(B) if any protected tenant was a victim of sexual assault that occurred on the premises within the six months preceding the date of his or her request.</p> <p>(2) If the perpetrator of abuse, sexual assault, or stalking is also a tenant in the dwelling unit, the protected tenant shall include with his or her request a copy of a court order that requires the perpetrator to leave the premises.</p> <p>(3) If the landlord changes the locks as requested, the landlord shall provide a key to the new locks to each tenant of the dwelling unit, not including the perpetrator of the abuse, sexual assault, or stalking who is subject to a court order to leave the premises.</p> <p>(4) If the landlord does not change the locks as requested, the protected tenant may change the locks without the landlord’s prior knowledge or permission, provided that the protected tenant shall:</p>	<p>Vt. Stat. Ann. tit. 9, § 4473.</p>

<p>(A) ensure that the new locks, and the quality of the installation, equal or exceed the quality of the original; (B) notify the landlord of the change within 24 hours of installation; and (C) provide the landlord with a key to the new locks.</p> <p>(5) Unless otherwise agreed to by the parties, a protected tenant is responsible for the costs of installation of new locks pursuant to this section.</p> <p>(6)(A) A protected tenant may request permission of a landlord to install additional security measures on the premises, including a security system or security camera. (B) A protected tenant: (i) shall submit his or her request not less than seven days prior to installation; (ii) shall ensure the quality and safety of the security measures and of their installation; (iii) is responsible for the costs of installation and operation of the security measures; and (iv) is liable for damages resulting from installation. (C) A landlord shall not unreasonably refuse a protected tenant's request to install additional security measures pursuant to this subdivision (6).</p> <p> Vt. Stat. Ann., tit. 9, § 4471 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	
<p>Abuse, Sexual Assault or Stalking Victims' Right to Confidentiality Regarding Documentation and Information Concerning Status as Protected Tenants.</p> <p>An owner, landlord, or housing subsidy provider who possesses documentation or information concerning a protected tenant's status as a victim of abuse, sexual assault, or stalking shall keep the documentation or information confidential and shall not allow or provide access to another person unless:</p> <p>(1) authorized by the protected tenant;</p>	<p>Vt. Stat. Ann. tit. 9, § 4474.</p>

<p>(2) required by a court order, government regulation, or governmental audit requirement; or</p> <p>(3) required as evidence in a court proceeding, provided: (A) the documentation or information remains under seal; and (B) use of the documentation or information is limited to a claim brought pursuant to section 4472 or 4473 of this title.</p> <p> Vt. Stat. Ann., tit. 9, § 4471 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Crisis Worker-Victim Privilege.</p> <p>A victim receiving direct services from a crisis worker has the privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made by the victim to the crisis worker, including any record made in the course of providing support, counseling, or assistance to the victim. The crisis worker shall be presumed to have authority to claim the privilege but only on behalf of the victim.</p> <p> Vt. Stat. Ann., tit. 12, § 1614(a) defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Vt. Stat. Ann. tit. 12, § 1614(a).</p>
<p>Stalking and Sexual Assault Protective Orders: Requests for Orders by Victims.</p> <p>(a) A person, other than a family or household member as defined in 15 V.S.A. § 1101(2), may seek an order against stalking or sexual assault on behalf of himself or herself or his or her children by filing a complaint under this chapter. A minor 16 years of age or older may file a complaint under this chapter seeking relief on his or her own behalf. The plaintiff shall submit an affidavit in support of the order.</p>	<p>Vt. Stat. Ann. tit. 12 § 5131.</p>

(b) Except as provided in section 5134 of this title, the court shall grant the order only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving by a preponderance of the evidence that the defendant stalked or sexually assaulted the plaintiff.



(c) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff's sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit any of the following:

- (1) evidence of the plaintiff's past sexual conduct with the defendant;
- (2) evidence of specific instances of the plaintiff's sexual conduct showing the source of origin of semen, pregnancy, or disease; or
- (3) evidence of specific instances of the plaintiff's past false allegations of violations of 13 V.S.A. chapter 59 or 72.

(d) If the court finds by a preponderance of evidence that the defendant has stalked or sexually assaulted the plaintiff, or has been convicted of stalking or sexually assaulting the plaintiff, the court shall order the defendant to stay away from the plaintiff or the plaintiff's children, or both, and may make any other order it deems necessary to protect the plaintiff or the plaintiff's children, or both.

(e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff or the plaintiff's children, or both. It is not necessary for the court to find that the defendant stalked or sexually assaulted the plaintiff during the pendency of the order to extend the terms of the order. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.

(f) No filing fee shall be required.

<p>(g) Every order under this chapter shall contain the name of the court, the names of the parties, the date of the petition, and the date and time of the order and shall be signed by the judge.</p> <p>(h) Form complaints and form orders for an “Order Against Stalking or Sexual Assault” shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.</p> <p>(i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.</p> <p>(j) Every final order issued under this section shall bear the following language: “VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.”</p> <p>(k) Affidavit forms required pursuant to this section shall bear the following language: “MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904.”</p> <p>(l) A finding by the court pursuant to this chapter that the defendant stalked or sexually assaulted the plaintiff shall not be admissible in any subsequent civil proceedings for the purpose of establishing liability.</p> <p> Vt. Stat. Ann., tit. 12, § 5131 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> For information about abuse protective orders against family or household members, <i>see</i> Vt. Stat. Ann. tit. 21, §§ 1100 through 1115. Some of these provisions are included below.</p>	
<p>Stalking and Sexual Assault Protective Orders: Requests for Emergency Relief.</p>	<p>Vt. Stat. Ann. tit. 12, § 5134.</p>


(a) In accordance with the Vermont Rules of Civil Procedure, a person other than a family or household member as defined in 15 V.S.A. § 1101(2) may file a complaint for a temporary order against stalking or sexual assault. Such complaint shall be filed during regular court hours. The plaintiff shall submit an affidavit in support of the order. The court may issue a temporary order under this chapter ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has stalked or sexually assaulted the plaintiff. The court may order the defendant to stay away from the plaintiff or the plaintiff's children, or both, and may make any other such order it deems necessary to protect the plaintiff or the plaintiff's children, or both.



(b) Every order issued under this section shall contain the name of the court, the names of the parties, the date of the petition, and the date and time of the order and shall be signed by the judge. Every order issued under this section shall state upon its face a date, time, and place that the defendant may appear to petition the court for modification or discharge of the order. This opportunity to contest shall be scheduled as soon as reasonably possible, which in no event shall be more than 14 days from the date of issuance of the order. At such hearings, the plaintiff shall have the burden of proving by a preponderance of the evidence that the defendant stalked or sexually assaulted the plaintiff. If the court finds that the plaintiff has met his or her burden, it shall continue the order in effect and make such other orders as it deems necessary to protect the plaintiff or the plaintiff's children, or both.


(c) Form complaints and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.



(d) Every order issued under this chapter shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH."


(e) Affidavit forms required pursuant to this section shall bear the following language: "MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A

<p>TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904.”</p> <p> Vt. Stat. Ann., tit. 12, § 5131 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Stalking and Sexual Assault Protective Orders: Service by Law Enforcement.</p> <p>(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.</p> <p>(b) A defendant who attends a hearing held under section 5133 or 5134 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.</p> <p>(c) Orders against stalking or sexual assault shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders, with the exception of abuse prevention orders issued pursuant to 15 V.S.A. chapter 21. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place that the order was delivered personally to the defendant.</p> <p>(d) If service of a notice of hearing issued under section 5133 or 5134 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms</p>	<p>Vt. Stat. Ann. tit. 12, § 5135.</p>

<p>of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.</p> <p> Vt. Stat. Ann., tit. 12, § 5131 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Stalking and Sexual Assault Protective Orders: Procedure; Assistance by Court Administrator and Law Enforcement in Carrying Out Intent of Protective Order Laws.</p> <p>(a) Except as otherwise specified in this chapter, proceedings commenced under this chapter shall be in accordance with the Vermont Rules of Civil Procedure and shall be in addition to any other available civil or criminal remedies.</p> <p>(b) The Court Administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to Superior Court. Law enforcement agencies shall assist in carrying out the intent of this section.</p> <p>(c) The Office of the Court Administrator shall ensure that the Superior Court has procedures in place so that the contents of orders and pendency of other proceedings can be known to all courts for cases in which an order against stalking or sexual assault proceeding is related to a criminal proceeding.</p> <p>(d) Unless otherwise ordered by the court, an order issued pursuant to sections 5133 and 5134 of this title shall not be stayed pending an appeal.</p> <p> Vt. Stat. Ann., tit. 12, § 5131 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Vt. Stat. Ann. tit. 12, § 5136.</p>

<p>Stalking and Sexual Assault Protective Orders: Law Enforcement’s Obligation to Establish Filing Procedures.</p> <p>(a) Police departments, sheriff’s departments, and State Police district offices shall establish procedures for filing notice against stalking or sexual assault orders issued under this chapter and for making their personnel aware of the existence and contents of such orders.</p> <p>(b) Any court in this State that issues a notice against a stalking or sexual assault order under this chapter shall transmit a copy of the order to the Department of Public Safety’s protection order database.</p> <p> Vt. Stat. Ann., tit. 12, § 5131 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	<p>Vt. Stat. Ann. tit. 12, § 5137.</p>
<p>Stalking and Sexual Assault Protective Orders: Enforcement of Orders by Law Enforcement.</p> <p>(a) Law enforcement officers are authorized to enforce orders issued under this chapter. A foreign abuse prevention order as defined in 15 V.S.A. § 1101 shall be accorded full faith and credit throughout this State and shall be enforced as if it were an order of this State. Law enforcement officers may rely upon a copy of any order issued under this chapter or any foreign abuse prevention order. Enforcement may include making an arrest in accordance with the provisions of Rule 3 of the Vermont Rules of Criminal Procedure.</p> <p>(b) In addition to the provisions of subsection (a) of this section, violation of an order issued under this chapter may be prosecuted as criminal contempt under Rule 42 of Vermont Rules of Criminal Procedure. The prosecution for criminal contempt may be initiated by the State’s Attorney in the Criminal or Civil Division of the Superior Court in the unit or county in which the violation occurred. The maximum penalty which may be imposed under this subsection shall be a fine of \$1,000.00 or imprisonment for six months, or both. A sentence of imprisonment upon conviction for criminal contempt may be stayed in the discretion of</p>	<p>Vt. Stat. Ann. tit. 12, § 5138.</p>

<p>the court, pending the expiration of the time allowed for filing notice of appeal or pending appeal if any appeal is taken. After two years have passed from conviction under this subsection, the court may on motion of the defendant expunge the record of the criminal proceeding and conviction unless the defendant has been convicted of a felony or misdemeanor involving moral turpitude or a violation of a protection order after such initial adjudication.</p> <p> Vt. Stat. Ann., tit. 12, § 5131 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Human Trafficking Victims’ Right to Restitution.</p> <p>(a) A person convicted of a violation of this subchapter shall be ordered to pay restitution to the victim pursuant to section 7043 of this title.</p> <p>(b) If the victim of human trafficking to whom restitution has been ordered dies before restitution is paid, any restitution ordered shall be paid to the victim’s heir or legal representative, provided that the heir or legal representative has not benefited in any way from the trafficking.</p> <p>(c) The return of the victim of human trafficking to his or her home country or other absence of the victim from the jurisdiction shall not limit the victim’s right to receive restitution pursuant to this section.</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>Vt. Stat. Ann. tit. 13, § 2657.</p>

<p>Human Trafficking Victims' Right to File a Motion to Vacate Conviction.</p> <p>(b) A person convicted of a qualifying crime may file a motion to vacate the conviction if it was obtained as a result of the person having been a victim of human trafficking. The motion shall be in writing, describe the supporting evidence with particularity, and include copies of any documents showing that the moving party is entitled to relief under this section.</p> <p>(c) The court shall hold a hearing on the motion, provided that the court may dismiss a motion without a hearing if the court finds that the motion fails to assert a claim for which relief may be granted.</p> <p>(d)(1) The court shall grant the motion if it finds by a preponderance of the evidence that: (A) the moving party was convicted of a qualifying crime; and (B) the conviction was obtained as a result of the moving party's having been a victim of human trafficking.</p> <p>(2) If the motion is granted, the court shall vacate the conviction, strike the adjudication of guilt, and expunge the record of the criminal proceedings. The court shall issue an order to expunge, or redact the moving party's name from, all records and files related to the moving party's arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation for the offense.</p> <p>(e) Official documentation of a person's status as a victim of human trafficking provided by a federal, state, or local government agency shall create a presumption that the person's conviction was obtained as a result of having been a victim of human trafficking. Such documentation shall not be required to grant a motion under this section.</p> <p> Vt. Stat. Ann., tit. 13, § 2658(a) defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	<p>Vt. Stat. Ann. tit. 13, § 2658(b)–(e).</p>
<p>Human Trafficking Victims' Right to Private Cause of Action Against Offenders.</p>	<p>Vt. Stat. Ann. tit. 13, § 2662.</p>

<p>(a) A victim of human trafficking may bring an action against the offender in the Civil Division of the Superior Court for damages, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney’s fees. Actual damages may include any loss for which restitution is available under section 2657 of this chapter.</p> <p>(b) If the victim is deceased or otherwise unable to represent himself or herself, the victim may be represented by a legal guardian, family member, or other representative appointed by the court, provided that the legal guardian, family member, or other representative appointed by the court has not benefited in any way from the trafficking.</p> <p>(c) In a civil action brought under this section, the victim’s alleged consent to the human trafficking is immaterial and shall not be admitted.</p>	
<p>Human Trafficking Victims’ Rights Regarding Eligibility for Compensation and Classification for Immigration Purposes; Law Enforcement’s Obligations Regarding Assistance with Respect to Immigration.</p> <p>(a) Classification of victims of human trafficking. As soon as practicable after the initial encounter with a person who reasonably appears to a law enforcement agency, a State’s Attorneys’ office, or the Office of the Attorney General to be a victim of human trafficking, such agency or office shall:</p> <p>(1) Notify the Victim’s Compensation Program at the Center for Crime Victim Services that such person may be eligible for services under this chapter.</p> <p>(2) Make a preliminary assessment of whether such victim or possible victim of human trafficking appears to meet the criteria for certification as a victim of a severe form of trafficking in persons as defined in 22 U.S.C. § 7105 (Trafficking Victims Protection Act) or appears to be otherwise eligible for any federal, state, or local benefits and services. If it is determined that the victim appears to meet such criteria, the agency or office shall report the finding to the victim and shall refer the victim to services available, including legal service providers. If the possible victim is under the age of 18 or is a vulnerable adult, the agency or office shall also notify the Family Services Division of the Department for</p>	<p>Vt. Stat. Ann. tit. 13, § 2663.</p>

<p>Children and Families or the Office of Adult Protective Services in the Department of Disabilities, Aging, and Independent Living.</p> <p>(b) Law enforcement assistance with respect to immigration. After the agency or office makes a preliminary assessment pursuant to subdivision (a)(2) of this section that a victim of human trafficking or a possible victim of human trafficking appears to meet the criteria for certification as a victim of a severe form of trafficking in persons, as defined in 22 U.S.C. § 7105 and upon the request of such victim, the agency or office shall provide the victim of human trafficking with a completed and executed U.S. citizenship and immigration service (USCIS) form I-914 supplement B declaration of law enforcement officer for victim of human trafficking in persons or a USCIS form I-918, supplement B, U nonimmigrant status certification, or both. These endorsements shall be completed by the certifying officer in accordance with the forms' instructions and applicable rules and regulations. The victim of human trafficking may choose which form to have the certifying officer complete.</p>	
<p>Sexual Assault Victims' Rights: to Information, to Medical Forensic Examination and Related Toxicology Testing; to Notification Regarding DNA Match on Evidence Collection Kit; to Consult with a Sexual Assault Advocate.</p> <p>(a) Short title. This section may be cited as the "Bill of Rights for Sexual Assault Survivors."</p> <p>(b) Definition. As used in this section, "sexual assault survivor" means a person who is a victim of an alleged sexual offense.</p> <p>(c) Survivors' rights. When a sexual assault survivor makes a verbal or written report to a law enforcement officer, emergency department, sexual assault nurse examiner, or victim's advocate of an alleged sexual offense, the recipient of the report shall provide written notification to the survivor that he or she has the following rights:</p> <p>(1) The right to receive a medical forensic examination and any related toxicology testing at no cost to the survivor in accordance with 32 V.S.A. § 1407, irrespective of whether the</p>	<p>Vt. Stat. Ann. tit. 13, § 3281.</p>

<p>survivor reports to or cooperates with law enforcement. If the survivor opts to have a medical forensic examination, he or she shall have the following additional rights:</p> <p>(A) the right to have the medical forensic examination kit or its probative contents delivered to a forensics laboratory within 72 hours of collection;</p> <p>(B) the right to have the sexual assault evidence collection kit or its probative contents preserved without charge for the duration of the maximum applicable statute of limitations;</p> <p>(C) the right to be informed in writing of all policies governing the collection, storage, preservation, and disposal of a sexual assault evidence collection kit;</p> <p>(D) the right to be informed of a DNA profile match on a kit reported to law enforcement or on a confidential kit, on a toxicology report, or on a medical record documenting a medical forensic examination, if the disclosure would not impede or compromise an ongoing investigation; and</p> <p>(E) upon written request from the survivor, the right to:</p> <p>(i) receive written notification from the appropriate official with custody not later than 60 days before the date of the kit's intended destruction or disposal; and</p> <p>(ii) be granted further preservation of the kit or its probative contents.</p> <p>(2) The right to consult with a sexual assault advocate.</p> <p>(3) The right to information concerning the availability of protective orders and policies related to the enforcement of protective orders.</p> <p>(4) The right to information about the availability of, and eligibility for, victim compensation and restitution.</p> <p>(5) The right to information about confidentiality.</p> <p>(d) Notification protocols. The Vermont Network Against Domestic and Sexual Violence and the Sexual Assault Nurse Examiner Program, in consultation with other parties referred to in this section, shall develop protocols and written materials to assist all responsible entities in providing notification to victims.</p>	
<p>Law Enforcement's Obligation to Provide Victims with Information Regarding the States Crime Victims Compensation Program.</p>	<p>Vt. Stat. Ann. tit. 13, § 5358.</p>

<p>Every law enforcement agency shall inform victims of crimes and their dependents of the provisions of this chapter and provide application forms to persons who desire to seek compensation. The Board shall provide application forms and other information which local law enforcement agencies may require to comply with this section.</p>	
<p>Victims' Application for Crime Victim Compensation; Confidentiality of Documents and Victims' Identifying and Locating Information.</p> <p>(a) All documents reviewed by the Victims Compensation Board for purposes of approving an application for compensation shall be confidential and shall not be disclosed without the consent of the victim except as provided in this section and subsection 7043(c) of this title.</p> <p>(b) For the purpose of requesting restitution, the amount of assistance provided by the Victims Compensation Board shall be established by copies of bills submitted to the Victims Compensation Board reflecting the amount paid by the Board and stating that the services for which payment was made were for uninsured pecuniary losses.</p> <p>(c) The following shall be confidential and shall be redacted by the Victims Compensation Board for any purpose including restitution: the victim's residential address, telephone number, and other contact information and the victim's Social Security number. In cases involving stalking, sexual offenses, and domestic violence, the following information shall also be confidential and shall not be disclosed by the Victims Compensation Board for any purpose, including restitution, absent a court order:</p> <p>(1) the victim's employer's name, telephone number, address, or any other contact information; and</p> <p>(2) the victim's medical or mental health provider's name, telephone number, address, or any other contact information.</p> <p>(d) Meetings of the Victims Compensation Board relating to victims compensation or offender restitution shall not be subject to the Vermont Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2. Annually, the Board shall hold an open meeting to present information and</p>	<p>Vt. Stat. Ann. tit. 13, § 5358a.</p>

<p>data concerning the victims compensation and offender restitution programs, including aggregate information on cases, pecuniary loss, expense reimbursement, restitution orders, profits from crimes, and nonidentifying information on the amounts of compensation awarded to victims.</p>	
<p>Victims' Right to Restitution: Restitution Unit; Restitution Unit's Responsibilities.</p> <p>(a) A Restitution Unit is created within the Center for Crime Victim Services for purposes of ensuring that crime victims receive restitution when it is ordered by the court.</p> <p>(b) The Restitution Unit shall administer the Restitution Fund established under section 5363 of this title.</p> <p>(c) The Restitution Unit shall have the authority to:</p> <p>(1) Collect restitution from the offender when it is ordered by the court under section 7043 of this title.</p> <p>(2) Enforce a restitution obligation as a civil judgment under section 7043 of this title. The Restitution Unit shall enforce restitution orders issued prior to July 1, 2004 pursuant to the law in effect on the date the order is issued.</p> <p>(3)(A) Share and access information, including information maintained by the National Criminal Information Center, consistent with Vermont and federal law, from the court, the Departments of Corrections, of Motor Vehicles, of Taxes, and of Labor, and law enforcement agencies in order to carry out its collection and enforcement functions. The Restitution Unit, for purposes of establishing and enforcing restitution payment obligations, is designated as a law enforcement agency for the sole purpose of requesting and obtaining access to information needed to identify or locate a person, including access to information maintained by the National Criminal Information Center.</p> <p>(B) Provide information to the Department of Corrections concerning supervised offenders, including an offender's restitution payment history and balance, address and contact information, employment information, and information concerning the Restitution Unit's collection efforts.</p>	<p>Vt. Stat. Ann. tit. 13, § 5362.</p>

(C) The Restitution Unit is specifically authorized to collect, record, use, and disseminate Social Security numbers as needed for the purpose of collecting restitution and enforcing restitution judgment orders issued by the court, provided that the Social Security number is maintained on a separate form that is confidential and exempt from public inspection and copying under the Public Records Act.

(4) Investigate and verify losses as determined by the Restitution Unit, including losses that may be eligible for advance payment from the Restitution Special Fund, and verify the amount of insurance or other payments paid to or for the benefit of a victim, and reduce the amount collected or to be collected from the offender or disbursed to the victim from the Crime Victims' Restitution Special Fund accordingly. The Restitution Unit, when appropriate, shall submit to the Court a proposed revised restitution order, with copies provided to the victim and the offender. No hearing shall be required.



(5) Adopt such administrative rules as are reasonably necessary to carry out the purposes set forth in this section.



(6)(A) Report offenders' payment histories to credit reporting agencies. The Unit shall not make a report under this subdivision (6) until after it has notified the offender of the proposed report by first class mail or other like means to give actual notice, and provided the offender a period not to exceed 20 days to contest the accuracy of the information with the Unit. The Unit shall immediately notify each credit bureau organization to which information has been furnished of any increases or decreases in the amount of restitution owed by the offender.

(B) Obtain offenders' credit reports from credit reporting agencies. The Unit shall not obtain a report under this subdivision (6) until after it has notified the offender by first class mail or other means likely to give actual notice of its intent to obtain the report.

(7) Enter into a repayment contract with a juvenile or adult accepted into a diversion program and to bring a civil action to enforce the contract when a diversion program has referred an individual pursuant to 3 V.S.A. § 164a.

(8) Contract with one or more sheriff's departments for the purposes of serving process, warrants, demand letters, and mittimus in restitution cases, and contract with one or more law enforcement agencies or other investigators for the purpose of investigating and locating offenders and enforcing restitution judgment orders.

<p>(9) Collect from an offender subject to a restitution judgment order all fees and direct costs, including reasonable attorney’s fees, incurred by the Restitution Unit as a result of enforcing the order and investigating and locating the offender.</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>Victims’ Right to Notice Regarding Petition for Post-Conviction DNA Testing.</p> <p>(a) If the address of a victim of the crime that the petitioner claims to be innocent of in the petition is known, the State’s Attorney or Attorney General shall give written notice of a petition under this section to the victim upon the victim’s request. If the victim’s current address is not known, the State’s Attorney or the Attorney General shall consult with the Department of Corrections Victim Services Division to verify the victim’s last known address. The notice shall be by any reasonable means to the victim’s last known address and shall indicate whether the petitioner is represented by public or private counsel. Upon the victim’s request, the State’s Attorney or Attorney General shall give the victim notice of the time and place of any hearing on the petition and shall inform the victim of the disposition of the petition and the outcome of any hearing. If DNA testing is ordered, the State’s Attorney or the Attorney General shall inform the victim whether the test results require further court hearings, the time and place of any hearings, and the outcome of the hearings.</p> <p>(b) The rights of victims contained in this section do not entitle a victim to be a party in any proceeding, or to any procedural rights that are not specifically provided for in this section, including any right to request a delay or rescheduling of any proceeding.</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</p>	<p>Vt. Stat. Ann. tit. 13, § 5563.</p>

<p>carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p> <p> A promising practice is to let victims know, upon first contact, of their obligation to keep their contact information current.</p>	
<p>Defendants’ Obligation to Provide Written Notice to the Prosecutor Before Serving a Subpoena Requesting a Victim’s School Records or Any Other Confidential Records of the Victim.</p> <p>When a defendant seeks access to a victim’s school records, or to any other records of a victim that are by law confidential, the defendant shall provide written notice to the prosecutor that the records have been requested prior to the service of any subpoena requesting the records.</p> <p> A promising practice is that, upon receiving notice from the defendant, the prosecutor promptly inform the victim of the defendant’s request.</p>	<p>Vt. Stat. Ann. tit. 13, § 6607.</p>
<p>Victims’ Right to Restitution; Restitution Procedure.</p> <p>(a)(1) Restitution shall be considered in every case in which a victim of a crime, as defined in subdivision 5301(4) of this title, has suffered a material loss. (2)–(3) [definition of “material loss”]</p> <p>(b)(1) When ordered, restitution may include: (A) return of property wrongfully taken from the victim; (B) cash, credit card, or installment payments paid to the Restitution Unit; or</p>	<p>Vt. Stat. Ann. tit. 13, § 7043.</p>

<p>(C) payments in kind, if acceptable to the victim.</p> <p>(2) In the event of a victim's crime-related death, the court may, at the request of the Restitution Unit, direct the Unit to pay up to \$10,000.00 from the Restitution Fund to the victim's estate to cover future uninsured material losses caused by the death.</p> <p>(c) Restitution hearing.</p> <p>(1) Unless the amount of restitution is agreed to by the parties at the time of sentencing, the court shall set the matter for a restitution hearing.</p> <p>(2) Prior to the date of the hearing, the prosecuting attorney shall provide the defendant with a statement of the amount of restitution claimed together with copies of bills that support the claim for restitution. If any amount of the restitution claim has been paid by the Victims Compensation Fund, the prosecuting attorney shall provide the defendant with copies of bills submitted by the Victims Compensation Board pursuant to section 5358a of this title.</p> <p>(3) Absent consent of the victim, medical and mental health records submitted to the Victims Compensation Board shall not be discoverable for the purposes of restitution except by order of the court. If the defendant files a motion to view copies of such records, the prosecuting attorney shall file the records with the court under seal. The court shall conduct an in camera review of the records to determine what records, if any, are relevant to the parties' dispute with respect to restitution. If the court orders disclosure of the documents, the court shall issue a protective order defining the extent of dissemination of the documents to any person other than the defendant, the defendant's attorney, and the prosecuting attorney.</p> <p>(d) In awarding restitution, the court shall make findings with respect to:</p> <p>(1) The total amount of the material loss incurred by the victim. If sufficient documentation of the material loss is not available at the time of sentencing, the court shall set a hearing on the issue, and notice thereof shall be provided to the offender.</p> <p>(2) The offender's current ability to pay restitution, based on all financial information available to the court, including information provided by the offender.</p> <p>(e)(1) An order of restitution shall establish the amount of the material loss incurred by the victim, which shall be the restitution judgment order. In the event the offender is unable to pay the restitution judgment order at the time of sentencing, the court shall establish a</p>	
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<p>restitution payment schedule for the offender based upon the offender's current and reasonably foreseeable ability to pay, subject to modification under subsection (1) of this section. Notwithstanding 12 V.S.A. chapter 113 or any other provision of law, interest shall not accrue on a restitution judgment.</p> <p>(2)(A) Every order of restitution shall:</p> <p>(i) include the offender's name, address, telephone number, and Social Security number, provided that the Social Security number is redacted pursuant to the Vermont Rules for Public Access to Court Records;</p> <p>(ii) include the name, address, and telephone number of the offender's employer; and</p> <p>(iii) require the offender, until his or her restitution obligation is satisfied, to notify the Restitution Unit within 30 days if the offender's address, telephone number, or employment changes, including providing the name, address, and telephone number of each new employer.</p> <p>(B) Repealed by 2005, Adj. Sess., No. 162, § 3, eff. Jan. 1, 2007.</p> <p>(3) An order of restitution may require the offender to pay restitution for an offense for which the offender was not convicted if the offender knowingly and voluntarily executes a plea agreement that provides that the offender pay restitution for that offense. A copy of the plea agreement shall be attached to the restitution order.</p> <p>(f)(1) If not paid at the time of sentencing, restitution may be ordered as a condition of probation, supervised community sentence, furlough, preapproved furlough, or parole if the convicted person is sentenced to preapproved furlough, probation, or supervised community sentence, or is sentenced to imprisonment and later placed on parole. A person shall not be placed on probation solely for purposes of paying restitution. An offender may not be charged with a violation of probation, furlough, or parole for nonpayment of a restitution obligation incurred after July 1, 2004.</p> <p>(2) The Department of Corrections shall work collaboratively with the Restitution Unit to assist with the collection of restitution. The Department shall provide the Restitution Unit with information about the location and employment status of the offender.</p> <p>(g)(1) When restitution is requested but not ordered, the court shall set forth on the record its reasons for not ordering restitution.</p>	
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(2)(A) If restitution was not requested at the time of sentencing as the result of an error by the State, or if expenses arose after the entry of a restitution order, the victim may request restitution payable from the Restitution Fund. Restitution paid under this subdivision shall be payable from the Restitution Fund and shall not be payable by the offender. If the restitution is for expenses that arose after the entry of a restitution order, the restitution shall be capped at \$1,000.00.

(B) A request under this subdivision shall be filed with the Restitution Unit within one year after the imposition of sentence or the entry of the restitution order.

(h) Restitution ordered under this section shall not preclude a person from pursuing an independent civil action for all claims not covered by the restitution order.

(i)(1) The court shall transmit a copy of a restitution order and the plea agreement, if any, to the Restitution Unit, which shall make payment to the victim in accordance with section 5363 of this title.

(2) To the extent that the Victims Compensation Board has made payment to or on behalf of the victim in accordance with chapter 167 of this title, restitution, if imposed, shall be paid to the Restitution Unit, which shall make payment to the Victims Compensation Fund.

(j) The Restitution Unit may bring an action, including a small claims procedure, on a form approved by the Court Administrator, to enforce a restitution judgment order entered by the Criminal Division of the Superior Court. The action shall be brought against the offender in the Civil Division of the Superior Court of the unit where the offender resides or in the unit where the order was issued. In an action under this subsection, a restitution order issued by the Criminal Division of the Superior Court shall be enforceable in the Civil Division of the Superior Court or in a small claims procedure in the same manner as a civil judgment. Superior and Small Claims Court filing fees shall be waived for an action brought under this subsection.

(k) All restitution payments shall be made to the Restitution Unit, with the exception of restitution relating to a conviction for welfare fraud ordered under this section and recouped by the Economic Services Division. The Economic Services Division shall provide the

Restitution Unit with a monthly report of all restitution collected through recoupment. This subsection shall have no effect upon the collection or recoupment of restitution ordered under Title 33.

(l) The sentencing court may modify the payment schedule of a restitution order if, upon motion by the Restitution Unit or the offender, the court finds that modification is warranted by a substantial change in circumstances.

(m)(1) After an enforcement action is filed pursuant to subsection (j) of this section, any further proceedings related to the action shall be heard in the court where it was filed. The court shall set the matter for hearing and shall provide notice to the Restitution Unit, the victim, and the offender. Upon filing of a motion for financial disclosure, the court may order the offender to appear at the hearing and disclose assets and liabilities and produce any documents the court deems relevant.

(2) If the court determines the offender has failed to comply with the restitution order, the court may take any action the court deems necessary to ensure the offender will make the required restitution payment, including:

- (A) amending the payment schedule of the restitution order;
- (B) ordering, in compliance with the procedures required in Rule 4.1 of the Vermont Rules of Civil Procedure, the disclosure, attachment, and sale of assets and accounts owned by the offender;
- (C) ordering trustee process against the offender's wages; or
- (D) ordering the suspension of any recreational licenses owned by the offender.

(3) If the court finds that the offender has an ability to pay and willfully refuses to do so, the offender may be subject to civil contempt proceedings under 12 V.S.A. chapter 5.

(n)(1) Any monies owed by the State to an offender who is under a restitution order, including Vermont Lottery winnings, unclaimed property, and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the courts.

(2) The Office of the Treasurer shall, prior to delivery or payment of unclaimed property valued at \$50.00 or more to a claimant pursuant to 27 V.S.A. § 1255, determine whether the claimant has an outstanding restitution order.

(A) The Restitution Unit shall inform the Treasurer of persons with outstanding restitution orders. Each person subject to such an order shall be identified by name and Social Security or federal identification number.

(B) If any such claimant owes restitution, the Restitution Unit, after notice to the owner, may request and the Treasurer shall transfer unclaimed property of such owner valued at \$50.00 or more to the Restitution Unit to be applied to the amount of restitution owed. The notice shall advise the owner of the action being taken and, if he or she is not the person liable under the Restitution Judgment Order, the right to appeal the setoff; or advise the owner if the underlying conviction was vacated or is under appeal.

(3) When an offender is entitled to a tax refund, any restitution owed by the offender shall be withheld from the refund pursuant to 32 V.S.A. chapter 151, subchapter 12.

(4)(A) For all Vermont Lottery games, the Commissioner of Liquor and Lottery shall, before issuing prize money of \$500.00 or more to a winner, determine whether the winner has an outstanding restitution order. If the winner owes restitution, the Commissioner of Liquor and Lottery shall withhold the entire amount of restitution owed and pay it to the Restitution Unit. The remainder of the winnings, if any, shall be sent to the winner. The winner shall be notified by the Restitution Unit of the offset prior to payment to the victim and given a period not to exceed 20 days to contest the accuracy of the information.

(B) The Restitution Unit shall inform the Commissioner of Liquor and Lottery of persons with outstanding restitution orders upon request. Each person subject to such an order shall be identified by name, address, and Social Security number.

(C) If a Vermont Lottery winner has an outstanding restitution order and an outstanding child support order, the Lottery winnings shall be offset first pursuant to 15 V.S.A. § 792 by the amount of child support owed, and second pursuant to this subsection by the amount of restitution owed. The remainder of the winnings, if any, shall be sent to the winner.

(5) Unless otherwise provided, monies paid under this subsection shall be paid directly to the Restitution Unit.

(o) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the Court Administrator. The disclosure of an offender aged 18 or older shall include copies of the offender's most recent State and federal tax returns. The court shall provide copies of the form and the tax returns to the Restitution Unit.

(p) An obligation to pay restitution is part of a criminal sentence and is:

- (1) nondischargeable in the U.S. Bankruptcy Court to the maximum extent provided under 11 U.S.C. §§ 523 and 1328;
- (2) not subject to any statute of limitations; and
- (3) not subject to the renewal of judgment requirements of 12 V.S.A. § 506.

(q) A transfer of property made with the intent to avoid a restitution obligation shall be deemed a fraudulent conveyance for purposes of 9 V.S.A. chapter 57, and the Restitution Unit shall be entitled to the remedies of creditors provided under 9 V.S.A. § 2291.



Vt. Stat. Ann., tit. 13, § 5301(4) defines the term “victim” for the purposes of Vermont’s victims’ rights laws. This definition is included above in the section “Select Definitions.”





Vt. Stat. Ann., tit. 13, § 7043(a)(2)–(3) define the term “material loss” for the purposes of this statutory provision. This definition is included above in the section “Select Definitions.”




Vt. R. Crim. P. 32(g) also governs the procedures for restitution hearings and prehearing disclosures. This Rule is included below.



Vermont’s Restitution Unit is responsible for ensuring that victims receive court ordered restitution. The Restitution Unit’s responsibilities are outlined in Vt. Stat. Ann. tit. 13, § 5362, which is included above.

<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>Victims’ Rights Regarding Offenders’ Petitions for Expungement or Sealing of Criminal History Record: to Notice and to Be Heard.</p> <p>(a) At the time a petition is filed pursuant to this chapter, the respondent shall give notice of the petition to any victim of the offense who is known to the respondent. The victim shall have the right to offer the respondent a statement prior to any stipulation or to offer the court a statement. The disposition of the petition shall not be unnecessarily delayed pending receipt of a victim’s statement. The respondent’s inability to locate a victim after a reasonable effort has been made shall not be a bar to granting a petition.</p> <p>(b) As used in this section, “reasonable effort” means attempting to contact the victim by first-class mail at the victim’s last known address and by telephone at the victim’s last known phone number.</p> <p> A promising practice is to let victims know, upon first contact, of their obligation to keep their contact information current.</p>	<p>Vt. Stat. Ann. tit. 13, § 7608.</p>
<p>Victims’ Rights Regarding Proceeding for Issuance of an Order of Limited Relief or a Certificate of Restoration of Rights: to Notice, to Be Present and to Be Heard.</p> <p>A victim of an offense may participate in a proceeding for issuance of an order of limited relief or a certificate of restoration of rights in the same manner as at a sentencing proceeding pursuant to section 5321 of this title to the extent permitted by rules adopted by the court.</p>	<p>Vt. Stat. Ann. tit. 13, § 8015.</p>

 Vt. Stat. Ann. tit. 13, § 5321 governs victims' rights in the context of sentencing or a change of plea. This statutory provision is included above.	
<p>Abuse Prevention Orders: Requests for Relief.</p> <p>(a) Any family or household member may seek relief from abuse by another family or household member on behalf of himself or herself or his or her children by filing a complaint under this chapter. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may file a complaint under this chapter seeking relief on his or her own behalf. The plaintiff shall submit an affidavit in support of the order.</p> <p>(b) Except as provided in section 1104 of this title, the court shall grant relief only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving abuse by a preponderance of the evidence.</p> <p>(c)(1) The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the court finds that the defendant has abused the plaintiff, and:</p> <p>(A) there is a danger of further abuse; or</p> <p>(B) the defendant is currently incarcerated and has been convicted of one of the following: murder, attempted murder, kidnapping, domestic assault, aggravated domestic assault, sexual assault, aggravated sexual assault, stalking, aggravated stalking, lewd or lascivious conduct with a child, use of a child in a sexual performance, or consenting to a sexual performance.</p> <p>(2) The court order may include the following:</p> <p>(A) An order that the defendant refrain from abusing the plaintiff or his or her children, or both, and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the plaintiff's children, or both, in any way, whether directly, indirectly, or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication, and restrictions prohibiting the defendant from coming within a fixed</p>	<p>Vt. Stat. Ann. tit. 15, § 1103.</p>

<p>distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or the plaintiff's children are likely to spend time.</p> <p>(B) An order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence.</p> <p>(C) A temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title.</p> <p>(D) An order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse. An order for parent-child contact may if necessary include conditions under which the plaintiff may deny parent-child contact pending further order of the court.</p> <p>(E) If the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months.</p> <p>(F) If the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage.</p> <p>(G) An order concerning the possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household.</p> <p>(H) An order that the defendant return any personal documentation in his or her possession, including immigration documentation, birth certificates, and identification cards:</p> <ul style="list-style-type: none"> (i) pertaining to the plaintiff; or (ii) pertaining to the plaintiff's children if relief is sought for the children or for good cause shown. <p>(d) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff's sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit:</p> <ul style="list-style-type: none"> (1) evidence of the plaintiff's past sexual conduct with the defendant; 	
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(2) evidence of specific instances of the plaintiff's sexual conduct showing the source of origin of semen, pregnancy, or disease;

(3) evidence of specific instances of the plaintiff's past false allegations of violations of 13 V.S.A. chapter 59 or 72.

(e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff, the children, or both, from abuse. It is not necessary for the court to find that abuse has occurred during the pendency of the order to extend the terms of the order. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.

(f) No filing fee shall be required.



(g) Every order under this chapter shall contain the name of the court, the names of the parties, the date of the petition, the date and time of the order, and shall be signed by the judge.

(h) Form complaints and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(j) Every final order issued under this section shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH."

(k) Affidavit forms required pursuant to this section shall bear the following language: "MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A

<p>TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904.”</p> <p> Vt. Stat. Ann. tit. 15, § 1101 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> For information about protective orders for stalking or sexual assault victims against individuals other than family or household members, <i>see</i> Vt. Stat. Ann., tit. 12, §§ 5131 through 5138. Some of these statutory provisions are included above.</p>	
<p>Abuse Prevention Orders: Requests for Emergency Relief.</p> <p>(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has abused the plaintiff or the plaintiff's children, or both. The plaintiff shall submit an affidavit in support of the order. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may seek relief on his or her own behalf. Relief under this section shall be limited as follows:</p> <p>(1) Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:</p> <p>(A) to refrain from abusing the plaintiff or his or her children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or by a minor child residing in the household;</p> <p>(B) to refrain from interfering with the plaintiff's personal liberty or the personal liberty of the plaintiff's children, or both;</p> <p>(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment; and</p> <p>(D) to refrain from contacting the plaintiff or the plaintiff's children, or both, in any way, whether directly, indirectly, or through a third party, with the purpose of making contact</p>	<p>Vt. Stat. Ann. tit. 15, § 1104.</p>

with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication.


(2) Upon a finding that the plaintiff, his or her children, or both have been forced from the household and will be without shelter unless the defendant is ordered to vacate the premises, the court may order the defendant to vacate immediately the household and may order sole possession of the premises to the plaintiff.


(3) Upon a finding that there is immediate danger of physical or emotional harm to minor children, the court may award temporary custody of these minor children to the plaintiff or to other persons.


(b) Every order issued under this section shall contain the name of the court, the names of the parties, the date of the petition, and the date and time of the order and shall be signed by the judge. Every order issued under this section shall inform the defendant that if he or she fails to appear at the final hearing, the temporary order will remain in effect until the final order is served on the defendant unless the temporary order is dismissed by the court. Every order issued under this section shall state upon its face a date, time, and place when the defendant may appear to petition the court for modification or discharge of the order. This opportunity to contest shall be scheduled as soon as reasonably possible, which in no event shall be more than 14 days from the date of issuance of the order. At such hearings, the plaintiff shall have the burden of proving abuse by a preponderance of the evidence. If the court finds that the plaintiff has met his or her burden, it shall continue the order in effect and make such other order as it deems necessary to protect the plaintiff.


(c) Form complaints and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(d) Every order issued under this chapter shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH."

<p>(e) Affidavit forms required pursuant to this section shall bear the following language: “MAKING FALSE STATEMENTS IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 2904.”</p> <p> Vt. Stat. Ann. tit. 15, § 1101 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Abuse Prevention Orders: Service of Order by Law Enforcement.</p> <p>(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.</p> <p>(b)(1) A defendant who attends a hearing held under section 1103 or 1104 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.</p> <p>(2) An ex parte temporary order issued under this chapter shall remain in effect until either it is dismissed by the court or the petition is denied at the final hearing. If the plaintiff fails to appear at the final hearing, the petition shall be dismissed, provided that the court may continue the temporary order until the final hearing if it makes findings on the record stating why there is good cause not to dismiss the petition. If a final order is issued, the temporary order shall remain in effect until personal service of the final order.</p>	<p>Vt. Stat. Ann. tit. 15, § 1105.</p>

<p>(c) Abuse orders shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service that include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the defendant.</p> <p>(d) If service of a notice of hearing issued under section 1103 or 1104 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.</p> <p> Vt. Stat. Ann. tit. 15, § 1101 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Abuse Prevention Orders: Procedure.</p> <p>(a) Except as otherwise specified in this chapter, proceedings commenced under this chapter shall be in accordance with the Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.</p> <p>(b)(1) The Court Administrator shall establish procedures to ensure access to relief after regular court hours, or on weekends and holidays. The Court Administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to Superior Courts. Law enforcement agencies shall assist in carrying out the intent of this section.</p> <p>(2)(A) The court shall designate an authorized person to receive requests for ex parte temporary relief from abuse orders submitted after regular court hours pursuant to section 1104 of this title, including requests made by reliable electronic means according to the procedures in this subdivision.</p>	<p>Vt. Stat. Ann. tit. 15, § 1106.</p>

<p>(B) If a secure setting is not available for processing an ex parte temporary relief from abuse order submitted after regular court hours, or if the authorized person determines that electronic submission is appropriate under the circumstances, the authorized person shall inform the applicant that a complaint and affidavit may be submitted electronically.</p> <p>(C) The affidavit shall be sworn to or affirmed by administration of the oath over the telephone to the applicant by the authorized person, and shall conclude with the following statement: "I declare under the penalty of perjury pursuant to the laws of the State of Vermont that the foregoing is true and accurate. I understand that the penalty for perjury is imprisonment of not more than 15 years or a fine of not more than \$10,000.00, or both." The authorized person shall note on the affidavit the date and time that the oath was administered.</p> <p>(D) The authorized person shall communicate the contents of the complaint and affidavit to a judicial officer telephonically or by reliable electronic means. The judicial officer shall decide whether to grant or deny the complaint and issue the order solely on the basis of the contents of the affidavit or affidavits provided. The judicial officer shall communicate the decision to the authorized person, who shall communicate it to the applicant. If the order is issued, it shall be delivered to the appropriate law enforcement agency for service and to the holding station.</p> <p>(c) The Office of the Court Administrator shall ensure that the Superior Court has procedures in place so that the contents of orders and pendency of other proceedings can be known to all courts for cases in which an abuse prevention proceeding is related to a criminal proceeding.</p> <p> Vt. Stat. Ann. tit. 15, § 1101 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."</p>	
<p>Abuse Prevention Order: Law Enforcement's Obligation to Establish Filing Procedures.</p> <p>(a) Police departments, sheriff's departments, and State police district offices shall establish procedures for filing abuse prevention orders issued under this chapter, 33 V.S.A. chapter</p>	<p>Vt. Stat. Ann. tit. 15, § 1107.</p>

<p>69, 12 V.S.A. chapter 178, protective orders relating to contact with a child issued under 33 V.S.A. § 5115, and foreign abuse prevention orders and for making their personnel aware of the existence and contents of such orders.</p> <p>(b) Any court in this State that issues an abuse prevention order under section 1104 or 1103 of this chapter, or that files a foreign abuse prevention order in accordance with subsection 1108(d) of this chapter, or that issues a protective order relating to contact with a child under 33 V.S.A. § 5115, shall transmit a copy of the order to the Department of Public Safety protection order database.</p> <p> Vt. Stat. Ann. tit. 15, § 1101 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Abuse Prevention Order: Enforcement of Orders by Law Enforcement.</p> <p>(a) Law enforcement officers are authorized to enforce orders issued under this chapter. A foreign abuse prevention order shall be accorded full faith and credit throughout this State and shall be enforced as if it were an order of this State. Enforcement may include, but is not limited to:</p> <ul style="list-style-type: none"> (1) making an arrest in accordance with the provisions of V.R.Cr.P. 3; (2) assisting the recipient of an order granting sole possession of the residence to obtain sole possession of the residence if the defendant refuses to leave; (3) assisting the recipient of an order granting sole custody of children to obtain sole custody of children if the defendant refuses to release them. <p>(b) A law enforcement officer may rely upon a copy of any order issued under this chapter or any foreign abuse prevention order that has been provided to the law enforcement officer by any source. Law enforcement personnel may rely upon the written and sworn statement of the person protected by the foreign abuse prevention order that the order remains in effect. An officer's reasonable reliance as provided in this subsection shall be a complete defense</p>	<p>Vt. Stat. Ann. tit. 15, § 1108.</p>

in any civil action arising in connection with a court's finding under subsection (c) of this section that the order was not enforceable.

(c) A foreign abuse prevention order shall be enforceable in the courts in this State if all the following are satisfied:

(1) The defendant has received notice of the order in compliance with the requirements of the issuing state.




(2) The order is in effect in the issuing state.

(3) The court in the issuing state had jurisdiction over the parties and the subject matter under the law of the issuing state.

(4) In the issuing state, the law gives reasonable notice and opportunity to be heard to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within a reasonable time after the order is issued, sufficient to protect the defendant's due process rights. Failure to provide reasonable notice and opportunity to be heard shall be an affirmative defense to any charge or process filed seeking enforcement of the foreign protection order.

(d) A person entitled to protection under a foreign abuse prevention order may file the foreign abuse prevention order in any Family Division of the Superior Court by filing a certified copy of the order with the court. The person shall swear under oath in an affidavit that to the best of the person's knowledge the order is presently in effect as written. Upon inquiry by a law enforcement agency, the clerk of the Family Division of the Superior Court shall make a copy of the foreign abuse prevention order available.

(e) In addition to the provisions of subsection (a) of this section, violation of an order issued under this chapter may be prosecuted as a criminal contempt under Rule 42 of Vermont Rules of Criminal Procedure. The prosecution for criminal contempt may be initiated by the State's Attorney in District or Superior Court in the unit or county in which the violation occurred. The maximum penalty that may be imposed under this subsection shall be a fine of \$1,000.00 or imprisonment for six months, or both. A sentence of imprisonment upon conviction for criminal contempt may be stayed in the discretion of the court pending the

<p>expiration of the time allowed for filing notice of appeal or pending appeal if any appeal is taken. After two years have passed from conviction under this subsection, the court may on motion of the defendant expunge the record of the criminal proceeding and conviction unless the defendant has been convicted of a felony or misdemeanor involving moral turpitude or a violation of a domestic abuse order after such initial adjudication.</p> <p> Vt. Stat. Ann. tit. 15, § 1101 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p>	
<p>Address Confidentiality Program: Findings and Intent.</p> <p>(a) The General Assembly finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, and stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them.</p> <p>(b) It is the purpose of this subchapter to:</p> <ul style="list-style-type: none"> (1) enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual assault, or stalking; (2) promote interagency cooperation with the Secretary of State in providing address confidentiality for victims of domestic violence, sexual assault, and stalking; and (3) enable State agencies and local agencies to accept a Program participant’s use of an address, and local agencies to accept an address, designated by the Secretary of State as a substitute mailing address. <p> Vt. Stat. Ann. tit. 15, § 1151 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> For additional information on Vermont’s Address Confidentiality Program, <i>see</i> Vt. Stat. Ann. tit. 15, § 1152 (application; certification); <i>id.</i> at tit. 15, § 1153 (certification)</p>	<p>Vt. Stat. Ann. tit. 15, § 1150.</p>

<p>cancellation); <i>id.</i> at tit. 15, § 1154 (non-law enforcement agency use of designated address); <i>id.</i> at tit. 15, § 1154a (law enforcement agency use of designated address); <i>id.</i> at tit. 15, § 1155 (disclosure of address prohibited; exceptions); <i>id.</i> at tit. 15, § 1156 (nondisclosure of address in criminal and civil proceedings); <i>id.</i> at tit. 15, § 1157 (assistance for program applicant); <i>id.</i> at tit. 15, § 1158 (voting by program participant); <i>id.</i> at tit. 15, § 1159 (custody and visitation orders); <i>id.</i> at tit. 15, § 1160 (adoption of rules). Some of these provisions are included below.</p>	
<p>Address Confidentiality Program: Application; Certification.</p> <p>(a) An adult person, a parent, or legal guardian acting on behalf of a minor, or a legal guardian acting on behalf of an incapacitated person may apply to the Secretary of State to have an address designated by the Secretary serve as the person’s address or the address of the minor or incapacitated person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State, and if it contains:</p> <p>(1) a statement made under oath by the applicant that:</p> <p>(A) the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, stalking, or human trafficking;</p> <p>(B) the applicant fears for his or her safety or his or her children’s safety, or the safety of the minor or incapacitated person on whose behalf the application is made;</p> <p>(C) the parent or legal guardian applying on behalf of a minor or incapacitated person has legal authority to act on the person’s behalf;</p> <p>(D) if the applicant is under the supervision of the Department of Corrections, the applicant has notified the Department of the actual address and the applicant authorizes the release of the actual address to the Department; and</p> <p>(E) if the applicant is required to report the actual address for the Sex Offender Registry under 13 V.S.A. chapter 167, subchapter 3, the applicant authorizes the release of the actual address to the Registry;</p> <p>(2) a designation of the Secretary as agent for purposes of service of process and for the purpose of receipt of mail;</p>	<p>Vt. Stat. Ann. tit. 15, § 1152.</p>

(3) the mailing address where the applicant can be contacted by the Secretary and the telephone number or numbers where the applicant can be called by the Secretary;

(4) the new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, stalking, or human trafficking; and

(5) the signature of the applicant and the name of any individual or representative of any office who assisted in the preparation of the application and the date on which the applicant signed the application.


(b) Applications shall be filed with the Office of the Secretary.


(c) Upon receipt of a properly completed application, the Secretary shall certify the applicant as a Program participant. Applicants shall be certified for four years following the date of filing, unless the certification is withdrawn or cancelled before that date. The Secretary shall by rule establish a renewal procedure.

(d) A person who knowingly provides false or incorrect information to the Secretary as required by this chapter may be prosecuted under 13 V.S.A. § 2904.

(e) A Program participant shall notify the Secretary of State of a change of actual address within seven days of the change of address.

(f) The Civil or Family Division of Washington County Superior Court shall have jurisdiction over petitions for protective orders filed by Program participants pursuant to 12 V.S.A. §§ 5133 and 5134, to sections 1103 and 1104 of this title, and to 33 V.S.A. § 6935. A Program participant may file a petition for a protective order in the county in which he or she resides or in Washington County to protect the confidentiality of his or her address.

 Vt. Stat. Ann. tit. 15, § 1151 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”

<p> For additional information on Vermont’s Address Confidentiality Program, <i>see</i> Vt. Stat. Ann. tit. 15, § 1150 (findings and intent); <i>id.</i> at tit. 15, § 1153 (certification cancellation); <i>id.</i> at tit. 15, § 1154 (non-law enforcement agency use of designated address); <i>id.</i> at tit. 15, § 1154a (law enforcement agency use of designated address); <i>id.</i> at tit. 15, § 1155 (disclosure of address prohibited; exceptions); <i>id.</i> at tit. 15, § 1156 (nondisclosure of address in criminal and civil proceedings); <i>id.</i> at tit. 15, § 1157 (assistance for program applicant); <i>id.</i> at tit. 15, § 1158 (voting by program participant); <i>id.</i> at tit. 15, § 1159 (custody and visitation orders); <i>id.</i> at tit. 15, § 1160 (adoption of rules). Some of these provisions are included above and below.</p>	
<p>Address Confidentiality Program: Non-Law Enforcement Agency Use of Designated Address.</p> <p>(a) A Program participant shall request that State and local agencies, other than law enforcement agencies, use the substitute address as the participant’s address. When creating a new public record, State and local agencies, other than law enforcement agencies, shall accept the substitute address, unless the Secretary has determined that:</p> <ol style="list-style-type: none"> (1) the agency has a bona fide requirement for the use of the actual address that would otherwise be confidential under this subchapter; (2) the address will be used only for those statutory and administrative purposes; (3) the agency has identified the specific Program participant’s record for which the waiver is requested; (4) the agency has identified the individuals who will have access to the record; and (5) the agency has explained how its acceptance of the substitute address will prevent the agency from meeting its obligations under the law and why it cannot meet its statutory or administrative obligation by a change in its internal procedures. <p>(b) During the review, evaluation, and appeal of an agency’s request, the agency shall accept the use of a Program participant’s substitute address.</p>	<p>Vt. Stat. Ann. tit. 15, § 1154.</p>

(c) The Secretary's determination to grant or withhold a requested waiver must be based on, but not limited to, an evaluation of the information under subsection (a) of this section.

(d) If the Secretary finds that the agency has a bona fide purpose for the actual address and that the information will only be used for that purpose, the Secretary shall issue the actual address to the agency. Prior to granting the waiver, the Secretary shall notify the Program participant of the waiver, including the name of the agency and the reasons for the waiver. If granted a waiver, the agency shall maintain the confidentiality of the Program participant's address by redacting the actual address when the record is released to any person.

(e) Denial of the agency waiver request must be made in writing and include a statement of the reasons for denial.

(f) Acceptance or denial of the agency's waiver request constitutes final agency action. An aggrieved party may appeal.

(g) A Program participant may use the address designated by the Secretary as his or her work address.

(h) The Office of the Secretary shall forward all first-class mail to the appropriate Program participants.

(i) The Secretary shall keep a record of all waivers and all documentation relating to requests for waivers.

(j) Any agency receiving a waiver may not make the Program participant's actual address available for inspection or copying, except under the following circumstances:

(1) if requested by a law enforcement agency for a law enforcement purpose as defined in subdivision 1151(5) of this title; or



(2) if directed by a court order to a person identified in the order.



Vt. Stat. Ann. tit. 15, § 1151 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."



For additional information on Vermont's Address Confidentiality Program, *see* Vt. Stat. Ann. tit. 15, § 1150 (findings and intent); *id.* at tit. 15, § 1152 (application; certification); *id.* at tit. 15, § 1153 (certification cancellation); *id.* at tit. 15, § 1154a (law enforcement agency


<p>use of designated address); <i>id.</i> at tit. 15, § 1155 (disclosure of address prohibited; exceptions); <i>id.</i> at tit. 15, § 1156 (nondisclosure of address in criminal and civil proceedings); <i>id.</i> at tit. 15, § 1157 (assistance for program applicant); <i>id.</i> at tit. 15, § 1158 (voting by program participant); <i>id.</i> at tit. 15, § 1159 (custody and visitation orders); <i>id.</i> at tit. 15, § 1160 (adoption of rules). Some of these provisions are included above and below.</p>	
<p>Address Confidentiality Program: Law Enforcement Agency Use of Designated Address.</p> <p>(a) If requested in person by a Program participant to the person creating the record prior to the creation of the record, and upon proof of participation in the Program established by this chapter, a law enforcement agency shall use the participant’s substitute address in:</p> <ol style="list-style-type: none"> (1) a summons or complaint for a violation within the jurisdiction of the judicial bureau as set forth in 4 V.S.A. § 1102. (2) a citation to appear under Rule 3 of the Vermont Rules of Criminal Procedure; or (3) an accident report filed with the Department of Motor Vehicles. <p>(b) Nothing in this subchapter shall prevent a law enforcement agency from requiring that a Program participant provide his or her actual address upon request from the agency.</p> <p>(c) A law enforcement agency may, in its discretion, use a substitute address in any record released by the agency.</p> <p> Vt. Stat. Ann. tit. 15, § 1151 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> For additional information on Vermont’s Address Confidentiality Program, <i>see</i> Vt. Stat. Ann. tit. 15, § 1150 (findings and intent); <i>id.</i> at tit. 15, § 1152 (application; certification); <i>id.</i> at tit. 15, § 1153 (certification cancellation); <i>id.</i> at tit. 15, § 1154 (non-law enforcement agency use of designated address); <i>id.</i> at tit. 15, § 1155 (disclosure of address prohibited; exceptions); <i>id.</i> at tit. 15, § 1156 (nondisclosure of address in criminal and civil</p>	<p>Vt. Stat. Ann. tit. 15, § 1154a.</p>


<p>proceedings); <i>id.</i> at tit. 15, § 1157 (assistance for program applicant); <i>id.</i> at tit. 15, § 1158 (voting by program participant); <i>id.</i> at tit. 15, § 1159 (custody and visitation orders); <i>id.</i> at tit. 15, § 1160 (adoption of rules). Some of these provisions are included above and below.</p>	
<p>Address Confidentiality Program: Disclosure of Address Prohibited; Exceptions.</p> <p>(a) The Secretary of State may not make a Program participant’s address, other than the address designated by the Secretary, available for inspection or copying, except under the following circumstances:</p> <p>(1) if requested by a law enforcement agency for a law enforcement purpose as defined in subdivision 1151(5) of this title; or</p> <p>(2) if directed by a court order to a person identified in the order; or</p> <p>(3) to verify the participation of a specific Program participant, in which case the Secretary may only confirm information supplied by the requester.</p> <p>(b) The Secretary shall ensure by rule that:</p> <p>(1) when a law enforcement agency determines it has an immediate need for a participant’s actual address, disclosure of the address shall occur immediately; and</p> <p>(2) in other circumstances, there is an expedited process for disclosure.</p> <p>(c) The Secretary may request that an agency review its disclosure requests to determine whether such requests were appropriate.</p> <p>(d) The Secretary shall provide immediate notification of disclosure to a program participant when disclosure takes place under subdivisions (a)(2) and (3) of this section.</p> <p>(e)(1) No person shall knowingly and intentionally obtain a Program participant’s actual address from the Secretary knowing that he or she was not authorized to obtain the address information.</p> <p>(2) No employee of a state, local, or municipal agency or sheriff’s department shall knowingly and intentionally disclose, with the intent to disseminate to the individual from</p>	<p>Vt. Stat. Ann. tit. 15, § 1155.</p>



whom the Program participant is seeking address confidentiality, a participant's actual address to a person known to the employee to be prohibited from receiving the participant's actual address, unless such disclosure is permissible by law. This subdivision is only intended to apply when an employee obtains a participant's actual address during the course of the employee's official duties and, at the time of disclosure, the employee has specific knowledge that the address disclosed belongs to a person who is participating in the Program.



(3) Nothing in this chapter shall prohibit an agency or agency employee from disclosing or providing a participant's actual address to an agency attorney providing advice to an agency or agency employee, nor shall any agency attorney be prohibited, except as set forth in section 1156 of this title, from disclosing a participant's actual address to other law enforcement employees, other agency attorneys, paralegals, or their support staff, if disclosure is related to providing such advice or to the agency attorney's representation of the agency or agency employee. In the case of law enforcement, agency attorneys shall also include the attorneys in the office of the State's Attorneys, Attorney General and the U.S. attorney. An attorney, during the course of providing advice to another person or agency, shall not be subject to the provisions set forth in subdivisions 1155(e)(1) and (2) of this title, nor shall any actionable duty arise from giving such advice.

(4) A person who violates subdivisions (1) or (2) of this subsection shall be assessed a civil penalty of not more than \$5,000.00. Each unauthorized disclosure shall constitute a separate civil violation. Nothing in this subdivision shall preclude criminal prosecution for a violation.

 Vt. Stat. Ann. tit. 15, § 1151 defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."

 For additional information on Vermont's Address Confidentiality Program, *see* Vt. Stat. Ann. tit. 15, § 1150 (findings and intent); *id.* at tit. 15, § 1152 (application; certification); *id.* at tit. 15, § 1153 (certification cancellation); *id.* at tit. 15, § 1154 (non-law enforcement agency use of designated address); *id.* at tit. 15, § 1154a (law enforcement agency use of designated address); *id.* at tit. 15, § 1156 (nondisclosure of address in criminal and civil proceedings); *id.* at tit. 15, § 1157 (assistance for program applicant); *id.* at tit. 15, § 1158

<p>(voting by program participant); <i>id.</i> at tit. 15, § 1159 (custody and visitation orders); <i>id.</i> at tit. 15, § 1160 (adoption of rules). Some of these provisions are included above and below.</p>	
<p>Address Confidentiality Program: Nondisclosure of Address in Criminal and Civil Proceedings.</p> <p>No person shall be compelled to disclose a Program participant’s actual address during the discovery phase of or during a proceeding before a court of competent jurisdiction or administrative tribunal unless the court or administrative tribunal finds, based upon a preponderance of the evidence, that the disclosure is required in the interests of justice. A court or administrative tribunal may seal that portion of any record that contains a Program participant’s actual address. Nothing in this subchapter shall prevent the State, in its discretion, from using a Program participant’s actual address in any document or record filed with a court or administrative tribunal if, at the time of filing, the document or record is not a public record.</p> <p> Vt. Stat. Ann. tit. 15, § 1151 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> For additional information on Vermont’s Address Confidentiality Program, <i>see</i> Vt. Stat. Ann. tit. 15, § 1150 (findings and intent); <i>id.</i> at tit. 15, § 1152 (application; certification); <i>id.</i> at tit. 15, § 1153 (certification cancellation); <i>id.</i> at tit. 15, § 1154 (non-law enforcement agency use of designated address); <i>id.</i> at tit. 15, § 1154a (law enforcement agency use of designated address); <i>id.</i> at tit. 15, § 1155 (disclosure of address prohibited; exceptions); <i>id.</i> at tit. 15, § 1157 (assistance for program applicant); <i>id.</i> at tit. 15, § 1158 (voting by program participant); <i>id.</i> at tit. 15, § 1159 (custody and visitation orders); <i>id.</i> at tit. 15, § 1160 (adoption of rules). Some of these provisions are included above and below.</p>	<p>Vt. Stat. Ann. tit. 15, § 1156.</p>

<p>Address Confidentiality Program: Assistance in Applications to Program from State and Local Agencies and Nonprofits.</p> <p>The Secretary of State shall make available a list of State and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence, sexual assault, stalking, and human trafficking to assist persons applying to be program participants. Such information provided by the Office of the Secretary or designees to applicants shall in no way be construed as legal advice.</p> <p> Vt. Stat. Ann. tit. 15, § 1151 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> For additional information on Vermont’s Address Confidentiality Program, <i>see</i> Vt. Stat. Ann. tit. 15, § 1150 (findings and intent); <i>id.</i> at tit. 15, § 1152 (application; certification); <i>id.</i> at tit. 15, § 1153 (certification cancellation); <i>id.</i> at tit. 15, § 1154 (non-law enforcement agency use of designated address); <i>id.</i> at tit. 15, § 1154a (law enforcement agency use of designated address); <i>id.</i> at tit. 15, § 1155 (disclosure of address prohibited; exceptions); <i>id.</i> at tit. 15, § 1156 (nondisclosure of address in criminal and civil proceedings); <i>id.</i> at tit. 15, § 1157 (assistance for program applicant); <i>id.</i> at tit. 15, § 1158 (voting by program participant); <i>id.</i> at tit. 15, § 1159 (custody and visitation orders); <i>id.</i> at tit. 15, § 1160 (adoption of rules). Some of these provisions are included above.</p>	<p>Vt. Stat. Ann. tit. 15, § 1157.</p>
<p>Victims’ Employment-Related Right to Take Unpaid Leave to Attend Certain Depositions or Court Proceedings in a Criminal Case.</p> <p>(b) In addition to the leave provided in section 472 of this title, an employee shall be entitled to take unpaid leave from employment for the purpose of attending a deposition or court proceeding related to:</p>	<p>Vt. Stat. Ann. tit. 21, § 472c(b)–(h).</p>

(1) a criminal proceeding, when the employee is a victim as defined in 13 V.S.A. § 5301 and the employee has a right or obligation to appear at the proceeding;

(2) a relief from abuse hearing pursuant to 15 V.S.A. § 1103, when the employee seeks the order as plaintiff;

(3) a hearing concerning an order against stalking or sexual assault pursuant to 12 V.S.A. § 5133, when the employee seeks the order as plaintiff; or

(4) a relief from abuse, neglect, or exploitation hearing pursuant to 33 V.S.A. chapter 69, when the employee is the plaintiff.

(c) During the leave, at the employee's option, the employee may use accrued sick leave, vacation leave, or any other accrued paid leave. Use of accrued paid leave shall not extend the leave provided pursuant to this section.

(d) The employer shall continue employment benefits for the duration of the leave at the level and under the conditions coverage would be provided if the employee continued in employment continuously for the duration of the leave. The employer may require that the employee contribute to the cost of benefits during the leave at the existing rate of employee contribution.

(e) The employer shall post and maintain in a conspicuous place in and about each of its places of business printed notices of the provisions of this section on forms provided by the Commissioner of Labor.

(f)(1) Upon return from leave taken under this section, an employee shall be offered the same or comparable job at the same level of compensation, employment benefits, seniority, or any other term or condition of the employment existing on the day leave began.

(2) This subsection shall not apply if, prior to requesting leave, the employee had been given notice or had given notice that the employment would terminate.

(3) This subsection shall not apply if the employer can demonstrate by clear and convincing evidence that during the period of leave the employee's job would have been terminated or the employee would have been laid off for reasons unrelated to the leave or the condition for which the leave was granted.

(g) An employer may adopt a leave policy more generous than the leave provided by this section. Nothing in this section shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater leave rights than the rights provided by this section. A collective bargaining agreement or employment benefit program or plan shall not diminish rights provided by this section. Notwithstanding the provisions of this section, an employee may, at the time a need for leave arises, waive some or all of the rights under this section, provided that the waiver is informed and voluntary and that any changes in conditions of employment related to the waiver shall be mutually agreed upon between the employer and the employee.

(h) Subsection (b) of this section shall not apply to an employer that provides goods or services to the general public if the employee's absence would require the employer to suspend all business operations at a location that is open to the general public.




Vt. Stat. Ann. tit. 21, § 472c(a) defines the terms used in this statutory provision. These definitions are included above in the section "Select Definitions."




An employer may not discharge or otherwise retaliate against an employee who exercises or attempts to exercise their right, as a victim, to attend certain depositions or court proceedings. Vt. Stat. Ann. tit. 21, § 473.



Vt. Stat. Ann. tit. 13, § 5313 also bars employers from discharging or disciplining certain victims, victims' family members and victims' representatives for honoring a subpoena. This provision is included above.


<p>Victims' Rights Regarding Probation: to Information About Probation and to Request and Receive Notice of Compliance.</p> <p>(1) At or before the sentencing hearing, the prosecutor's office shall inform the victim of the mid-point review process for probationers, and that the defendant may be eligible for early discharge from probation pursuant to sections 251 and 252 of this title.</p> <p>(2) The victim of a listed crime as defined in 13 V.S.A. § 5301(7) for which the offender has been placed on probation shall have the right to request and receive from the Department of Corrections information regarding the offender's general compliance with the specific conditions of probation. Nothing in this section shall require the Department of Corrections to disclose any confidential information revealed by the offender in connection with participation in a treatment program.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	<p>Vt. Stat. Ann. tit. 28, § 205(b).</p>
<p>Victims' Rights Regarding Probation: to Notice of Motion to Reduce Probationer's Term.</p> <p>The prosecutor shall make a reasonable effort to notify any victim of record of a motion filed to reduce a probationer's term pursuant to this subsection. "Reasonable effort" means attempting to contact the victim by first-class mail at the victim's last known address and by telephone at the victim's last known phone number.</p>	<p>Vt. Stat. Ann. tit. 28, § 252(d)(3).</p>

<p>Victims' Rights Regarding Parole Hearings: to Notice, to Be Heard and to Not Have Defendant Present.</p> <p>(a) At least 30 days prior to a parole eligibility hearing, the victim of a listed crime as defined in 13 V.S.A. § 5301(7), shall be notified as to the time and location of the hearing. Such notification may be waived by the victim in writing.</p> <p>(b) At a parole eligibility hearing, unless waived by the victim of a listed crime as defined in 13 V.S.A. § 5301(7), the inmate shall not be present when the victim testifies before the Parole Board.</p> <p>(c) Parole Board proceedings shall be subject to the Vermont Open Meeting Law.</p> <p> Vt. Stat. Ann. tit. 28, § 507(d) defines the term “victim” for the purposes of this statutory provision. This definition is included above in the section “Select Definitions.”</p>	<p>Vt. Stat. Ann. tit. 28, § 507(a)–(c).</p>
<p>Victims' Right to Certain Medical Care; State's Obligation to Cover Costs of Certain Medical Care.</p> <p>(a) As described in this section, the State shall cover the costs of certain medical care for victims of crime committed in this State without health insurance or whose health insurance does not pay for all of the care provided.</p> <p>(b) The State shall bear the costs of forensic medical and psychological examinations administered to victims of crime committed in this State, in instances where that examination is requested by a law enforcement officer or a prosecuting authority of the State or any of its subdivisions and the victim does not have health coverage or the victim's health coverage does not cover the entire cost of the examination. The State shall also bear the costs of sexual assault examinations, as defined in 8 V.S.A. § 4089, administered to victims in cases of alleged sexual assault where the victim obtains such an examination prior to receiving such</p>	<p>Vt. Stat. Ann. tit. 32, § 1407.</p>

<p>a request if the victim does not have health coverage or the victim's health coverage does not cover the entire cost of the examination. If, as a result of a sexual assault examination, the alleged victim has been referred for mental health counseling, the State shall bear any costs of such examination not covered by the victim's health coverage. These costs may be paid from the Victims' Compensation Fund from funds appropriated for that purpose.</p> <p>(c)(1) Health care facilities and health care providers shall bill the victim's health insurance plan, Medicaid, Medicare, or another health benefit plan, as applicable, for the services described in subsection (b) of this section. If the victim does not have health coverage or if the victim's health benefit plan denies the claim, the Fund shall reimburse health care facilities and health care providers located in Vermont as defined in 18 V.S.A. § 9402 at 60 percent of the billed charges for these claims, and the health care provider or facility shall not bill any balance to the crime victim.</p> <p>(2) If the victim's health coverage does not cover all of the medical care provided pursuant to this section and the victim would otherwise be responsible for any co-payment, coinsurance, deductible, or other cost-sharing, the Fund shall pay the victim's share directly to the health care facility or provider.</p> <p>(d) A victim, at his or her own expense, may obtain copies of the results of an examination under this section.</p>	
<p>Victims' Rights Regarding Depositions: When Taken.</p> <p>A defendant or the state, at any time after the filing of an indictment or information charging a felony, or charging a misdemeanor if authorized under subdivision (e)(4), may take the deposition of a witness subject to such protective orders and deposition schedule as the court may impose. No deposition may be taken after the date set by the court at arraignment or, if no date is set, more than 90 days after arraignment, except by leave of court granted for good cause shown.</p>	<p>Vt. R. Crim. P. 15(a).</p>



<p>Victims' Rights Regarding Depositions: For the Victim-Deponents' Protection, Defendant Not Physically Present, Except By Agreement of the Parties or Upon Court Order for Good Cause.</p> <p>The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, any Superior Judge may, for good cause shown, extend or shorten the time and may change the place of taking. The defendant shall not be physically present at the deposition except by agreement of the parties or upon court order for good cause shown. It shall be good cause if the court determines that it is reasonably likely that the deposition will be used as substantive evidence pursuant to subdivision (h). For the protection of the deponent, the court may impose conditions under which the defendant may be present including, but not limited to, use of screening or alternative methods of taping or recording which allow defendant limited observation of the deponent and the ability to confer with counsel. When a deposition is taken to preserve the testimony of a witness for use at a hearing or trial, a defendant shall have the right to be present subject to such protective orders as would be available at trial, including holding the deposition before a judge. Whenever a defendant in custody is to be present at a deposition, the court shall issue such transportation orders as may be required, and the officer having custody of the defendant shall be notified of the time and place set for the examination and shall produce the defendant pursuant to the provisions of the order.</p>	<p>Vt. R. Crim. P. 15(b).</p>
<p>Victims' Rights Regarding Depositions: No Repeat Depositions Without Court Approval for Good Cause.</p> <p>No witness may be deposed more than once regarding the same offense, or multiple offenses arising out of the same incident, regardless of the stage of the case, without approval of the court for good cause shown and a showing that other means are not available to obtain the</p>	<p>Vt. R. Crim. P. 15(e)(1).</p>




<p>information sought. Such permission shall include limitations on the subject matter of further questioning.</p>	
<p>Victims' Rights Regarding Depositions: Limitations on Depositions of Victims of Certain Sexual and Violent Offenses Under the Age of Sixteen; Child-Victims' Right to Appointment of Counsel for the Purposes of Deposition.</p> <p>(A) No deposition of a victim under the age of 16 shall be taken in a prosecution under 13 V.S.A. §§ 2601 (lewd and lascivious conduct), 2602 (lewd and lascivious conduct with a child), 3252 (sexual assault), 3253 (aggravated sexual assault), or 3253a (aggravated sexual assault of a child) except by agreement of the parties or after approval of the court pursuant to subparagraph (B) of this paragraph (5).</p> <p>(B) The court shall not approve a deposition under this subdivision unless the court finds that the testimony of the child is necessary to assist the trial, that the evidence sought is not reasonably available by any other means, and that the probative value of the testimony outweighs the potential detriment to the child of being deposed. In determining whether to approve a deposition under this subdivision, the court shall consider the availability of recorded statements of the victim and the complexity of the issues involved.</p> <p>(C)(i) If a deposition is taken pursuant to this paragraph (5), the court shall issue a protective order to protect the deponent from emotional harm, unnecessary annoyance, embarrassment, oppression, invasion of privacy, or undue burden of expense or waste of time. The protective order may include, among other remedies, the following: (I) that the deposition may be taken only on specified terms and conditions, including a designation of the time, place, and manner of taking the deposition; (II) that the deposition may be taken only by written questions; (III) that certain matters not be inquired into, or that the scope of the deposition be limited to certain matters; (IV) that the deposition be conducted with only such persons present as the court may designate; or (V) that after the deposition has been taken, the tape or transcription be sealed until further order of the court. The restrictions of 13 V.S.A. § 3255(a) shall apply to depositions taken pursuant to this paragraph (5).</p>	<p>Vt. R. Crim. P. 15(e)(5).</p>


<p>(ii) If a deposition is taken pursuant to this paragraph (5), the court shall appoint an attorney to represent the child for the purposes of the deposition.</p> <p> A promising practice when notifying victims of their right to the appointment of counsel to represent them during a deposition 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>Victims' Rights Regarding Depositions: Right to Have Counsel Present; Right to Have Victim Advocate Present; Right to Seek Protective Orders When Subjected to Harassment or Intimidation; Right to Notice of These Rights.</p> <p>A deponent may have counsel present at the deposition and may make legal objections to questions. The deponent shall be treated as a party at hearings on motions pertaining to the deposition. A victim of an alleged crime may have a victim advocate present during the deposition. The deponent may apply to the court for a protective order if the deponent believes that he or she is being subjected to harassment or intimidation. A subpoena issued pursuant to V.R.Cr.P. 17, or other notice of the deposition given to the deponent, shall include notice that the deponent may have the assistance of counsel and the victim advocate as provided herein and seek a protective order as provided in paragraph (3).</p>	<p>Vt. R. Crim. P. 15(f)(1).</p>
<p>Victims' Rights Regarding Depositions: Certain Child-Victims' and Certain Adult Sexual Offense Victims' Right to Additional Protections Regarding Deposition Procedures and Topics Covered.</p> <p>A person under the age of 16 who is a victim in a prosecution for an offense other than one listed in paragraph (e)(5), or any person aged 16 or older who is a victim in a prosecution under 13 V.S.A. § 2601 (lewd and lascivious conduct), 3252 (sexual assault), or 3253 (aggravated sexual assault) shall be considered a sensitive witness. Prior to taking the deposition of a sensitive witness, the party seeking to take the deposition shall consult with the other parties and the deponent in an effort to reach an agreement on the time, place,</p>	<p>Vt. R. Crim. P. 15(f)(2).</p>



<p>manner and scope of the taking of the deposition. If an agreement cannot be reached, the party seeking to take the deposition shall so advise the court and specify the matters which are in dispute. The court shall then issue an order regulating the taking of the deposition including, in its discretion, a requirement that the deposition be taken in the presence of a judge or special master. The restrictions of 13 V.S.A. § 3255(a) shall apply to depositions. If a party taking a deposition proposes to ask about information that falls within 13 V.S.A. § 3255(a)(3)(A)-(C), the party shall notify the other parties and the deponent of this intent prior to seeking agreement on the scope of the deposition.</p>	
<p>Victims' Rights Regarding Depositions: Protective Orders</p> <p>At the request of a party or deponent, and for good cause shown, the court may make any protective order which justice requires to protect a party or deponent from emotional harm, unnecessary annoyance, embarrassment, oppression, invasion of privacy, or undue burden of expense or waste of time. Such orders may include, among other remedies, the following: (1) that the deposition may be taken only on specified terms and conditions, including a designation of the time, place, and manner of taking the deposition; (2) that the deposition may be taken only by written questions; (3) that certain matters not be inquired into, or that the scope of the deposition be limited to certain matters; (4) that the deposition be conducted with only such persons present as the court may designate; (5) that after the deposition has been taken, the tape or transcription be sealed until further order of the court; (6) that the deposition not be taken. In ruling on such request, the court may consider, among other things, the age, health, level of intellectual functioning, and emotional condition of the witness, whether the witness has knowledge material to the proof of or defense to any essential element of the crime, whether the witness has provided a full written, taped, or transcribed account of his or her proposed testimony at trial, whether the witness's testimony will relate only to a peripheral issue in the case, or whether an informal interview or telephone conference with the witness will suffice for the purposes of discovery in the case.</p>	<p>Vt. R. Crim. P. 15(f)(3).</p>



<p>Victims' Rights Regarding Depositions: Right to Not Be Directly Deposed by Pro Se Defendant.</p> <p>A self-represented defendant in a prosecution for an offense listed in paragraph (e)(5) or (f)(2) shall not be permitted to depose the victim directly. In such a case, the court shall appoint counsel for the defendant for purposes of the deposition.</p>	<p>Vt. R. Crim. P. 15(f)(4).</p>
<p>Victims' Rights Regarding Depositions: Depositions of Medical and Social Service Agencies Assisting Victims.</p> <p>Medical personnel, mental health professionals, social workers, counselors, therapists and workers from organizations assisting battered men and women and sexual offense victims who have provided aid or service to the victim of the alleged crime only subsequent to the initial interview of the alleged victim by law enforcement officers, who have not participated in the criminal investigation, and who will not testify at trial or other hearing, may be deposed only by order of the court upon good cause shown or by agreement of the parties, the alleged victim and the proposed deponent. Such persons who have participated in the criminal investigation or will testify at trial shall be made available for deposition by the defense and their records, as relevant to their testimony or to the investigation, shall be produced.</p>	<p>Vt. R. Crim. P. 15(g).</p>
<p>Limitations on Prosecutor's Disclosure of Victims' Residential Addresses or Places of Employment During Discovery.</p> <p>[Pretrial] [d]isclosure [to the defendant by the prosecutor] shall not be required of a victim's residential address or place of employment unless the court finds, based upon a preponderance of the evidence, that nondisclosure of the information will prejudice the defendant.</p>	<p>Vt. R. Crim. P. 16(d)(3).</p>


<p> Vt. Stat. Ann. tit. 13 § 5310 also limits disclosure of such information during witness testimony. This provision is included above.</p>	
<p>Use of Certain Victims' Hearsay Statements.</p> <p>When the state in a criminal action intends to offer hearsay statements of a victim who is a child ten years of age or under or a mentally retarded or mentally ill person, made admissible by Rule 804a of the Vermont Rules of Evidence, the state shall furnish to the defendant a written statement of the evidence it intends to offer, including the name of each witness who will testify to the statement of the victim, at least 30 days before trial. The court may allow the notice to be given at a later date, including during the trial, if it determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which the evidence results has newly arisen in the case.</p> <p> Vt. R. Evid. 804a governs the admissibility of hearsay statements by certain victims. This rule is included below.</p>	<p>Vt. R. Crim. P. 26(d).</p>
<p>Victims' Right to Interpreter Services.</p> <p>The court must provide competent interpreter services when such services are necessary to ensure meaningful access to all court proceedings and court-managed functions in or related to criminal actions for a party, witness, or other person whose presence or participation is necessary or appropriate and who is a person with limited English proficiency, hearing impairment, or other disability which results in the need for interpreter services. The court must determine the reasonable compensation for the interpreter services for court proceedings and court-managed functions. The compensation must be paid by the State of Vermont.</p>	<p>Vt. R. Crim. P. 28.</p>


<p> The Editors' Notes to Rule 28 specify that the term "other person whose presence or participation is necessary or appropriate" includes crime victims and those with derivative rights under the state's victims' rights laws. Vt. R. Crim. P. 28, Editors' Notes, 2017 amend.</p>	
<p>Victims' Rights Regarding Sentencing to Notice, to Be Present at and to Be Heard, in Person or Via Telephone; Prosecutor's Obligation to Provide Notice; Court's Obligation to Ask if the Victim is Present and Would Like to be Heard Regarding Sentencing; Court's Obligation to Consider the Victim's Views.</p> <p>Prior to the sentencing proceeding, the prosecutor shall give notice to the victim by the method provided in Rule 49(a)(2). At sentencing, the court shall ask if the victim is present and, if so, whether the victim would like to be heard regarding sentencing. In imposing sentence, the court shall consider any views offered at the hearing by the victim. If the victim is not present, the court shall ask whether the victim has expressed, either orally or in writing, views regarding sentencing. If so, the state may present such views through oral or written statements attributed to the victim, and the court shall take those views into consideration in imposing sentence. Upon request of the prosecutor or defendant, for good cause shown, the court may permit the victim to appear by telephone with safeguards appropriate to preserve the record and assure full participation by interested parties. The defendant, the defendant's attorney and the state may comment on the information provided by or on behalf of the victim. In this subparagraph, if the victim is a minor, incapacitated, incompetent, or deceased, "victim" means family members of the victim as defined in 13 V.S.A. § 5301(2) and, if necessary, designated by the court as provided in 13 V.S.A. § 5318.</p> <p> Vt. R. Crim. P. 49(a)(2), which governs how prosecutors are to provide victims with the notice required under this rule, is included below.</p> <p> Vt. Stat. Ann. tit. 13, § 5321, which also govern victims' rights at sentencing, is included above.</p>	<p>Vt. R. Crim. P. 32(c)(4)(D).</p>

 Vt. Stat. Ann. tit 13, §§ 5301(2) and 5318 are included above.	
<p>Victims' Right to Restitution: Restitution Hearings and Prehearing Disclosures.</p> <p>In every case in which a victim has suffered a material loss, the court must determine the amount of restitution, if any, which the defendant must pay.</p> <p>(1) Hearing; General Procedures. Unless the amount of restitution is agreed to by the parties, a restitution hearing must be held. The court must issue findings either on the record or in writing as to any matters of factual dispute in the determination of the amount of restitution or the defendant's current ability to pay restitution. The state has the burden of establishing the amount of restitution and a defendant's ability to pay by a preponderance of the evidence. The court must enter a restitution judgment order establishing the defendant's restitution obligation. The provisions of subparagraph (c)(4)(A) apply in the conduct of restitution hearings.</p> <p>(2) Prehearing Disclosures. At least 14 days prior to the restitution hearing, the prosecuting attorney must provide to the defendant a written statement of the amount of restitution claimed and copies of any documents that the state intends to offer in evidence to establish a victim's material loss and support the claim for restitution. The prosecuting attorney must disclose in writing to the defendant the existence and terms, if known after reasonable inquiry, of any policy of insurance for the losses in issue that would serve to compensate the victim for all or any portion of material loss held by the victim or a party other than the defendant. The disclosure must include uninsured motorist coverage, if applicable, and it must be made to the defendant at least 14 days prior to the restitution hearing. If the defendant claims that a victim's losses are not uninsured by reason of the existence of defendant's own or a third party's insurance coverage for the losses in issue, he or she must disclose to the prosecuting attorney in writing the existence and terms of this liability insurance coverage, if known after reasonable inquiry, at least 14 days prior to the restitution hearing.</p>	<p>Vt. R. Crim. P. 32(g).</p>

<p>(3) Ability to Pay. If the defendant intends to raise the issue of inability to pay the amount claimed, either at the time of the restitution hearing or in a restitution payment schedule or both, he or she must disclose such intent in writing to the court and prosecuting attorney at least 14 days prior to the restitution hearing.</p> <p> Vt. R. Crim. P. 32(c)(4)(A), which applies to restitution hearings, provides that “[p]rior to imposing sentence, the court shall afford the state, the defendant and his or her attorney an opportunity to comment upon any and all information submitted to the court for sentencing. Any objection to facts contained in the presentence investigation report or to any recommended probation conditions contained therein, shall be submitted, in writing, to the court at least 7 days prior to the sentencing hearing, unless good cause is shown for later objection. A copy of any objections must be provided to the opposing party.”</p>	
<p>Certain Child-Victims’ Rights to Appointment of Guardian ad Litem.</p> <p>In any prosecution for sexual assault under 13 V.S.A. § 3252, aggravated sexual assault under 13 V.S.A. § 3253, lewd or lascivious conduct with a child under 13 V.S.A. § 2602 or incest under 13 V.S.A. § 205, alleged to have been committed against a minor, and in any juvenile proceeding under chapter 12 of Title 33 involving a delinquent act alleged to have been committed against a minor if the delinquent act would be an offense listed in this rule if committed by an adult, the court may appoint a guardian ad litem for that minor to represent the interests of the minor. The guardian shall not be a person who is or may be a witness in the proceeding.</p> <p> Under Vt. R. Evid. 807(b) a guardian ad litem may move the court for an order that the testimony of the child be taken by two-way closed-circuit television or by recorded testimony, in order to avoid the emotional trauma to the child which may arise when required to testify in open court. This rule is included below.</p>	<p>Vt. R. Crim. P. 44.1.</p>

<p>Victims' Right to Notice of Sentencing Hearings; Prosecutors' Obligations Regarding Service of Notice.</p> <p>The prosecution shall serve by first class mail advance written notice of any sentencing proceeding concerning the convicted person on the victim of a felony or the next of kin of such a victim who has died or become incapacitated. Sentencing shall not be delayed or voided by reason of failure to give the victim required notice or the failure of the victim to appear.</p> <p> Vt. R. Crim. P. 32(c)(4)(D), which affords victims the right to notice of sentencing by the method contained in this rule, is included above.</p>	<p>Vt. R. Crim. P. 49(a)(2).</p>
<p>Victims' Right to Be Present During Court Proceedings: Witness Sequestration Rule.</p> <p>At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion; after a witness' testimony has been completed, however, the witness may remain within the courtroom, even if the witness subsequently may be called upon by the other party or recalled in rebuttal, unless a party shows good cause for the witness to be excluded. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employee of a party which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of his cause.</p> <p> Vt. Stat. Ann. tit. 13, § 5309 affords victims the right "to be present during all court proceedings subject to the provisions of Rule 615 of the Vermont Rules of Evidence." This statutory provision is included above.</p>	<p>Vt. R. Evid. 615.</p>

<p> A victim's right to be present should provide for the victim's presence during the entirety of the trial. Even if the victim is to be a witness and the court concludes that the victim's testimony would be materially altered if the victim hears other testimony, consider discussing with the prosecutor the possibility of the victim testifying first to best ensure the victim's right to be present during the entirety of the trial.</p>	
<p>Hearsay Exceptions for Child-Victims of Certain Sexual Crimes and Child- and Adult-Victims with a Mental Illness or Intellectual or Developmental Disability.</p> <p>(a) Statements by a person who is a child 12 years of age or under or who is a person with a mental illness as defined in 18 V.S.A. § 7101(14) or intellectual or developmental disability as defined in 1 V.S.A. §§ 146, 148 at the time the statements were made are not excluded by the hearsay rule if the court specifically finds at the time they are offered that:</p> <p>(1) the statements are offered in a civil, criminal, or administrative proceeding in which the child or person with a mental illness or intellectual or developmental disability is a putative victim of sexual assault under 13 V.S.A. § 3252, aggravated sexual assault under 13 V.S.A. § 3253, aggravated sexual assault of a child under 13 V.S.A. § 3253a, lewd or lascivious conduct under 13 V.S.A. § 2601, lewd or lascivious conduct with a child under 13 V.S.A. § 2602, incest under 13 V.S.A. § 205, abuse, neglect, or exploitation under 33 V.S.A. § 6913, sexual abuse of a vulnerable adult under 13 V.S.A. § 1379, or wrongful sexual activity and the statements concern the alleged crime or the wrongful sexual activity; or the statements are offered in a juvenile proceeding under chapter 52 of Title 33 involving a delinquent act alleged to have been committed against a child 13 years of age or under or a person with a mental illness or intellectual or developmental disability if the delinquent act would be an offense listed herein if committed by an adult and the statements concern the alleged delinquent act; or the child is the subject of a petition alleging that the child is in need of care or supervision under chapter 53 of Title 33, and the statement relates to the sexual abuse of the child;</p> <p>(2) the statements were not taken in preparation for a legal proceeding and, if a criminal or delinquency proceeding has been initiated, the statements were made prior to the defendant's</p>	<p>Vt. R. Evid. 804a.</p>

<p>initial appearance before a judicial officer under Rule 5 of the Vermont Rules of Criminal Procedure;</p> <p>(3) the child or person with a mental illness or intellectual or developmental disability is available to testify in court or under Rule 807; and</p> <p>(4) the time, content, and circumstances of the statements provide substantial indicia of trustworthiness.</p> <p>(b) Upon motion of either party in a criminal or delinquency proceeding, the court shall require the child or person with a mental illness or intellectual or developmental disability to testify for the state.</p> <p> Vt. R. Evid. 807 governs testimony of child-victims of certain sexual crimes and child- and adult-victims with a psychiatric, intellectual or developmental disability. This rule is included below.</p>	
<p>Testimony of Certain Child-Victims and Victims with a Psychiatric, Intellectual or Developmental Disability</p> <p>(a) Application. This rule applies only to the testimony of a child age 12 or under or a person with a psychiatric, intellectual, or developmental disability as defined in 1 V.S.A. §§ 146-148 in a proceeding:</p> <p>(1) in a prosecution for sexual assault under 13 V.S.A. § 3252 or aggravated sexual assault under 13 V.S.A. § 3253 alleged to have been committed against that child or person with a psychiatric, intellectual, or developmental disability;</p> <p>(2) in a prosecution for lewd and lascivious conduct with a child under 13 V.S.A. § 2602 or incest under 13 V.S.A. § 205 alleged to have been committed against that child;</p> <p>(3) in a prosecution for abuse, neglect or exploitation under 33 V.S.A. § 6913 or lewd and lascivious conduct under 13 V.S.A. § 2601 alleged to have been committed against that person with a psychiatric, intellectual, or developmental disability;</p>	<p>Vt. R. Evid. 807.</p>

(4) under chapter 55 of Title 33 involving a delinquent act alleged to have been committed against that child or person with a psychiatric, intellectual, or developmental disability, if that delinquent act would be an offense listed in this subsection if committed by an adult;

(5) in a civil action in which one of the parties or witnesses has been an alleged victim of causes of action alleging sexual assault, lewd and lascivious conduct or sexual activity as defined in 33 V.S.A. § 6902;

(6) in a prosecution for domestic assault under 13 V.S.A. § 1042 or aggravated domestic assault under 13 V.S.A. § 1043 or § 1044 alleged to have been committed against that child or person with a psychiatric, intellectual, or developmental disability.

(b) Who May Move. The court may, on motion of any party, on its own motion or on motion of the attorney or guardian ad litem for the child or person with a psychiatric, intellectual, or developmental disability order that the testimony of the child or person with a psychiatric, intellectual, or developmental disability be taken by two-way closed-circuit television or by recorded testimony under this rule.

(c) Finding a Trauma. The court shall make an order for two-way closed-circuit television or recorded testimony under this rule only upon a finding that requiring the child or person with a psychiatric, intellectual, or developmental disability to testify in court will present a substantial risk of trauma to the child or person with a psychiatric, intellectual, or developmental disability which would substantially impair the ability of the child or person with a psychiatric, intellectual, or developmental disability to testify.

(d) Recorded Testimony. The testimony of the child or person with a psychiatric, intellectual, or developmental disability may be taken outside the courtroom and recorded for showing in the courtroom before the court and the finder of fact in the proceeding. Only the court and the attorneys may question the child or person with a psychiatric, intellectual, or developmental disability. In pro se proceedings, the court may modify the provisions of this subsection relating to the role of a pro se party. The court shall permit the person against whom the child, or person with a psychiatric, intellectual, or developmental disability is testifying to observe and hear the testimony of the child or person with a psychiatric, intellectual, or developmental disability in person and to confer personally with his or her

attorney. Only the person against whom the testimony is directed, the attorneys, the court, persons necessary to operate the equipment and any person who is not a potential witness and whose presence the court finds would contribute to the welfare and well-being of the child or person with a psychiatric, intellectual, or developmental disability may be present in the room with the child or person with a psychiatric, intellectual, or developmental disability during the testimony. The persons operating the equipment shall be situated whenever possible in such a way that they can see and hear the child or person with a psychiatric, intellectual, or developmental disability during the testimony, but the child or person with a psychiatric, intellectual, or developmental disability cannot see or hear them. If the testimony is taken under this subsection, the court shall also ensure that:

- (1) the recording is both visual and aural and is recorded on film or videotape or by other electronic means;
- (2) the recording equipment was capable of making an accurate recording, the operator of the equipment was competent, and the recording is accurate and is not altered except as ordered by the court;
- (3) each voice on the recording is identified; and
- (4) each party is afforded an opportunity to view the recording before it is shown in the courtroom.

(e) Two-Way Closed-Circuit Television. The testimony of the child or person with a psychiatric, intellectual, or developmental disability may be taken in a room other than the courtroom and be televised by two-way closed-circuit equipment to be viewed by the finder of fact and others present in the courtroom. Only the persons necessary to operate the equipment and a person who is not a potential witness and whose presence the court finds would contribute to the welfare and well-being of the child or person with a psychiatric, intellectual, or developmental disability may be present in the room with the child or person with a psychiatric, intellectual, or developmental disability during the testimony.

(f) Placing of the Party Against Whom the Testimony is Directed. During the recording of testimony under subsection (d) of this rule the party shall be situated in such a way that the child or person with a psychiatric, intellectual, or developmental disability can hear and see the party unless the court finds that requiring the child or person with a psychiatric,

intellectual or developmental disability to hear and see the party presents a substantial risk of trauma to the child or person with a psychiatric, intellectual, or developmental disability which would substantially impair the ability of the child or person with a psychiatric, intellectual, or developmental disability to testify, in which case the court may order that the party be situated in such a way that the child or person with a psychiatric, intellectual, or developmental disability cannot hear or see the party. During the taking of testimony by two-way closed-circuit equipment under subsection (e) the party's image shall be transmitted to the witness unless the court finds that requiring the witness to hear and see the party presents a substantial risk of trauma to the witness which would substantially impair the ability of the witness to testify, in which case the image of the party shall not be transmitted to the witness.

(g) In-Court Testimony Not Required. If the court orders the testimony of a child or person with a psychiatric, intellectual, or developmental disability to be taken under this rule, the child or person with a psychiatric, intellectual, or developmental disability may not be required to testify in court at the proceeding for which the testimony was taken, unless otherwise ordered by the court for good cause shown.



In *State v. Bergquist*, 211 A.3d 946 (Vt. 2019), *reargument denied* (May 1, 2019), the Vermont Supreme Court concluded that Vt. R. Evid. 807(f) is unconstitutional on its face to the extent it contains a lower standard of proof of trauma to a child victim than is constitutionally required by the Confrontation Clause of the United States Constitution when determining whether a victim can testify outside the defendant's presence. 211 A.3d at 968. Because the lower court applied the appropriate, higher standard when deciding whether to allow the victim to testify outside the defendant's presence, the court affirmed the lower court's decision.

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