



## TRIBAL LAW ENFORCEMENT-BASED VICTIM SERVICES IN KANSAS: SELECT FEDERAL AND STATE VICTIMS' RIGHTS

### INTRODUCTION

Best practice in victim services is about facilitating victims' ability to exercise meaningful choices. In the context of crimes perpetrated on tribal land or against tribal members<sup>1</sup> on nontribal land, victims' meaningful choices about whether to assert their rights require that they know in which justice system—tribal, federal or state—their case will be investigated and prosecuted, as well as what their rights are within that system. The authority of a justice system to investigate and try crimes is known as “jurisdiction” and for crimes committed on tribal land or against tribal members on nontribal land, the determination of jurisdiction can be complex. Given this complexity, a full analysis of the procedures for determining jurisdiction in such instances is outside the scope of this resource, though some considerations are noted below. Ultimately, understanding which justice system has jurisdiction over a crime committed on tribal land or against a tribal member on nontribal land—as well as the victims' rights recognized within each justice system—is critical to providing effective victims' services.

### LIMITED SCOPE OF RESOURCE: JURISDICTIONAL

The question of which justice system has authority over the investigation and prosecution of a crime is a question of “jurisdiction.” More than one justice system may have jurisdiction over the same crime, which is known as “concurrent jurisdiction.” The process of determining whether a crime committed on tribal land or against a tribal member on nontribal land falls within the jurisdiction of a tribal, federal and/or state justice system can be complex. A full analysis of jurisdiction over crimes happening within Kansas's borders is beyond the scope of this resource; instead, it provides general guidance for tribal law enforcement-based victim services providers facing jurisdictional questions.

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<sup>1</sup> This resource focuses on crimes committed on nontribal land that involve victims who are tribe members; it may also be useful, however, when tribal law enforcement-based victim services providers assist Indian and non-Indian victims who reside on tribal land but are not members of the tribe. *See infra* note 2 (discussing use of the term “Indian” in this resource).

The determination of which justice system has jurisdiction over a crime committed on tribal land or against a tribal member on nontribal land depends upon various sources of law, including federal statutes, court decisions, and regulations, as well as tribal laws and agreements with state and local governments. Some factors in the jurisdictional analysis for crimes committed on tribal land include: whether the perpetrator and/or victim is an Indian<sup>2</sup>; the type and seriousness of the crime at issue;<sup>4</sup> the type of punishment sought;<sup>5</sup> and whether Public Law 280<sup>6</sup> or another federal statute<sup>7</sup> expressly affords a state jurisdiction over crimes committed on tribal land in place of the federal government and, when applicable, whether the state has retroceded any or all of such criminal jurisdiction to the federal government.<sup>8</sup> The process for determining jurisdiction over a crime committed against a tribal member on nontribal land also depends upon consideration of multiple factors, though the primary concern is whether the crime at issue violates tribal,

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<sup>2</sup> The terms “Indian(s)” and “Indian country” are used in this resource to refer, respectively, to the indigenous people of the United States and to their tribal lands; these terms are used in federal laws governing the relationship between the federal government and Indian tribes, as well as those defining criminal jurisdiction in Indian country. *See, e.g., infra* notes 3–7.

<sup>3</sup> *See, e.g.,* General Crimes Act, 18 U.S.C. § 1152 (establishing federal jurisdiction, exclusive of state jurisdiction, over most crimes committed in “Indian country,” except for crimes committed by one Indian against another Indian; crimes committed by an Indian that have already been punished by the tribe; and cases where a treaty excludes federal jurisdiction); 18 U.S.C. § 1301(2) (amending the Indian Civil Rights Act of 1968 (ICRA) to clarify that tribes have jurisdiction to prosecute crimes committed on tribal land by Indians who are not members of the tribe); Violence Against Women Reauthorization Act of 2013 (VAWA 2013 Reauthorization), tit. IX, sec. 904, § 204(b), 127 Stat. at 121-22 (codified at 25 U.S.C. § 1304) (amending the ICRA to authorize tribes meeting certain requirements to elect to have jurisdiction over crimes of domestic violence committed on tribal land, except where the victim and the defendant are both non-Indians or where the defendant lacks sufficient ties to the tribe).

<sup>4</sup> *See, e.g.,* Major Crimes Act, 18 U.S.C. § 1153 (establishing federal jurisdiction, exclusive of state jurisdiction, over certain enumerated “major crimes” committed in Indian country involving only Indians); VAWA 2013 Reauthorization, 25 U.S.C. § 1304 (authorizing tribes to elect to have jurisdiction over crimes of domestic violence committed on tribal land, except where the victim and the defendant are both non-Indians or where the defendant lacks sufficient ties to the tribe, and providing that such jurisdiction is “concurrent with the jurisdiction of the United States, of a State, or of both”).

<sup>5</sup> *See, e.g.,* Tribal Law and Order Act of 2010, Pub. L. No. 111-211, § 234, 124 Stat. 2279 (codified at 25 U.S.C. § 1302) (amending the ICRA to enhance the sentencing authority of tribes in criminal cases, subject to certain requirements).

<sup>6</sup> Pub. L. No. 83-280, 67 Stat. 588 (1953) (codified as amended in scattered sections of 18 U.S.C. and 25 U.S.C.) (“Public Law 280”); *see, e.g.,* 18 U.S.C. § 1162 (extending state criminal jurisdiction over Indian country in six states, exclusive of federal jurisdiction); 25 U.S.C. § 1321(a) (authorizing states to assume jurisdiction over criminal offenses committed by or against Indians in Indian Country within the state, with the consent of the United States and the affected tribe).

<sup>7</sup> *See, e.g.,* Kansas Act, 18 U.S.C. § 3243 (conferring jurisdiction on the State of Kansas “over offenses committed by or against Indians on Indian reservations, including trust or restricted allotments, . . . to the same extent as its courts have jurisdiction over offenses committed elsewhere within the State in accordance with the laws of the State” and providing that the law “shall not deprive the courts of the United States of jurisdiction over offenses defined by the laws of the United States committed by or against Indians on Indian reservations”).

<sup>8</sup> *See, e.g.,* 25 U.S.C. § 1323 (authorizing the federal government to accept retrocession by any state of any or all criminal and/or civil jurisdiction acquired through Public Law 280).

federal and/or state law.<sup>9</sup> Although jurisdiction over such crimes generally falls to the federal government or the states, in some instances, tribal jurisdiction may extend to crimes committed on nontribal land.<sup>10</sup>

Consultation with other professionals, including a tribe's legal counsel as well as tribal- and nontribal-based prosecutors, and reliance on other resources can provide further guidance regarding these jurisdictional questions. For a general guide to criminal jurisdiction on tribal land, see Tribal Law and Pol'y Inst., *General Guide to Criminal Jurisdiction in Indian Country*, Tribal Court Clearinghouse, <https://www.tribal-institute.org/lists/jurisdiction.htm>.

### USING THIS RESOURCE

To make the best use of this resource, it is recommended that victim services providers determine—in consultation with other system professionals, including a tribe's legal counsel as well as tribal- and nontribal-based prosecutors—whether there is tribal, federal, and/or state jurisdiction to investigate and prosecute the crime(s) at issue. When there is federal and/or state jurisdiction, the victim services provider can refer to the relevant section of this resource to help determine the rights that are available and applicable to crime victims. If a tribe that is located within Kansas—such as the Prairie Band Potawatomi Nation—has jurisdiction, the victim services provider can contact the relevant tribal court or tribal legal department to learn about applicable tribal-based victims' rights.<sup>11</sup> Additionally, even if a tribe has jurisdiction over a crime, certain federal- and/or state-based victim services and resources may be available to the victim, such as crime victim compensation; if such services and resources are available, the federal and/or state rights discussed in this resource as connected to such services or resources may apply.<sup>12</sup>

This resource is divided into two main parts: Federal Victims' Rights and State Victims' Rights. Each of these parts is intended to provide a base of knowledge regarding available and applicable crime victims' rights and promising practices to ensure compliance with and enforcement of those rights. Each of these parts are divided into two sections: (1) select laws that afford and protect crime victims' rights and interests; and (2) definitions of key terms needed to understand the scope of these laws.

In light of the breadth, complexity and evolving nature of law, the resource does not include all laws. The resource is intended for informational purposes only. Nothing in this resource constitutes legal advice, nor does it substitute for legal advice. More in-depth

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<sup>9</sup> See 18 U.S.C. § 3231 (granting federal district courts original jurisdiction over criminal cases involving all offenses against the laws of the United States).

<sup>10</sup> See Addie C. Rolnick, *Tribal Criminal Jurisdiction Beyond Citizenship and Blood*, 39 Am. Indian L. Rev. 337, 449 n.31 (2015) (recognizing that tribal jurisdiction may, in some instances, extend to crimes committed on nontribal land and referencing federal court decisions and tribal laws to this effect).

<sup>11</sup> For a discussion of the importance of including crime victims' rights provisions within tribal codes and examples of tribal laws that afford victims' rights, see Michelle Rivard Parks, et al., *Tribal Legal Code Resource: Crimes Against Children* 47–53 (Tribal Law and Pol'y Inst. 2022).

<sup>12</sup> To access information about some of these services and resources, see *Victim Resources Database*, NCVLI, <https://ncvli.org/victim-resources-database/> (providing a database of national and state victim services programs).

information about the federal and state laws that govern victim privacy, confidentiality and privilege in Kansas is available in the companion resource, *Tribal Law Enforcement-Based Victim Services in Kansas: 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 resource, 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 resource, the “take note” indicator provides context for the law cited or discussed. For example, if a law has a particularly narrow application or does not explicitly prohibit an action the “take note” indicator is used to highlight or provide clarity around the law.

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<sup>13</sup> This table of contents and index of rights provides specific page references for many of the victims’ rights laws contained within this resource. 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 resource are referenced in the table of contents and index; therefore, it is recommended that this document be reviewed in full.

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**SELECT FEDERAL AND STATE VICTIMS' RIGHTS LAWS**






**1. Federal Victims' Rights**




<b>SELECT FEDERAL CRIME VICTIMS' RIGHTS</b>	<b>Federal Statutes and Rules</b>
<p><b>Victims' Right to Be Reasonably Protected from the Accused.</b></p> <p>A crime victim has . . . [t]he right to be reasonably protected from the accused.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA<sup>14</sup>. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3771(a)(1).</p>
<p><b>Victims' Right to Reasonable, Accurate, and Timely Notice of Any Public Court Proceeding or Any Parole Proceeding, Relating to Crime, Release or Escape.</b></p> <p>A crime victim has . . . [t]he right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy in place to establish what constitutes “reasonable, accurate, and timely notice.”</p>	<p>18 U.S.C. § 3771(a)(2).</p>





<sup>14</sup> The CVRA is the abbreviation for the federal Crime Victims’ Rights Act, 18 U.S.C. § 3771, the primary federal statute guaranteeing crime victims enforceable substantive and procedural rights throughout the criminal justice system. The CVRA is referenced throughout this section on select federal crime victims’ rights.









<p><b>Victims' Right to Be Present at Public Court Proceedings.</b></p> <p>A crime victim has . . . [t]he right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> 18 U.S.C. § 3510 also affords victims the right to be present at trial and Fed. R. Crim. P. 60(a)(2) gives victims the right to be present at public court proceedings. This provision and rule are included below.</p> <p> A victim’s right to be present should provide for the victim’s presence during the entirety of the trial. 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>18 U.S.C. § 3771(a)(3).</p>
<p><b>Victims' Right to Be Reasonably Heard at Any Public Court Proceeding Involving Release, Plea, Sentencing or Parole.</b></p> <p>A crime victim has . . . [t]he right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3771(a)(4).</p>

<p> Fed. R. Crim. P. 60(a)(3) also gives victims the right to be present at public court proceedings. This rule is included below.</p> <p> A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your jurisdiction's law, victims may choose to: (1) read or speak their impact statement aloud at the sentencing proceeding, or have another person do it for them; (2) submit a written victim impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.</p>	
<p><b>Victims' Right to Confer with the Attorney for the Government in the Case.</b></p> <p>A crime victim has . . . [t]he reasonable right to confer with the attorney for the Government in the case.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p>	<p>18 U.S.C. § 3771(a)(5).</p>
<p><b>Victims' Right to Full and Timely Restitution.</b></p> <p>A crime victim has . . . [t]he right to full and timely restitution as provided in law.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p> <p> The primary federal laws governing restitution are the Victim and Witness Protection Act (VWPA), 18 U.S.C. § 3663 and the Mandatory Victim Restitution Act, 18 U.S.C.</p>	<p>18 U.S.C. § 3771(a)(6).</p>

<p>§ 3663A. 18 U.S.C. § 3664 governs restitution-related procedures. Additionally, numerous federal statutes contain crime-specific restitution provisions. <i>See, e.g.</i>, 18 U.S.C. § 2259; 18 U.S.C. § 2264. These and other federal restitution provisions are included below.</p> <p> Victims should be informed that they are entitled to restitution upon the conviction of defendant for losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p><b>Victims’ Right to Proceedings Free from Unreasonable Delay.</b></p> <p>A crime victim has . . . [t]he right to proceedings free from unreasonable delay.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3771(a)(7).</p>
<p><b>Victims’ Right to Be Treated with Fairness and with Respect for the Victim’s Dignity and Privacy.</b></p> <p>A crime victim has . . . [t]he right to be treated with fairness and with respect for the victim’s dignity and privacy.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3771(a)(8).</p>

<p><b>Victims' Right to be Informed in Timely Manner of Plea Bargain or Deferred Prosecution Agreement.</b></p> <p>A crime victim has . . . [t]he right to be informed in a timely manner of any plea bargain or deferred prosecution agreement.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy in place to establish what constitutes “a timely manner.”</p>	<p>18 U.S.C. § 3771(a)(9).</p>
<p><b>Victims' Right to be Informed of Their Rights and Available Services.</b></p> <p>A crime victim has . . . [t]he right to be informed of the rights under this section and the services described in section 503(c) of the Victims’ Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)) and provided contact information for the Office of the Victims’ Rights Ombudsman of the Department of Justice.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: 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 after initial contact with law enforcement. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	<p>18 U.S.C. § 3771(a)(10).</p>

<p><b>Courts' Duties Regarding Victims' Rights: Ensure Victims' Rights are Afforded, Make Every Effort to Permit Fullest Attendance by Victims; State Reasons for Denying CVRA Relief Clearly on Record.</b></p> <p>In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). Before making a determination described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The reasons for any decision denying relief under this chapter shall be clearly stated on the record.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: 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 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>18 U.S.C. § 3771(b)(1).</p>
<p><b>Courts' Duties Regarding Victims' Rights in Habeas Proceedings Arising Out of State Convictions: Ensuring Victims are Afforded Certain Rights.</b></p> <p>In a Federal habeas corpus proceeding arising out of a State conviction, the court shall ensure that a crime victim is afforded the rights described in paragraphs (3), (4), (7), and (8) of subsection (a).</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA; 18 U.S.C. § 3771(b)(2)(D) defines the term “crime victim” for the purposes of a victim’s CVRA rights related to habeas corpus proceedings. These definitions are included below in the section “Federal Victims’</p>	<p>18 U.S.C. § 3771(b)(2)(A).</p>

<p>Rights: Select Definitions.”</p> <p> A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p>	
<p><b>Victims’ Standing to Enforce CVRA Rights in Habeas Corpus Proceedings; Multiple Victims.</b></p> <p>(i) In general. --These rights may be enforced by the crime victim or the crime victim’s lawful representative in the manner described in paragraphs (1) and (3) of subsection (d).</p> <p>(ii) Multiple victims. --In a case involving multiple victims, subsection (d)(2) shall also apply.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA; 18 U.S.C. § 3771(b)(2)(D) defines the term “crime victim” for the purposes of a victim’s CVRA rights related to habeas corpus proceedings. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to notify victims that they have standing to enforce their rights in court and that they may do so personally or with the assistance of an attorney. This notice should include an explanation of the different roles of a prosecuting attorney vs. an attorney hired by the victim to represent their interests and assert their rights.</p>	<p>18 U.S.C. § 3771(b)(2)(B).</p>
<p><b>Government’s Duties to Make Best Efforts to Ensure Crime Victims Notified of and Accorded CVRA Rights and to Advise Victims of Their Option to Consult Attorney.</b></p> <p>(1) Government. --Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or</p>	<p>18 U.S.C. § 3771(c).</p>

prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).

(2) Advice of attorney. --The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a).

(3) Notice. --Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.



18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”






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





A promising practice is to have a policy in place to establish what constitutes “best efforts.”







A promising practice is to notify victims that they have standing to enforce their rights in court and that they may do so personally or with the assistance of an attorney. This notice should include an explanation of the different roles of a prosecuting attorney vs. an attorney hired by the victim to represent their interests and assert their rights.

<p><b>Victims' Standing to Enforce Rights; Crime Victim, Crime Victim's Lawful Representative and the Prosecutor May Assert Victims' Rights.</b></p> <p>The crime victim or the crime victim's lawful representative, and the attorney for the Government may assert the rights described in subsection (a). A person accused of the crime may not obtain any form of relief under this chapter.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p> <p> A promising practice is to notify victims that they have standing to enforce their rights in court and that they may do so personally or with the assistance of an attorney. This notice should include an explanation of the different roles of a prosecuting attorney vs. an attorney hired by the victim to represent their interests and assert their rights.</p>	<p>18 U.S.C. § 3771(d)(1).</p>
<p><b>Courts' Duty to Fashion Reasonable Procedures, in Cases Involving Multiple Victims, When Number of Victims in the Case Makes it Impracticable to Afford All Victims Their CVRA Rights.</b></p> <p>In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p>	<p>18 U.S.C. § 3771(d)(2).</p>



<p><b>Enforcement of Victims' Rights: Assertion of Rights; Motions for Relief and Writs of Mandamus.</b></p> <p>The rights described in subsection (a) shall be asserted in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the crime occurred. The district court shall take up and decide any motion asserting a victim's right forthwith. If the district court denies the relief sought, the movant may petition the court of appeals for a writ of mandamus. The court of appeals may issue the writ on the order of a single judge pursuant to circuit rule or the Federal Rules of Appellate Procedure. The court of appeals shall take up and decide such application forthwith within 72 hours after the petition has been filed, unless the litigants, with the approval of the court, have stipulated to a different time period for consideration. In deciding such application, the court of appeals shall apply ordinary standards of appellate review. In no event shall proceedings be stayed or subject to a continuance of more than five days for purposes of enforcing this chapter. If the court of appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p>	<p>18 U.S.C. § 3771(d)(3).</p>
<p><b>Enforcement of Victims' Rights: Government's Assertion of Error in Any Appeal.</b></p> <p>In any appeal in a criminal case, the Government may assert as error the district court's denial of any crime victim's right in the proceeding to which the appeal relates.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p>	<p>18 U.S.C. § 3771(d)(4).</p>

<p><b>Enforcement of Victims' Rights: Limitations on Relief.</b></p> <p>In no case shall a failure to afford a right under this chapter provide grounds for a new trial. A victim may make a motion to re-open a plea or sentence only if--</p> <p>(A) the victim has asserted the right to be heard before or during the proceeding at issue and such right was denied;</p> <p>(B) the victim petitions the court of appeals for a writ of mandamus within 14 days; and</p> <p>(C) in the case of a plea, the accused has not pled to the highest offense charged.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p>	<p>18 U.S.C. § 3771(d)(5).</p>
<p><b>Sexual Assault Survivors' Rights in Addition to Those Available Under the CVRA: Medical Forensic Examinations; Sexual Assault Evidence Kits; Information Regarding Rights.</b></p> <p>(a) Rights of sexual assault survivors. --In addition to those rights provided in section 3771, a sexual assault survivor has the following rights:</p> <p>(1) The right not to be prevented from, or charged for, receiving a medical forensic examination.</p> <p>(2) The right to--</p> <p>(A) subject to paragraph (3), have a sexual assault evidence collection kit or its probative contents preserved, without charge, for the duration of the maximum applicable statute of limitations or 20 years, whichever is shorter;</p> <p>(B) be informed of any result of a sexual assault evidence collection kit, including a DNA profile match, toxicology report, or other information collected as part of a medical forensic examination, if such disclosure would not impede or compromise an ongoing investigation; and</p>	<p>18 U.S.C. § 3772(a)–(b).</p>

<p>(C) be informed in writing of policies governing the collection and preservation of a sexual assault evidence collection kit.</p> <p>(3) The right to--</p> <p>(A) upon written request, receive written notification from the appropriate official with custody not later than 60 days before the date of the intended destruction or disposal; and</p> <p>(B) upon written request, be granted further preservation of the kit or its probative contents.</p> <p>(4) The right to be informed of the rights under this subsection.</p> <p>(b) Applicability. --Subsections (b) through (f) of section 3771 shall apply to sexual assault survivors.</p> <p> 18 U.S.C. § 3772(c) defines the term “sexual assault” for the purposes of this statutory provision. This definition is included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> 18 U.S.C. § 3771(b)–(f) govern how victims’ rights are afforded and enforced, as well as procedures to promote compliance. These provisions are included above.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p><b>Mandatory Reporting of Child Abuse in Indian Country.</b></p> <p>(a) Any person who--</p> <p>(1) is a--</p> <p>(A) physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider,</p> <p>(B) teacher, school counselor, instructional aide, teacher’s aide, teacher’s assistant, or bus driver employed by any tribal, Federal, public or private school,</p>	<p>18 U.S.C. § 1169(a)–(b), (d).</p>


(C) administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, Federal, public or private school,  
 (D) child day care worker, headstart teacher, public assistance worker, worker in a group home or residential or day care facility, or social worker,  
 (E) psychiatrist, psychologist, or psychological assistant,  
 (F) licensed or unlicensed marriage, family, or child counselor,  
 (G) person employed in the mental health profession, or  
 (H) law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders;

(2) knows, or has reasonable suspicion, that--  
 (A) a child was abused in Indian country, or  
 (B) actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse of a child in Indian country; and  
 (3) fails to immediately report such abuse or actions described in paragraph (2) to the local child protective services agency or local law enforcement agency, shall be fined under this title or imprisoned for not more than 6 months or both.

(b) Any person who—  
 (1) supervises, or has authority over, a person described in subsection (a)(1), and  
 (2) inhibits or prevents that person from making the report described in subsection (a), shall be fined under this title or imprisoned for not more than 6 months or both.

...

(d) Any person making a report described in subsection (a) which is based upon their reasonable belief and which is made in good faith shall be immune from civil or criminal liability for making that report.

 18 U.S.C. § 1169(c) defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”

<p><b>The Rights of Child-Victims of Sexual Exploitation Regarding: Civil Recovery, Including Attorney’s Fees; Statute of Limitations.</b></p> <p>(a) In general. --Any person who, while a minor, was a victim of a violation of section 1589, 1590, 1591, 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title and who suffers personal injury as a result of such violation, regardless of whether the injury occurred while such person was a minor, may sue in any appropriate United States District Court and shall recover the actual damages such person sustains or liquidated damages in the amount of \$150,000, and the cost of the action, including reasonable attorney’s fees and other litigation costs reasonably incurred. The court may also award punitive damages and such other preliminary and equitable relief as the court determines to be appropriate.</p> <p>(b) Statute of limitations. --Any action commenced under this section shall be barred unless the complaint is filed—</p> <p>(1) not later than 10 years after the date on which the plaintiff reasonably discovers the later of--</p> <p>(A) the violation that forms the basis for the claim; or</p> <p>(B) the injury that forms the basis for the claim; or</p> <p>(2) not later than 10 years after the date on which the victim reaches 18 years of age.</p>	<p>18 U.S.C. § 2255(a)–(b).</p>
<p><b>Mandatory Restitution for Child-Victims of Sexual Exploitation; Process for Determining Restitution in Child Pornography Cases; Election to Receive Defined Monetary Assistance.</b></p> <p>(a) In general. --Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.</p> <p>(b) Scope and nature of order. —</p>	<p>18 U.S.C. § 2259(a)–(b), (d).</p>

<p>(1) Directions. --Except as provided in paragraph (2), the order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses.</p> <p>(2) Restitution for trafficking in child pornography. --If the defendant was convicted of trafficking in child pornography, the court shall order restitution under this section in an amount to be determined by the court as follows:</p> <p>(A) Determining the full amount of a victim's losses. --The court shall determine the full amount of the victim's losses that were incurred or are reasonably projected to be incurred by the victim as a result of the trafficking in child pornography depicting the victim.</p> <p>(B) Determining a restitution amount. --After completing the determination required under subparagraph (A), the court shall order restitution in an amount that reflects the defendant's relative role in the causal process that underlies the victim's losses, but which is no less than \$3,000.</p> <p>(C) Termination of payment. --A victim's total aggregate recovery pursuant to this section shall not exceed the full amount of the victim's demonstrated losses. After the victim has received restitution in the full amount of the victim's losses as measured by the greatest amount of such losses found in any case involving that victim that has resulted in a final restitution order under this section, the liability of each defendant who is or has been ordered to pay restitution for such losses to that victim shall be terminated. The court may require the victim to provide information concerning the amount of restitution the victim has been paid in other cases for the same losses.</p> <p>(3) Enforcement. --An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.</p> <p>(4) Order mandatory. --(A) The issuance of a restitution order under this section is mandatory.</p> <p>(B) A court may not decline to issue an order under this section because of--</p> <p>(i) the economic circumstances of the defendant; or</p> <p>(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.</p> <p>...</p> <p>(d) Defined monetary assistance. —</p> <p>(1) Defined monetary assistance made available at victim's election. --</p>	
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(A) Election to receive defined monetary assistance. --Subject to paragraphs (2) and (3), when a defendant is convicted of trafficking in child pornography, any victim of that trafficking in child pornography may choose to receive defined monetary assistance from the Child Pornography Victims Reserve established under section 1402(d)(6) of the Victims of Crime Act of 1984 (34 U.S.C. 20101(d)).

(B) Finding. --To be eligible for defined monetary assistance under this subsection, a court shall determine whether the claimant is a victim of the defendant who was convicted of trafficking in child pornography.

(C) Order. --If a court determines that a claimant is a victim of trafficking in child pornography under subparagraph (B) and the claimant chooses to receive defined monetary assistance, the court shall order payment in accordance with subparagraph (D) to the victim from the Child Pornography Victims Reserve established under section 1402(d)(6) of the Victims of Crime Act of 1984.

(D) Amount of defined monetary assistance. --The amount of defined monetary assistance payable under this subparagraph shall be equal to--

(i) for the first calendar year after the date of enactment of this subsection, \$35,000; and

(ii) for each calendar year after the year described in clause (i), \$35,000 multiplied by the ratio (not less than one) of--

(I) the Consumer Price Index for all Urban Consumers (CPI-U, as published by the Bureau of Labor Statistics of the Department of Labor) for the calendar year preceding such calendar year; to



(II) the CPI-U for the calendar year 2 years before the calendar year described in clause (i).

(2) Limitations on defined monetary assistance. --

(A) In general.--A victim may only obtain defined monetary assistance under this subsection once.

(B) Effect on recovery of other restitution. --A victim who obtains defined monetary assistance under this subsection shall not be barred or limited from receiving restitution against any defendant for any offenses not covered by this section.

(C) Deduction.--If a victim who received defined monetary assistance under this subsection subsequently seeks restitution under this section, the court shall deduct the amount the victim received in defined monetary assistance when determining the full amount of the victim's losses.

<p>(3) Limitations on eligibility.--A victim who has collected payment of restitution pursuant to this section in an amount greater than the amount provided for under paragraph (1)(D) shall be ineligible to receive defined monetary assistance under this subsection.</p> <p>(4) Attorney fees.--</p> <p>(A) In general.--An attorney representing a victim seeking defined monetary assistance under this subsection may not charge, receive, or collect, and the court may not approve, any payment of fees and costs that in the aggregate exceeds 15 percent of any payment made under this subsection.</p> <p>(B) Penalty.--An attorney who violates subparagraph (A) shall be fined under this title, imprisoned not more than 1 year, or both.</p> <p> 18 U.S.C. § 2259(c) defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> Victims should be informed that they are entitled to restitution upon the conviction of defendant for losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p><b>Interstate Domestic Violence and Stalking Victims’ Right to Be Heard at Pretrial Release Hearings.</b></p> <p>In any proceeding pursuant to section 3142 [Release or detention of a defendant pending trial] for the purpose of determining whether a defendant charged under this chapter [governing interstate domestic violence and stalking and related protective order violations] shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.</p>	<p>18 U.S.C. § 2263.</p>



**Mandatory Restitution for Interstate Domestic Violence and Stalking and Related Protective Order Violations.**

18 U.S.C. § 2264(a), (b)(1)–(2), (4).

(a) In general. --Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

(b) Scope and nature of order. —

(1) Directions. --The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court pursuant to paragraph (2).

(2) Enforcement. --An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

...

(4) Order mandatory. --(A) The issuance of a restitution order under this section is mandatory.

(B) A court may not decline to issue an order under this section because of--

(i) the economic circumstances of the defendant; or

(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.






18 U.S.C. §§ 2264(b)(3) and (c) define the terms “full amount of the victim’s losses” and “victim” for the purposes of this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”



Victims should be informed that they are entitled to restitution upon the conviction of defendant for losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.

<p><b>Courts' Duty to Accord Full Faith and Credit to Protection Orders Issued by Courts of Other States, Indian Tribes, or Territories; Tribal Court Jurisdiction.</b></p> <p>(a) Full Faith and Credit.--Any protection order issued that is consistent with subsection (b) of this section by the court of one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory<sup>1</sup> as if it were the order of the enforcing State or tribe.</p> <p>(b) Protection order. --A protection order issued by a State, tribal, or territorial court is consistent with this subsection if--</p> <p>(1) such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and</p> <p>(2) reasonable notice and opportunity to be heard is given 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 the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.</p> <p>(c) Cross or counter petition. --A protection order issued by a State, tribal, or territorial court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if--</p> <p>(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or</p> <p>(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.</p> <p>(d) Notification and registration. --</p> <p>(1) Notification. --A State, Indian tribe, or territory according full faith and credit to an order by a court of another State, Indian tribe, or territory shall not notify or require notification</p>	<p>18 U.S.C. § 2265.</p>
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<p>of the party against whom a protection order has been issued that the protection order has been registered or filed in that enforcing State, tribal, or territorial jurisdiction unless requested to do so by the party protected under such order.</p> <p>(2) No prior registration or filing as prerequisite for enforcement. --Any protection order that is otherwise consistent with this section shall be accorded full faith and credit, notwithstanding failure to comply with any requirement that the order be registered or filed in the enforcing State, tribal, or territorial jurisdiction.</p> <p>(3) Limits on Internet publication of registration information.--A State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration, filing of a petition for, or issuance of a protection order, restraining order or injunction, restraining order, or injunction<sup>2</sup> in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.</p> <p>(e) Tribal court jurisdiction.--For purposes of this section, a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any person, including the authority to enforce any orders through civil contempt proceedings, to exclude violators from Indian land, and to use other appropriate mechanisms, in matters arising anywhere in the Indian country of the Indian tribe (as defined in section 1151) or otherwise within the authority of the Indian tribe.</p> <p> 18 U.S.C. § 2266 defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	
<p><b>Mandatory Restitution for Victims of Crimes Involving Transportation of Persons for Illegal Sexual Activity and Related Crimes.</b></p> <p>(a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.</p>	<p>18 U.S.C. § 2429(a)–(c).</p>


<p>(b)(1) The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim’s losses, as determined by the court under paragraph (3), and shall additionally require the defendant to pay the greater of the gross income or value to the defendant of the victim’s services, if the services constitute commercial sex acts as defined under section 1591.</p> <p>(2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.</p> <p>...</p> <p>(c) The forfeiture of property under this section shall be governed by the provisions of section 413 (other than subsection (d) of such section) of the Controlled Substances Act (21 U.S.C. 853).</p> <p> 18 U.S.C. §§ 2429(b)(3) and (d) define the terms “full amount of the victim’s losses” and “victim” for the purposes of this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> Victims should be informed that they are entitled to restitution upon the conviction of defendant for losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p><b>Statute of Limitations in Cases Involving Sexual, Physical Abuse or Kidnapping of Children Cannot Preclude Prosecution During Life of Child or Until Ten Years After the Offense.</b></p> <p>No statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse, or kidnaping, of a child under the age of 18 years shall preclude such prosecution during the life of the child, or for ten years after the offense, whichever is longer.</p>	<p>18 U.S.C. § 3283.</p>

<p><b>Child-Victims' Rights: Alternatives to Live In-Court Testimony.</b></p> <p>(1) Child's live testimony by 2-way closed circuit television. --</p> <p>(A) In a proceeding involving an alleged offense against a child, the attorney for the Government, the child's attorney, or a guardian ad litem appointed under subsection (h) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 7 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.</p> <p>(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, for any of the following reasons:</p> <p>(i) The child is unable to testify because of fear.</p> <p>(ii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying.</p> <p>(iii) The child suffers a mental or other infirmity.</p> <p>(iv) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.</p> <p>(C) The court shall support a ruling on the child's inability to testify with findings on the record. In determining whether the impact on an individual child of one or more of the factors described in subparagraph (B) is so substantial as to justify an order under subparagraph (A), the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the child attendant, the prosecutor, the child's attorney, the guardian ad litem, and the defense counsel present.</p> <p>(D) If the court orders the taking of testimony by television, the attorney for the Government and the attorney for the defendant not including an attorney pro se for a party shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are--</p> <p>(i) the child's attorney or guardian ad litem appointed under subsection (h);</p> <p>(ii) persons necessary to operate the closed-circuit television equipment;</p>	<p>18 U.S.C. § 3509(b).</p>
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(iii) a judicial officer, appointed by the court; and  
 (iv) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.  
 The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, and the voice of the judge.

(2) Videotaped deposition of child. –  
 (A) In a proceeding involving an alleged offense against a child, the attorney for the Government, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subsection (h) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.  
 (B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:  
 (I) The child will be unable to testify because of fear.  
 (II) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.  
 (III) The child suffers a mental or other infirmity.  
 (IV) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.  
 (ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.  
 (iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are--  
 (I) the attorney for the Government;  
 (II) the attorney for the defendant;  
 (III) the child's attorney or guardian ad litem appointed under subsection (h);



(IV) persons necessary to operate the videotape equipment;  
 (V) subject to clause (iv), the defendant; and  
 (VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.  
 The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.  
 (iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, and the child's testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.  
 (v) Handling of videotape. --The complete record of the examination of the child, including the image and voices of all persons who in any way participate in the examination, shall be made and preserved on video tape in addition to being stenographically recorded. The videotape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant, and the defendant's attorney during ordinary business hours.  
 (C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.  
 (D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.  
 (E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.



<p>(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal including Supreme Court review. The videotape shall become part of the court record and be kept by the court until it is destroyed.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	
<p><b>Child-Victims’ Rights: Competency Examinations.</b></p> <p>(1) Effect of Federal Rules of Evidence. --Nothing in this subsection shall be construed to abrogate rule 601 of the Federal Rules of Evidence.</p> <p>(2) Presumption. --A child is presumed to be competent.</p> <p>(3) Requirement of written motion. --A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.</p> <p>(4) Requirement of compelling reasons. --A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child’s age alone is not a compelling reason.</p> <p>(5) Persons permitted to be present. --The only persons who may be permitted to be present at a competency examination are--</p> <ul style="list-style-type: none"> <li>(A) the judge;</li> <li>(B) the attorney for the Government;</li> <li>(C) the attorney for the defendant;</li> <li>(D) a court reporter; and</li> <li>(E) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child’s attorney, guardian ad litem, or adult attendant.</li> </ul>	<p>18 U.S.C. § 3509(c).</p>





<p>(6) Not before jury. --A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.</p> <p>(7) Direct examination of child. --Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the Government and the attorney for the defendant including a party acting as an attorney pro se. The court may permit an attorney but not a party acting as an attorney pro se to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.</p> <p>(8) Appropriate questions. --The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.</p> <p>(9) Psychological and psychiatric examinations. --Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p>	
<p><b>Child-Victims' Rights: Privacy Protections.</b> 33</p> <p>(1) Confidentiality of information. (A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall--</p> <p>(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and</p> <p>(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.</p>	<p>18 U.S.C. § 3509(d).</p>




<p>(B) Subparagraph (A) applies to--</p> <ul style="list-style-type: none"> <li>(i) all employees of the Government connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the Government to provide assistance in the proceeding;</li> <li>(ii) employees of the court;</li> <li>(iii) the defendant and employees of the defendant, including the attorney for the defendant and persons hired by the defendant or the attorney for the defendant to provide assistance in the proceeding; and</li> <li>(iv) members of the jury.</li> </ul> <p>(2) Filing under seal. --All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court--</p> <ul style="list-style-type: none"> <li>(A) the complete paper to be kept under seal; and</li> <li>(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.</li> </ul> <p>(3) Protective orders.</p> <ul style="list-style-type: none"> <li>(A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.</li> <li>(B) A protective order issued under subparagraph (A) may--             <ul style="list-style-type: none"> <li>(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and</li> <li>(ii) provide for any other measures that may be necessary to protect the privacy of the child.</li> </ul> </li> </ul> <p>(4) Disclosure of information. --This subsection does not prohibit disclosure of the name of or other information concerning a child to the defendant, the attorney for the defendant, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone</p>	
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<p>to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	
<p><b>Child-Victims’ Rights: Closing the Courtroom.</b></p> <p>When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child’s inability to effectively communicate. Such an order shall be narrowly tailored to serve the Government’s specific compelling interest.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3509(e).</p>
<p><b>Child-Victims’ Rights: Victim Impact Statement.</b></p> <p>In preparing the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, the probation officer shall request information from the multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the Child-Victim and any other children who may have been affected. A guardian ad litem appointed under subsection (h) shall make every effort to obtain and report information that accurately expresses the child’s and the family’s views concerning the child’s victimization. A guardian ad litem shall use forms that permit the child to express the child’s views concerning the personal consequences of the child’s victimization, at a level and in a form of communication commensurate with the child’s age and ability.</p>	<p>18 U.S.C. § 3509(f).</p>

<p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	
<p><b>Child-Victims’ Rights: Use of Multidisciplinary Child Abuse Teams.</b></p> <p>(1) In general. --A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with State and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the Government shall consult with the multidisciplinary child abuse team as appropriate.</p> <p>(2) Role of multidisciplinary child abuse teams. --The role of the multidisciplinary child abuse team shall be to provide for a child services that the members of the team in their professional roles are capable of providing, including--</p> <ul style="list-style-type: none"> <li>(A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;</li> <li>(B) telephone consultation services in emergencies and in other situations;</li> <li>(C) medical evaluations related to abuse or neglect;</li> <li>(D) psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;</li> <li>(E) expert medical, psychological, and related professional testimony;</li> <li>(F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and</li> <li>(G) training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.</li> </ul> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3509(g).</p>



<p><b>Child-Victims' Rights: Guardians ad Litem.</b></p> <p>(1) In general. --The court may appoint, and provide reasonable compensation and payment of expenses for, a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.</p> <p>(2) Duties of guardian ad litem. --A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. (The extent of access to grand jury materials is limited to the access routinely provided to victims and their representatives.) A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.</p> <p>(3) Immunities. --A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties described in paragraph (2).</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p>	<p>18 U.S.C. § 3509(h).</p>
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<p><b>Child-Victims' Rights: Adult Attendants.</b></p> <p>A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child. The image of the child attendant, for the time the child is testifying or being deposed, shall be recorded on videotape.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p>	<p>18 U.S.C. § 3509(i).</p>
<p><b>Child-Victims' Rights: Speedy Trial.</b></p> <p>In a proceeding in which a child is called to give testimony, on motion by the attorney for the Government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance, the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.</p>	<p>18 U.S.C. § 3509(j).</p>

<p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	
<p><b>Child-Victims’ Rights: Stay of Civil Action.</b></p> <p>Stay of civil action. --If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the civil action shall be stayed until the end of all phases of the criminal action and any mention of the civil action during the criminal proceeding is prohibited. As used in this subsection, a criminal action is pending until its final adjudication in the trial court.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3509(k).</p>
<p><b>Child-Victims’ Rights: Testimonial Aids.</b></p> <p>The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3509(l).</p>

<p><b>Child-Victims' Rights: Prohibition on Reproduction of Child Pornography.</b></p> <p>(1) In any criminal proceeding, any property or material that constitutes child pornography (as defined by section 2256 of this title) shall remain in the care, custody, and control of either the Government or the court.</p> <p>(2)(A) Notwithstanding Rule 16 of the Federal Rules of Criminal Procedure, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography (as defined by section 2256 of this title), so long as the Government makes the property or material reasonably available to the defendant.</p> <p>(B) For the purposes of subparagraph (A), property or material shall be deemed to be reasonably available to the defendant if the Government provides ample opportunity for inspection, viewing, and examination at a Government facility of the property or material by the defendant, his or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.</p> <p>(3) In any criminal proceeding, a victim, as defined under section 2259(c)(4), shall have reasonable access to any property or material that constitutes child pornography, as defined under section 2256(8), depicting the victim, for inspection, viewing, and examination at a Government facility or court, by the victim, his or her attorney, and any individual the victim may seek to qualify to furnish expert testimony, but under no circumstances may such child pornography be copied, photographed, duplicated, or otherwise reproduced. Such property or material may be redacted to protect the privacy of third parties.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p>	<p>18 U.S.C. § 3509(m).</p>
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<p><b>Victims' Right to Be Present at Trial; No Exclusion from Trial Because Victim May Present Information or Make Statement at Sentencing.</b></p> <p>(a) Non-capital cases. --Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, make a statement or present any information in relation to the sentence.</p> <p>(b) Capital cases. --Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, testify as to the effect of the offense on the victim and the victim's family or as to any other factor for which notice is required under section 3593(a).</p> <p> 18 U.S.C. § 3510(c) defines the term "victim" for the purposes of this statutory provision. This definition is included below in the section "Federal Victims' Rights: Select Definitions."</p> <p> Victims also have rights under the CVRA to be present and heard at public court proceedings. 18 U.S.C. § 3771(a)(3)–(4), (b)(1). Fed. R. Crim. P. 60(a) also limits victims' exclusion from the courtroom. The CVRA provisions and rule of evidence are included above.</p>	<p>18 U.S.C. § 3510(a)–(b).</p>
<p><b>Court May Order Defendant to Provide Reasonable Notice and Explanation of Conviction to Victims Where Defendant is Found Guilty of Fraud or Other Intentionally Deceptive Practices.</b></p> <p>The court, in imposing a sentence on a defendant who has been found guilty of an offense involving fraud or other intentionally deceptive practices, may order, in addition to the sentence that is imposed pursuant to the provisions of section 3551, that the defendant give</p>	<p>18 U.S.C. § 3555.</p>

<p>reasonable notice and explanation of the conviction, in such form as the court may approve, to the victims of the offense. The notice may be ordered to be given by mail, by advertising in designated areas or through designated media, or by other appropriate means. In determining whether to require the defendant to give such notice, the court shall consider the factors set forth in section 3553(a) to the extent that they are applicable and shall consider the cost involved in giving the notice as it relates to the loss caused by the offense, and shall not require the defendant to bear the costs of notice in excess of \$20,000.</p> <p> 18 U.S.C. § 3673 defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	
<p><b>Victims’ Right to Restitution Under the Victim and Witness Protection Act (VWPA): Discretionary Restitution for Certain Offenses; Factors for Court to Consider; Types of Compensable Losses.</b></p> <p>(a)(1)(A) The court, when sentencing a defendant convicted of an offense under this title, section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863) (but in no case shall a participant in an offense under such sections be considered a victim of such offense under this section), or section 5124, 46312, 46502, or 46504 of title 49, other than an offense described in section 3663A(c), may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of such offense, or if the victim is deceased, to the victim’s estate. The court may also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.</p> <p>(B)(i) The court, in determining whether to order restitution under this section, shall consider--</p> <p>(I) the amount of the loss sustained by each victim as a result of the offense; and</p> <p>(II) the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant’s dependents, and such other factors as the court deems appropriate.</p> <p>(ii) To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section</p>	<p>18 U.S.C. § 3663.</p>

outweighs the need to provide restitution to any victims, the court may decline to make such an order.

...

(3) The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement.

(b) The order may require that such defendant—

(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense--

(A) return the property to the owner of the property or someone designated by the owner; or

(B) if return of the property under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of--

(i) the value of the property on the date of the damage, loss, or destruction, or

(ii) the value of the property on the date of sentencing,

less the value (as of the date the property is returned) of any part of the property that is returned;

(2) in the case of an offense resulting in bodily injury to a victim including an offense under chapter 109A or chapter 110--

(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

(C) reimburse the victim for income lost by such victim as a result of such offense;

(3) in the case of an offense resulting in bodily injury also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services;

(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense;

(5) in any case, if the victim (or if the victim is deceased, the victim's estate) consents, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate; and

(6) in the case of an offense under sections 1028(a)(7) or 1028A(a) of this title, pay an amount equal to the value of the time reasonably spent by the victim in an attempt to remediate the intended or actual harm incurred by the victim from the offense.

(c)(1) Notwithstanding any other provision of law (but subject to the provisions of subsections (a)(1)(B)(i)(II) and (ii),<sup>1</sup> when sentencing a defendant convicted of an offense described in section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there is no identifiable victim, the court may order that the defendant make restitution in accordance with this subsection.

(2)(A) An order of restitution under this subsection shall be based on the amount of public harm caused by the offense, as determined by the court in accordance with guidelines promulgated by the United States Sentencing Commission.

(B) In no case shall the amount of restitution ordered under this subsection exceed the amount of the fine which may be ordered for the offense charged in the case.

(3) Restitution under this subsection shall be distributed as follows:

(A) 65 percent of the total amount of restitution shall be paid to the State entity designated to administer crime victim assistance in the State in which the crime occurred.

(B) 35 percent of the total amount of restitution shall be paid to the State entity designated to receive Federal substance abuse block grant funds.



(4) The court shall not make an award under this subsection if it appears likely that such award would interfere with a forfeiture under chapter 46 or chapter 96 of this title or under the Controlled Substances Act (21 U.S.C. 801 et seq.).

(5) Notwithstanding section 3612(c) or any other provision of law, a penalty assessment under section 3013 or a fine under subchapter C of chapter 227 shall take precedence over an order of restitution under this subsection.

(6) Requests for community restitution under this subsection may be considered in all plea agreements negotiated by the United States.

(7)(A) The United States Sentencing Commission shall promulgate guidelines to assist courts in determining the amount of restitution that may be ordered under this subsection.

(B) No restitution shall be ordered under this subsection until such time as the Sentencing Commission promulgates guidelines pursuant to this paragraph.

<p>(d) An order of restitution made pursuant to this section shall be issued and enforced in accordance with section 3664.</p> <p><sup>1</sup> So in original. Probably should be “(ii)”.</p> <p> 18 U.S.C. § 3663(a)(2) defines the term “victim” for the purposes of this statutory provision. This definition is included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> Victims should be informed that they may be entitled to restitution upon the conviction of defendant for certain losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p><b>Victims’ Right to Restitution Under the Mandatory Victims’ Rights Act (MVRA): Mandatory Restitution for Victims of Specified Offenses; Restitution May Be Ordered for Others Per Plea Agreement.</b></p> <p>(a)(1) Notwithstanding any other provision of law, when sentencing a defendant convicted of an offense described in subsection (c), the court shall order, in addition to, or in the case of a misdemeanor, in addition to or in lieu of, any other penalty authorized by law, that the defendant make restitution to the victim of the offense or, if the victim is deceased, to the victim’s estate.</p> <p>...</p> <p>(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.</p> <p>(b) The order of restitution shall require that such defendant--</p> <p>(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense--</p> <p>(A) return the property to the owner of the property or someone designated by the owner; or</p>	<p>18 U.S.C. § 3663A(a)–(d).</p>

(B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to--

- (i) the greater of--
  - (I) the value of the property on the date of the damage, loss, or destruction; or
  - (II) the value of the property on the date of sentencing, less
- (ii) the value (as of the date the property is returned) of any part of the property that is returned;

(2) in the case of an offense resulting in bodily injury to a victim--



- (A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;
- (B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and
- (C) reimburse the victim for income lost by such victim as a result of such offense;

(3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

(c)(1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense--

- (A) that is--
  - (i) a crime of violence, as defined in section 16;
  - (ii) an offense against property under this title, or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)), including any offense committed by fraud or deceit;
  - (iii) an offense described in section 1365 (relating to tampering with consumer products); or
  - (iv) an offense under section 670 (relating to theft of medical products); and
- (B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.

<p>(2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.</p> <p>(3) This section shall not apply in the case of an offense described in paragraph (1)(A)(ii) if the court finds, from facts on the record, that--</p> <p>(A) the number of identifiable victims is so large as to make restitution impracticable; or</p> <p>(B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.</p> <p>(d) An order of restitution under this section shall be issued and enforced in accordance with section 3664.</p> <p> 18 U.S.C. § 3663A(a)(2) defines the term “victim” for the purposes of this statutory provision. This definition is included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> Victims should be informed that they are entitled to restitution upon the conviction of defendant for certain losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p><b>Victims’ Right to Restitution: Procedures for Issuance and Enforcement of Restitution Orders Under Federal Restitution Laws.</b></p> <p>(a) For orders of restitution under this title, the court shall order the probation officer to obtain and include in its presentence report, or in a separate report, as the court may direct, information sufficient for the court to exercise its discretion in fashioning a restitution order. The report shall include, to the extent practicable, a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant. If the number or identity of victims cannot</p>	<p>18 U.S.C. § 3664.</p>

be reasonably ascertained, or other circumstances exist that make this requirement clearly impracticable, the probation officer shall so inform the court.

(b) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

(c) The provisions of this chapter, chapter 227, and Rule 32(c) of the Federal Rules of Criminal Procedure shall be the only rules applicable to proceedings under this section.

(d)(1) Upon the request of the probation officer, but not later than 60 days prior to the date initially set for sentencing, the attorney for the Government, after consulting, to the extent practicable, with all identified victims, shall promptly provide the probation officer with a listing of the amounts subject to restitution.

(2) The probation officer shall, prior to submitting the presentence report under subsection (a), to the extent practicable--

(A) provide notice to all identified victims of--

(i) the offense or offenses of which the defendant was convicted;

(ii) the amounts subject to restitution submitted to the probation officer;

(iii) the opportunity of the victim to submit information to the probation officer concerning the amount of the victim's losses;

(iv) the scheduled date, time, and place of the sentencing hearing;

(v) the availability of a lien in favor of the victim pursuant to subsection (m)(1)(B); and

(vi) the opportunity of the victim to file with the probation officer a separate affidavit relating to the amount of the victim's losses subject to restitution; and

(B) provide the victim with an affidavit form to submit pursuant to subparagraph (A)(vi).

(3) Each defendant shall prepare and file with the probation officer an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets owned or controlled by the defendant as of the date on which the defendant was arrested, the financial needs and earning ability of the defendant and the defendant's dependents, and such other information that the court requires relating to such other factors as the court deems appropriate.



(4) After reviewing the report of the probation officer, the court may require additional documentation or hear testimony. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

(5) If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing, the attorney for the Government or the probation officer shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

(6) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate judge or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

(e) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant's dependents, shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

(f)(1)(A) In each order of restitution, the court shall order restitution to each victim in the full amount of each victim's losses as determined by the court and without consideration of the economic circumstances of the defendant.

(B) In no case shall the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source be considered in determining the amount of restitution.

(2) Upon determination of the amount of restitution owed to each victim, the court shall, pursuant to section 3572, specify in the restitution order the manner in which, and the schedule according to which, the restitution is to be paid, in consideration of--

(A) the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled;

(B) projected earnings and other income of the defendant; and

(C) any financial obligations of the defendant; including obligations to dependents.

(3)(A) A restitution order may direct the defendant to make a single, lump-sum payment, partial payments at specified intervals, in-kind payments, or a combination of payments at specified intervals and in-kind payments.

(B) A restitution order may direct the defendant to make nominal periodic payments if the court finds from facts on the record that the economic circumstances of the defendant do not allow the payment of any amount of a restitution order, and do not allow for the payment of the full amount of a restitution order in the foreseeable future under any reasonable schedule of payments.

(4) An in-kind payment described in paragraph (3) may be in the form of--

(A) return of property;

(B) replacement of property; or

(C) if the victim agrees, services rendered to the victim or a person or organization other than the victim.

(g)(1) No victim shall be required to participate in any phase of a restitution order.

(2) A victim may at any time assign the victim's interest in restitution payments to the Crime Victims Fund in the Treasury without in any way impairing the obligation of the defendant to make such payments.

(h) If the court finds that more than 1 defendant has contributed to the loss of a victim, the court may make each defendant liable for payment of the full amount of restitution or may apportion liability among the defendants to reflect the level of contribution to the victim's loss and economic circumstances of each defendant.

(i) If the court finds that more than 1 victim has sustained a loss requiring restitution by a defendant, the court may provide for a different payment schedule for each victim based on the type and amount of each victim's loss and accounting for the economic circumstances of each victim. In any case in which the United States is a victim, the court shall ensure that all other victims receive full restitution before the United States receives any restitution.

(j)(1) If a victim has received compensation from insurance or any other source with respect to a loss, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

(2) Any amount paid to a victim under an order of restitution shall be reduced by any amount later recovered as compensatory damages for the same loss by the victim in--

(A) any Federal civil proceeding; and

(B) any State civil proceeding, to the extent provided by the law of the State.

(k) A restitution order shall provide that the defendant shall notify the court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution. The court may also accept notification of a material change in the defendant's economic circumstances from the United States or from the victim. The Attorney General shall certify to the court that the victim or victims owed restitution by the defendant have been notified of the change in circumstances. Upon receipt of the notification, the court may, on its own motion, or the motion of any party, including the victim, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.

(l) A conviction of a defendant for an offense involving the act giving rise to an order of restitution shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, to the extent consistent with State law, brought by the victim.

(m)(1)(A)(i) An order of restitution may be enforced by the United States in the manner provided for in subchapter C of chapter 227 and subchapter B of chapter 229 of this title; or (ii) by all other available and reasonable means.

(B) At the request of a victim named in a restitution order, the clerk of the court shall issue an abstract of judgment certifying that a judgment has been entered in favor of such victim in the amount specified in the restitution order. Upon registering, recording, docketing, or indexing such abstract in accordance with the rules and requirements relating to judgments

of the court of the State where the district court is located, the abstract of judgment shall be a lien on the property of the defendant located in such State in the same manner and to the same extent and under the same conditions as a judgment of a court of general jurisdiction in that State.

(2) An order of in-kind restitution in the form of services shall be enforced by the probation officer.

(n) If a person obligated to provide restitution, or pay a fine, receives substantial resources from any source, including inheritance, settlement, or other judgment, during a period of incarceration, such person shall be required to apply the value of such resources to any restitution or fine still owed.

(o) A sentence that imposes an order of restitution is a final judgment notwithstanding the fact that--

(1) such a sentence can subsequently be--

(A) corrected under Rule 35 of the Federal Rules of Criminal Procedure and section 3742 of chapter 235 of this title;

(B) appealed and modified under section 3742;

(C) amended under subsection (d)(5); or

(D) adjusted under section 3664(k), 3572, or 3613A; or

(2) the defendant may be resentenced under section 3565 or 3614.

(p) Nothing in this section or sections 2248, 2259, 2264, 2327, 3663, and 3663A and arising out of the application of such sections, shall be construed to create a cause of action not otherwise authorized in favor of any person against the United States or any officer or employee of the United States.

(p) Nothing in this section or sections 2248, 2259, 2264, 2327, 3663, and 3663A and arising out of the application of such sections, shall be construed to create a cause of action not otherwise authorized in favor of any person against the United States or any officer or employee of the United States.

**Victims' Right to Restitution: Order of Special Forfeiture When Required by Restitution Order; Defendant to Forfeit Proceeds from Contract Relating to Depiction of Crime.**

18 U.S.C. § 3681.

(a) Upon the motion of the United States attorney made at any time after conviction of a defendant for an offense under section 794 of this title or for an offense against the United States resulting in physical harm to an individual, and after notice to any interested party, the court shall, if the court determines that the interest of justice or an order of restitution under this title so requires, order such defendant to forfeit all or any part of proceeds received or to be received by that defendant, or a transferee of that defendant, from a contract relating to a depiction of such crime in a movie, book, newspaper, magazine, radio or television production, or live entertainment of any kind, or an expression of that defendant's thoughts, opinions, or emotions regarding such crime.

(b) An order issued under subsection (a) of this section shall require that the person with whom the defendant contracts pay to the Attorney General any proceeds due the defendant under such contract.

(c)(1) Proceeds paid to the Attorney General under this section shall be retained in escrow in the Crime Victims Fund in the Treasury by the Attorney General for five years after the date of an order under this section, but during that five year period may--

(A) be levied upon to satisfy--

(i) a money judgment rendered by a United States district court in favor of a victim of an offense for which such defendant has been convicted, or a legal representative of such victim; and


(ii) a fine imposed by a court of the United States; and

(B) if ordered by the court in the interest of justice, be used to--

(i) satisfy a money judgment rendered in any court in favor of a victim of any offense for which such defendant has been convicted, or a legal representative of such victim; and

(ii) pay for legal representation of the defendant in matters arising from the offense for which such defendant has been convicted, but no more than 20 percent of the total proceeds may be so used.

<p>(2) The court shall direct the disposition of all such proceeds in the possession of the Attorney General at the end of such five years and may require that all or any part of such proceeds be released from escrow and paid into the Crime Victims Fund in the Treasury.</p> <p>(d) As used in this section, the term “interested party” includes the defendant and any transferee of proceeds due the defendant under the contract, the person with whom the defendant has contracted, and any person physically harmed as a result of the offense for which the defendant has been convicted.</p>	
<p><b>Victims’ Right to Notice of Order of Special Forfeiture.</b></p> <p>The United States attorney shall, within thirty days after the imposition of an order under this chapter and at such other times as the Attorney General may require, publish in a newspaper of general circulation in the district in which the offense for which a defendant was convicted occurred, a notice that states—</p> <p>(1) the name of, and other identifying information about, the defendant;</p> <p>(2) the offense for which the defendant was convicted; and</p> <p>(3) that the court has ordered a special forfeiture of certain proceeds that may be used to satisfy a judgment obtained against the defendant by a victim of an offense for which the defendant has been convicted.</p>	<p>18 U.S.C. § 3682.</p>
<p><b>Courts’ Duty to Order Restitution in Accordance with the VWPA and the MVRA; Procedures in Section 3664 to Apply to All Restitution Orders.</b></p> <p>The court, in imposing a sentence on a defendant who has been found guilty of an offense shall order restitution in accordance with section 3663A, and may order restitution in</p>	<p>18 U.S.C. § 3556.</p>

<p>accordance with section 3663. The procedures under section 3664 shall apply to all orders of restitution under this section.</p> <p> 18 U.S.C. § 3673 defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	
<p><b>Court Must Make Payment of Restitution a Condition of Probation; Court to Order a Defendant Required to Register Under Sex Offender Registration and Notification Act to Comply with Requirements of Act as Condition of Probation.</b></p> <p>(a) Mandatory conditions. --The court shall provide, as an explicit condition of a sentence of probation-</p> <p>...</p> <p>(6) that the defendant--</p> <p>(A) make restitution in accordance with sections 2248, 2259, 2264, 2327, 3663, 3663A, and 3664</p> <p>....</p> <p>(8) for a person required to register under the Sex Offender Registration and Notification Act, that the person comply with the requirements of that Act; and</p> <p>...</p> <p>(b) Discretionary conditions. --The court may provide, as further conditions of a sentence of probation, to the extent that such conditions are reasonably related to the factors set forth in section 3553(a)(1) and (a)(2) and to the extent that such conditions involve only such deprivations of liberty or property as are reasonably necessary for the purposes indicated in section 3553(a)(2), that the defendant--</p> <p>...</p> <p>(2) make restitution to a victim of the offense under section 3556 (but not subject to the limitation of section 3663(a) or 3663A(c)(1)(A));</p>	<p>18 U.S.C. § 3563(a)(6)(A), (a)(8), (b)(2)–(3).</p>

<p>(3) give to the victims of the offense the notice ordered pursuant to the provisions of section 3555[.]</p>	
<p><b>Payment of Restitution as Directed.</b></p> <p>A person who is sentenced to pay a fine, assessment, or restitution, shall pay the fine, assessment, or restitution (including any interest or penalty), as specified by the Director of the Administrative Office of the United States Courts. Such Director may specify that such payment be made to the clerk of the court or in the manner provided for under section 604(a)(18) of title 28, United States Code.</p>	<p>18 U.S.C. § 3611.</p>
<p><b>Restitution Procedures: Clerk to Notify Attorney General of Receipt of Restitution Payment; Form of Judgment of Restitution; Information to Be Included; Victim Must Keep Address Updated with Attorney General or Court Entity; Victim Information to Remain Confidential; Attorney General Responsible to Collect Unpaid Restitution; Order of Disbursement of Funds Received; Interest and Penalties</b></p> <p>(a) Notification of receipt and related matters. --The clerk or the person designated under section 604(a)(18) of title 28 shall notify the Attorney General of each receipt of a payment with respect to which a certification is made under subsection (b), together with other appropriate information relating to such payment. The notification shall be provided--</p> <p>(1) in such manner as may be agreed upon by the Attorney General and the Director of the Administrative Office of the United States Courts; and</p> <p>(2) within 15 days after the receipt or at such other time as may be determined jointly by the Attorney General and the Director of the Administrative Office of the United States Courts. If the fifteenth day under paragraph (2) is a Saturday, Sunday, or legal public holiday, the clerk, or the person designated under section 604(a)(18) of title 28, shall provide notification not later than the next day that is not a Saturday, Sunday, or legal public holiday.</p>	<p>18 U.S.C. § 3612(a)–(i).</p>



(b) Information to be included in judgment; judgment to be transmitted to Attorney General.

—

(1) A judgment or order imposing, modifying, or remitting a fine or restitution order of more than \$100 shall include--

(A) the name, social security account number, mailing address, and residence address of the defendant;

(B) the docket number of the case;

(C) the original amount of the fine or restitution order and the amount that is due and unpaid;

(D) the schedule of payments (if other than immediate payment is permitted under section 3572(d));

(E) a description of any modification or remission;

(F) if other than immediate payment is permitted, a requirement that, until the fine or restitution order is paid in full, the defendant notify the Attorney General of any change in the mailing address or residence address of the defendant not later than thirty days after the change occurs; and

(G) in the case of a restitution order, information sufficient to identify each victim to whom restitution is owed. It shall be the responsibility of each victim to notify the Attorney General, or the appropriate entity of the court, by means of a form to be provided by the Attorney General or the court, of any change in the victim's mailing address while restitution is still owed the victim. The confidentiality of any information relating to a victim shall be maintained.

(2) Not later than ten days after entry of the judgment or order, the court shall transmit a certified copy of the judgment or order to the Attorney General.

(c) Responsibility for collection. --The Attorney General shall be responsible for collection of an unpaid fine or restitution concerning which a certification has been issued as provided in subsection (b). An order of restitution, pursuant to section 3556, does not create any right of action against the United States by the person to whom restitution is ordered to be paid. Any money received from a defendant shall be disbursed so that each of the following obligations is paid in full in the following sequence:

(1) A penalty assessment under section 3013 of title 18, United States Code.

(2) Restitution of all victims.

(3) All other fines, penalties, costs, and other payments required under the sentence.

(d) Notification of delinquency. --Within ten working days after a fine or restitution is determined to be delinquent as provided in section 3572(h), the Attorney General shall notify the person whose fine or restitution is delinquent, to inform the person of the delinquency.

(e) Notification of default. --Within ten working days after a fine or restitution is determined to be in default as provided in section 3572(i), the Attorney General shall notify the person defaulting to inform the person that the fine or restitution is in default and the entire unpaid balance, including interest and penalties, is due within thirty days.

(f) Interest on fines and restitution. –

(1) In general. --The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of the judgment. If that day is a Saturday, Sunday, or legal public holiday, the defendant shall be liable for interest beginning with the next day that is not a Saturday, Sunday, or legal public holiday.

(2) Computation. --Interest on a fine shall be computed--

(A) daily (from the first day on which the defendant is liable for interest under paragraph (1)); and

(B) at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the first day on which the defendant is liable for interest under paragraph (1).

(3) Modification of interest by court. --If the court determines that the defendant does not have the ability to pay interest under this subsection, the court may--

(A) waive the requirement for interest;

(B) limit the total of interest payable to a specific dollar amount; or

(C) limit the length of the period during which interest accrues.

(g) Penalty for delinquent fine. --If a fine or restitution becomes delinquent, the defendant shall pay, as a penalty, an amount equal to 10 percent of the principal amount that is delinquent. If a fine or restitution becomes in default, the defendant shall pay, as a penalty, an additional amount equal to 15 percent of the principal amount that is in default.

<p>(h) Waiver of interest or penalty by Attorney General. --The Attorney General may waive all or part of any interest or penalty under this section or any interest or penalty relating to a fine imposed under any prior law if, as determined by the Attorney General, reasonable efforts to collect the interest or penalty are not likely to be effective.</p> <p>(i) Application of payments. --Payments relating to fines and restitution shall be applied in the following order: (1) to principal; (2) to costs; (3) to interest; and (4) to penalties.</p>	
<p><b>Court May Resentence Defendant Who Knowingly Fails to Pay Delinquent Restitution to Any Sentence That Might Have Been Originally Imposed, Including Imprisonment.</b></p> <p>(a) Resentencing. --Subject to the provisions of subsection (b), if a defendant knowingly fails to pay a delinquent fine or restitution the court may resentence the defendant to any sentence which might originally have been imposed.</p> <p>(b) Imprisonment. --The defendant may be sentenced to a term of imprisonment under subsection (a) only if the court determines that—</p> <p>(1) the defendant willfully refused to pay the delinquent fine or had failed to make sufficient bona fide efforts to pay the fine; or</p> <p>(2) in light of the nature of the offense and the characteristics of the person, alternatives to imprisonment are not adequate to serve the purposes of punishment and deterrence.</p> <p>(c) Effect of indigency. --In no event shall a defendant be incarcerated under this section solely on the basis of inability to make payments because the defendant is indigent.</p>	<p>18 U.S.C. § 3614.</p>
<p><b>Victims of Sexual Assault Rights Regarding Ordering Defendant to Be Tested for AIDS; Required Showing; Test Results Confidential.</b></p> <p>(1) Court order</p> <p>The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the</p>	<p>34 U.S.C. § 12391(b)(1)–(7).</p>

defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling.

(2) Showing required

To obtain an order under paragraph (1), the victim must demonstrate that--

(A) the defendant has been charged with the offense in a State or Federal court, and if the defendant has been arrested without a warrant, a probable cause determination has been made;

(B) the test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and

(C) the test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Centers for Disease Control, of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) Follow-up testing


The court may order follow-up tests and counseling under paragraph (1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the initial test.




(4) Termination of testing requirements




An order for follow-up testing under paragraph (3) shall be terminated if the person obtains an acquittal on, or dismissal of, all charges of the type referred to in subsection (a).




(5) Confidentiality of test

The results of any test ordered under this subsection shall be disclosed only to the victim or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested. The victim may disclose the test results only to any medical professional, counselor, family member or sexual partner(s) the victim may have had since the attack.




<p>Any such individual to whom the test results are disclosed by the victim shall maintain the confidentiality of such information.</p> <p>(6) Disclosure of test results The court shall issue an order to prohibit the disclosure by the victim of the results of any test performed under this subsection to anyone other than those mentioned in paragraph (5). The contents of the court proceedings and test results pursuant to this section shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial.</p> <p>(7) Contempt for disclosure Any person who discloses the results of a test in violation of this subsection may be held in contempt of court.</p>	
<p><b>Law Enforcement’s Duties to Identify Victims at Earliest Opportunity After Detection of Crime; Inform Victims of Right to Receive Services; Provide Contact Information to Request Services.</b></p> <p>At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—</p> <ul style="list-style-type: none"> <li>(1) identify the victim or victims of a crime;</li> <li>(2) inform the victims of their right to receive, on request, the services described in subsection (c); and</li> <li>(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).</li> </ul> <p> 34 U.S.C. § 20141(e)(1)–(2) define the terms “responsible official” and “victim” for the purposes of this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>34 U.S.C. § 20141(b).</p>




<p> A promising practice is to have a policy in place to establish what constitutes “the earliest opportunity after the detection of a crime.”</p> <p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time after initial contact with law enforcement. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p><b>Duty of Responsible Officials to Provide Victims with Certain Information Regarding Available Services.</b></p> <p>A responsible official shall--</p> <p>(A) inform a victim of the place where the victim may receive emergency medical and social services;</p> <p>(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and<sup>1</sup> manner in which such relief may be obtained;</p> <p>(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and</p> <p>(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).</p> <p> 34 U.S.C. § 20141(e) defines the terms “responsible official” and “victim” for the purposes of this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>34 U.S.C. § 20141(c)(1).</p>




<p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time after initial contact with law enforcement. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p><b>Duty of Responsible Officials to Arrange for Victims' Reasonable Protection.</b></p> <p>A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.</p> <p> 34 U.S.C. § 20141(e)(1)–(2) define the terms “responsible official” and “victim” for the purposes of this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> The CVRA provides victims with the right to be reasonably protected from the accused. 18 U.S.C. § 3771(a)(1). This right is included above.</p>	<p>34 U.S.C. § 20141(c)(2).</p>
<p><b>Duty of Responsible Official to Provide Victims with Notice of Certain Pre-Sentencing Events within the Criminal Justice System.</b></p> <p>During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—</p> <p>(A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;</p> <p>(B) the arrest of a suspected offender;</p>	<p>34 U.S.C. § 20141(c)(3).</p>

<p>(C) the filing of charges against a suspected offender;</p> <p>(D) the scheduling of each court proceeding that the witness is either required to attend or, under section 10606(b)(4) of Title 42, is entitled to attend;</p> <p>(E) the release or detention status of an offender or suspected offender;</p> <p>(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and</p> <p>(G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.</p> <p> 34 U.S.C. § 20141(e) defines the terms “responsible official” and “victim” for the purposes of this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy in place to establish what constitutes “the earliest possible notice.”</p>	
<p><b>Duty of Responsible Official to Ensure Secure Waiting Area.</b></p> <p>During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.</p> <p> 34 U.S.C. § 20141(e) defines the terms “responsible official” and “victim” for the purposes of this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>34 U.S.C. § 20141(c)(4).</p>



<p> Although this provision is directed at responsible officials regarding court proceedings, the same concept can and should be applied to law enforcement interactions with victims, victims' families, and victims' witnesses.</p>	
<p><b>Duty of Responsible Official to Provide Victims with Notice of Certain Post-Sentencing Events within the Criminal Justice System.</b></p> <p>After trial, a responsible official shall provide a victim the earliest possible notice of</p> <p>(A) the scheduling of a parole hearing for the offender;</p> <p>(B) the escape, work release, furlough, or any other form of release from custody of the offender; and</p> <p>(C) the death of the offender, if the offender dies while in custody.</p> <p> 34 U.S.C. § 20141(e) defines the terms “responsible official” and “victim” for the purposes of this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy in place to establish what constitutes “the earliest possible notice.”</p>	<p>34 U.S.C. § 20141(c)(5).</p>
<p><b>Duty of Responsible Official to Ensure Return of Victims’ Property.</b></p> <p>At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.</p>	<p>34 U.S.C. § 20141(c)(6).</p>

<p> 34 U.S.C. § 20141(e) defines the terms “responsible official” and “victim” for the purposes of this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> It is a promising practice to have a policy and procedure in place to ensure that victims’ property is returned to them as soon as possible, once it is no longer needed for evidentiary purposes. Instructions should be ready and available to provide to victims, explaining how they may promptly obtain their property, in addition to the name of a person they may contact to check the status of the return.</p> <p> If the accused files a request for return of property, victims and the prosecution must be notified immediately to ensure that they are on notice and have an opportunity to be meaningfully heard on the matter.</p>	
<p><b>Head of Investigating Agency’s Duty to Pay Costs of Victims’ Physical Exams, STD Testing and Counseling Sessions Regarding Such Testing and Results.</b></p> <p>The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim which an investigating officer determines was necessary or useful for evidentiary purposes. The Attorney General shall provide for the payment of the cost of up to 2 anonymous and confidential tests of the victim for sexually transmitted diseases, including HIV, gonorrhea, herpes, chlamydia, and syphilis, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault. A victim may waive anonymity and confidentiality of any tests paid for under this section.</p>	<p>34 U.S.C. § 20141(c)(7).</p>

<p> 34 U.S.C. § 20141(e) defines the terms “responsible official” and “victim” for the purposes of this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	
<p><b>Duty of Responsible Official to Provide Victims with Information Regarding the Corrections Process.</b></p> <p>A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.</p> <p> 34 U.S.C. § 20141(e) defines the terms “responsible official” and “victim” for the purposes of this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy in place to establish what constitutes “the earliest possible notice.”</p>	<p>34 U.S.C. § 20141(c)(8).</p>
<p><b>Victims’ Privacy and Protection Rights Regarding Disclosure of Witnesses When Defendant Raises Alibi Defense.</b></p> <p>(a) Government’s Request for Notice and Defendant’s Response.</p> <p>(1) Government’s Request. An attorney for the government may request in writing that the defendant notify an attorney for the government of any intended alibi defense. The request must state the time, date, and place of the alleged offense.</p> <p>(2) Defendant’s Response. Within 14 days after the request, or at some other time the court sets, the defendant must serve written notice on an attorney for the government of any intended alibi defense. The defendant’s notice must state:</p>	<p>Fed. R. Crim. P. 12.1.</p>

(A) each specific place where the defendant claims to have been at the time of the alleged offense; and  
 (B) the name, address, and telephone number of each alibi witness on whom the defendant intends to rely.

(b) Disclosing Government Witnesses.

(1) Disclosure.

(A) In General. If the defendant serves a Rule 12.1(a)(2) notice, an attorney for the government must disclose in writing to the defendant or the defendant's attorney:

(i) the name of each witness--and the address and telephone number of each witness other than a victim--that the government intends to rely on to establish that the defendant was present at the scene of the alleged offense; and  
 (ii) each government rebuttal witness to the defendant's alibi defense.

(B) Victim's Address and Telephone Number. If the government intends to rely on a victim's testimony to establish that the defendant was present at the scene of the alleged offense and the defendant establishes a need for the victim's address and telephone number, the court may:



(i) order the government to provide the information in writing to the defendant or the defendant's attorney; or  
 (ii) fashion a reasonable procedure that allows preparation of the defense and also protects the victim's interests.

(2) Time to Disclose. Unless the court directs otherwise, an attorney for the government must give its Rule 12.1(b)(1) disclosure within 14 days after the defendant serves notice of an intended alibi defense under Rule 12.1(a)(2), but no later than 14 days before trial.

(c) Continuing Duty to Disclose.

(1) In General. Both an attorney for the government and the defendant must promptly disclose in writing to the other party the name of each additional witness--and the address and telephone number of each additional witness other than a victim--if:

(A) the disclosing party learns of the witness before or during trial; and  
 (B) the witness should have been disclosed under Rule 12.1(a) or (b) if the disclosing party had known of the witness earlier.

<p>(2) Address and Telephone Number of an Additional Victim Witness. The address and telephone number of an additional victim witness must not be disclosed except as provided in Rule 12.1(b)(1)(B).</p> <p>(d) Exceptions. For good cause, the court may grant an exception to any requirement of Rule 12.1(a)-(c).</p> <p>(e) Failure to Comply. If a party fails to comply with this rule, the court may exclude the testimony of any undisclosed witness regarding the defendant's alibi. This rule does not limit the defendant's right to testify.</p> <p>(f) Inadmissibility of Withdrawn Intention. Evidence of an intention to rely on an alibi defense, later withdrawn, or of a statement made in connection with that intention, is not, in any civil or criminal proceeding, admissible against the person who gave notice of the intention.</p> <p> Under Fed. R. Crim. P. 1(b)(12), the term "victim" in this Rule means a "crime victim" as defined in the CVRA, 18 U.S.C. § 3771(e). This definition is included below in the section "Federal Victims' Rights: Select Definitions."</p> <p> Fed. R. Crim. P. 12.1(b) and (c) implement the CVRA rights to reasonable protection and to be treated with respect with the victim's dignity and privacy. Fed. R. Crim. P. 12.1 advisory committee note to 2008 amendment.</p>	
<p><b>Victims' Privacy and Protection Rights Regarding Disclosure of Witnesses When Defendant Raises Public-Authority Defense.</b></p> <p>(a) Notice of the Defense and Disclosure of Witnesses.</p> <p>(1) Notice in General. If a defendant intends to assert a defense of actual or believed exercise of public authority on behalf of a law enforcement agency or federal intelligence agency at the time of the alleged offense, the defendant must so notify an attorney for the government</p>	<p>Fed. R. Crim. P. 12.3.</p>

in writing and must file a copy of the notice with the clerk within the time provided for filing a pretrial motion, or at any later time the court sets. The notice filed with the clerk must be under seal if the notice identifies a federal intelligence agency as the source of public authority.

(2) Contents of Notice. The notice must contain the following information:

(A) the law enforcement agency or federal intelligence agency involved;

(B) the agency member on whose behalf the defendant claims to have acted; and

(C) the time during which the defendant claims to have acted with public authority.

(3) Response to the Notice. An attorney for the government must serve a written response on the defendant or the defendant's attorney within 14 days after receiving the defendant's notice, but no later than 21 days before trial. The response must admit or deny that the defendant exercised the public authority identified in the defendant's notice.

(4) Disclosing Witnesses.

(A) Government's Request. An attorney for the government may request in writing that the defendant disclose the name, address, and telephone number of each witness the defendant intends to rely on to establish a public-authority defense. An attorney for the government may serve the request when the government serves its response to the defendant's notice under Rule 12.3(a)(3), or later, but must serve the request no later than 21 days before trial.

(B) Defendant's Response. Within 14 days after receiving the government's request, the defendant must serve on an attorney for the government a written statement of the name, address, and telephone number of each witness.

(C) Government's Reply. Within 14 days after receiving the defendant's statement, an attorney for the government must serve on the defendant or the defendant's attorney a written statement of the name of each witness--and the address and telephone number of each witness other than a victim--that the government intends to rely on to oppose the defendant's public-authority defense.

(D) Victim's Address and Telephone Number. If the government intends to rely on a victim's testimony to oppose the defendant's public-authority defense and the defendant establishes a need for the victim's address and telephone number, the court may:

(i) order the government to provide the information in writing to the defendant or the defendant's attorney; or

(ii) fashion a reasonable procedure that allows for preparing the defense and also protects the victim's interests.

(5) Additional Time. The court may, for good cause, allow a party additional time to comply with this rule.

(b) Continuing Duty to Disclose.

(1) In General. Both an attorney for the government and the defendant must promptly disclose in writing to the other party the name of any additional witness--and the address, and telephone number of any additional witness other than a victim--if:

(A) the disclosing party learns of the witness before or during trial; and

(B) the witness should have been disclosed under Rule 12.3(a)(4) if the disclosing party had known of the witness earlier.

(2) Address and Telephone Number of an Additional Victim-Witness. The address and telephone number of an additional victim-witness must not be disclosed except as provided in Rule 12.3(a)(4)(D).



(c) Failure to Comply. If a party fails to comply with this rule, the court may exclude the testimony of any undisclosed witness regarding the public-authority defense. This rule does not limit the defendant's right to testify.

(d) Protective Procedures Unaffected. This rule does not limit the court's authority to issue appropriate protective orders or to order that any filings be under seal.



(e) Inadmissibility of Withdrawn Intention. Evidence of an intention as to which notice was given under Rule 12.3(a), later withdrawn, is not, in any civil or criminal proceeding, admissible against the person who gave notice of the intention.



Under Fed. R. Crim. P. 1(b)(12), the term "victim" in this Rule means a "crime victim" as defined in the CVRA, 18 U.S.C. § 3771(e). This definition is included below in the section "Federal Victims' Rights: Select Definitions."

<p> Fed. R. Crim. P. 12.3(a) and (b) implement the CVRA rights to reasonable protection and to be treated with respect with the victim’s dignity and privacy. Fed. R. Crim. P. 12.3 advisory committee note to 2010 amendment.</p>	
<p><b>Victims’ Rights Related to Subpoenas for Personal or Confidential Information; Subpoena Content and Related Procedures.</b></p> <p>(a) Content. A subpoena must state the court’s name and the title of the proceeding, include the seal of the court, and command the witness to attend and testify at the time and place the subpoena specifies. The clerk must issue a blank subpoena--signed and sealed--to the party requesting it, and that party must fill in the blanks before the subpoena is served.</p> <p>...</p> <p>(c) Producing Documents and Objects.</p> <p>(1) In General. A subpoena may order the witness to produce any books, papers, documents, data, or other objects the subpoena designates. The court may direct the witness to produce the designated items in court before trial or before they are to be offered in evidence. When the items arrive, the court may permit the parties and their attorneys to inspect all or part of them.</p> <p>(2) Quashing or Modifying the Subpoena. On motion made promptly, the court may quash or modify the subpoena if compliance would be unreasonable or oppressive.</p> <p>(3) Subpoena for Personal or Confidential Information About a Victim. After a complaint, indictment, or information is filed, a subpoena requiring the production of personal or confidential information about a victim may be served on a third party only by court order. Before entering the order and unless there are exceptional circumstances, the court must require giving notice to the victim so that the victim can move to quash or modify the subpoena or otherwise object.</p> <p> Under Fed. R. Crim. P. 1(b)(12), the term “victim” in this Rule means a “crime victim” as defined in the CVRA, 18 U.S.C. § 3771(e). This definition is included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>Fed. R. Crim. P. 17(a), (c).</p>



<p> Fed. R. Crim. P. 17 implements the CVRA right to be treated with respect with the victim’s dignity and privacy. Fed. R. Crim. P. 17 advisory committee’s note to 2008 amendment. The Advisory Notes to the rule note that “[t]he phrase ‘personal or confidential information,’ which may include such things as medical or school records, is left to case development.” <i>Id.</i></p>	
<p><b>Courts’ Authority to Appoint an Interpreter for Crime Victims.</b></p> <p>The court may select, appoint, and set the reasonable compensation for an interpreter, including an interpreter for the victim. The compensation must be paid from funds provided by law or by the government, as the court may direct.</p> <p> Under Fed. R. Crim. P. 1(b)(12), the term “victim” in this Rule means a “crime victim” as defined in the CVRA, 18 U.S.C. § 3771(e). This definition is included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>Fed. R. Crim. P. 28.</p>
<p><b>Courts’ Duties and Victims’ Rights Related to Sentencing: Courts’ Duty to Impose Sentence Without Unnecessary Delay; Court May Change Time Limits in Rule; Presentence Investigation to Address and Presentence Report to Include Sufficient Information for Court to Determine Restitution; Victim’s Right to Be Heard Before Court Imposes Sentence.</b></p> <p>(b) Time of Sentencing.          (1) In General. The court must impose sentence without unnecessary delay.          (2) Changing Time Limits. The court may, for good cause, change any time limits prescribed in this rule.</p> <p>(c) Presentence Investigation.          (1) Required Investigation.</p>	<p>Fed. R. Crim. P. 32(b)–(i), (k).</p>

(A) In General. The probation officer must conduct a presentence investigation and submit a report to the court before it imposes sentence unless:

- (i) 18 U.S.C. § 3593(c) or another statute requires otherwise; or
- (ii) the court finds that the information in the record enables it to meaningfully exercise its sentencing authority under 18 U.S.C. § 3553, and the court explains its finding on the record.

(B) Restitution. If the law permits restitution, the probation officer must conduct an investigation and submit a report that contains sufficient information for the court to order restitution.

(2) Interviewing the Defendant. The probation officer who interviews a defendant as part of a presentence investigation must, on request, give the defendant's attorney notice and a reasonable opportunity to attend the interview.

(d) Presentence Report.

(1) Applying the Advisory Sentencing Guidelines. The presentence report must:

- (A) identify all applicable guidelines and policy statements of the Sentencing Commission;
- (B) calculate the defendant's offense level and criminal history category;
- (C) state the resulting sentencing range and kinds of sentences available;
- (D) identify any factor relevant to:
  - (i) the appropriate kind of sentence, or
  - (ii) the appropriate sentence within the applicable sentencing range; and
- (E) identify any basis for departing from the applicable sentencing range.

(2) Additional Information. The presentence report must also contain the following:

- (A) the defendant's history and characteristics, including:
  - (i) any prior criminal record;
  - (ii) the defendant's financial condition; and
  - (iii) any circumstances affecting the defendant's behavior that may be helpful in imposing sentence or in correctional treatment;
- (B) information that assesses any financial, social, psychological, and medical impact on any victim;
- (C) when appropriate, the nature and extent of nonprison programs and resources available to the defendant;
- (D) when the law provides for restitution, information sufficient for a restitution order;

(E) if the court orders a study under 18 U.S.C. § 3552(b), any resulting report and recommendation;

(F) a statement of whether the government seeks forfeiture under Rule 32.2 and any other law; and

(G) any other information that the court requires, including information relevant to the factors under 18 U.S.C. § 3553(a).

(3) Exclusions. The presentence report must exclude the following:

(A) any diagnoses that, if disclosed, might seriously disrupt a rehabilitation program;

(B) any sources of information obtained upon a promise of confidentiality; and

(C) any other information that, if disclosed, might result in physical or other harm to the defendant or others.

(e) Disclosing the Report and Recommendation.

(1) Time to Disclose. Unless the defendant has consented in writing, the probation officer must not submit a presentence report to the court or disclose its contents to anyone until the defendant has pleaded guilty or nolo contendere, or has been found guilty.

(2) Minimum Required Notice. The probation officer must give the presentence report to the defendant, the defendant's attorney, and an attorney for the government at least 35 days before sentencing unless the defendant waives this minimum period.

(3) Sentence Recommendation. By local rule or by order in a case, the court may direct the probation officer not to disclose to anyone other than the court the officer's recommendation on the sentence.

(f) Objecting to the Report.

(1) Time to Object. Within 14 days after receiving the presentence report, the parties must state in writing any objections, including objections to material information, sentencing guideline ranges, and policy statements contained in or omitted from the report.

(2) Serving Objections. An objecting party must provide a copy of its objections to the opposing party and to the probation officer.

(3) Action on Objections. After receiving objections, the probation officer may meet with the parties to discuss the objections. The probation officer may then investigate further and revise the presentence report as appropriate.

(g) Submitting the Report. At least 7 days before sentencing, the probation officer must submit to the court and to the parties the presentence report and an addendum containing any unresolved objections, the grounds for those objections, and the probation officer's comments on them.

(h) Notice of Possible Departure from Sentencing Guidelines. Before the court may depart from the applicable sentencing range on a ground not identified for departure either in the presentence report or in a party's prehearing submission, the court must give the parties reasonable notice that it is contemplating such a departure. The notice must specify any ground on which the court is contemplating a departure.

(i) Sentencing.

(1) In General. At sentencing, the court:

(A) must verify that the defendant and the defendant's attorney have read and discussed the presentence report and any addendum to the report;

(B) must give to the defendant and an attorney for the government a written summary of--or summarize in camera--any information excluded from the presentence report under Rule 32(d)(3) on which the court will rely in sentencing, and give them a reasonable opportunity to comment on that information;

(C) must allow the parties' attorneys to comment on the probation officer's determinations and other matters relating to an appropriate sentence; and


(D) may, for good cause, allow a party to make a new objection at any time before sentence is imposed.


(2) Introducing Evidence; Producing a Statement. The court may permit the parties to introduce evidence on the objections. If a witness testifies at sentencing, Rule 26.2(a)-(d) and (f) applies. If a party fails to comply with a Rule 26.2 order to produce a witness's statement, the court must not consider that witness's testimony.

(3) Court Determinations. At sentencing, the court:




(A) may accept any undisputed portion of the presentence report as a finding of fact;

(B) must--for any disputed portion of the presentence report or other controverted matter--rule on the dispute or determine that a ruling is unnecessary either because the matter will not affect sentencing, or because the court will not consider the matter in sentencing; and




<p>(C) must append a copy of the court’s determinations under this rule to any copy of the presentence report made available to the Bureau of Prisons.</p> <p>(4) Opportunity to Speak.</p> <p>(A) By a Party. Before imposing sentence, the court must:</p> <ul style="list-style-type: none"> <li>(i) provide the defendant’s attorney an opportunity to speak on the defendant’s behalf;</li> <li>(ii) address the defendant personally in order to permit the defendant to speak or present any information to mitigate the sentence; and</li> <li>(iii) provide an attorney for the government an opportunity to speak equivalent to that of the defendant’s attorney.</li> </ul> <p>(B) By a Victim. Before imposing sentence, the court must address any victim of the crime who is present at sentencing and must permit the victim to be reasonably heard.</p> <p>(C) In Camera Proceedings. Upon a party’s motion and for good cause, the court may hear in camera any statement made under Rule 32(i)(4).</p> <p>...</p> <p>(k) Judgment.</p> <p>(1) In General. In the judgment of conviction, the court must set forth the plea, the jury verdict or the court’s findings, the adjudication, and the sentence. If the defendant is found not guilty or is otherwise entitled to be discharged, the court must so order. The judge must sign the judgment, and the clerk must enter it.</p> <p>(2) Criminal Forfeiture. Forfeiture procedures are governed by Rule 32.2.</p> <p> Under Fed. R. Crim. P. 1(b)(12), the term “victim” in this Rule means a “crime victim” as defined in the CVRA, 18 U.S.C. § 3771(e). This definition is included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	
<p><b>Victims’ Restitution and Notification Rights During an Appeal.</b></p> <p>(1) In General. If the defendant appeals, the district court, or the court of appeals under Federal Rule of Appellate Procedure 8, may stay--on any terms considered appropriate--any sentence providing for restitution under 18 U.S.C. § 3556 or notice under 18 U.S.C. § 3555.</p>	<p>Fed. R. Crim. P. 38(e).</p>



<p>(2) Ensuring Compliance. The court may issue any order reasonably necessary to ensure compliance with a restitution order or a notice order after disposition of an appeal, including:</p> <ul style="list-style-type: none"> <li>(A) a restraining order;</li> <li>(B) an injunction;</li> <li>(C) an order requiring the defendant to deposit all or part of any monetary restitution into the district court's registry; or</li> <li>(D) an order requiring the defendant to post a bond.</li> </ul> <p> Under Fed. R. Crim. P. 1(b)(12), the term "victim" in this Rule means a "crime victim" as defined in the CVRA, 18 U.S.C. § 3771(e). This definition is included below in the section "Federal Victims' Rights: Select Definitions."</p>	
<p><b>Victims' Privacy Rights and Protections Regarding Court Filings: Redaction of Personally Identifiable Information; Exemptions; Filings Under Seal; Protective Orders; Waiver.</b></p> <p>(a) Redacted Filings. Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, a financial-account number, or the home address of an individual, a party or nonparty making the filing may include only:</p> <ul style="list-style-type: none"> <li>(1) the last four digits of the social-security number and taxpayer-identification number;</li> <li>(2) the year of the individual's birth;</li> <li>(3) the minor's initials;</li> <li>(4) the last four digits of the financial-account number; and</li> <li>(5) the city and state of the home address.</li> </ul> <p>(b) Exemptions from the Redaction Requirement. The redaction requirement does not apply to the following:</p> <ul style="list-style-type: none"> <li>(1) a financial-account number or real property address that identifies the property allegedly subject to forfeiture in a forfeiture proceeding;</li> <li>(2) the record of an administrative or agency proceeding;</li> </ul>	<p>Fed. R. Crim. P. 49.1(a)–(b), (d)–(h).</p>

- (3) the official record of a state-court proceeding;
  - (4) the record of a court or tribunal, if that record was not subject to the redaction requirement when originally filed;
  - (5) a filing covered by Rule 49.1(d);
  - (6) a pro se filing in an action brought under 28 U.S.C. §§ 2241, 2254, or 2255;
  - (7) a court filing that is related to a criminal matter or investigation and that is prepared before the filing of a criminal charge or is not filed as part of any docketed criminal case;
  - (8) an arrest or search warrant; and
  - (9) a charging document and an affidavit filed in support of any charging document.
- ...
- (d) Filings Made Under Seal. The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the person who made the filing to file a redacted version for the public record.
- (e) Protective Orders. For good cause, the court may by order in a case:
- (1) require redaction of additional information; or
  - (2) limit or prohibit a nonparty's remote electronic access to a document filed with the court.
- (f) Option for Additional Unredacted Filing Under Seal. A person making a redacted filing may also file an unredacted copy under seal. The court must retain the unredacted copy as part of the record.
- (g) Option for Filing a Reference List. A filing that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list must be filed under seal and may be amended as of right. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information.
- (h) Waiver of Protection of Identifiers. A person waives the protection of Rule 49.1(a) as to the person's own information by filing it without redaction and not under seal.

<p> Under Fed. R. Crim. P. 1(b)(12), the term “victim” in this Rule means a “crime victim” as defined in the CVRA, 18 U.S.C. § 3771(e). This definition is included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	
<p><b>Government’s Duty to Use Best Efforts to Give Victims Notice of Any Public Proceeding Involving the Crime.</b></p> <p>The government must use its best efforts to give the victim reasonable, accurate, and timely notice of any public court proceeding involving the crime.</p> <p> Under Fed. R. Crim. P. 1(b)(12), the term “victim” in this Rule means a “crime victim” as defined in the CVRA, 18 U.S.C. § 3771(e). This definition is included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy in place to establish what constitutes “best efforts” and “reasonable, accurate, and timely notice.”</p>	<p>Fed. R. Crim. P. 60(a)(1).</p>
<p><b>Victims’ Right to Be Present and Heard at Public Court Proceedings; Courts’ Duty to Not Exclude</b></p> <p>(2) Attending the Proceeding. The court must not exclude a victim from a public court proceeding involving the crime, unless the court determines by clear and convincing evidence that the victim’s testimony would be materially altered if the victim heard other testimony at that proceeding. In determining whether to exclude a victim, the court must make every effort to permit the fullest attendance possible by the victim and must consider reasonable alternatives to exclusion. The reasons for any exclusion must be clearly stated on the record.</p>	<p>Fed. R. Crim. P. 60(a)(2)–(3).</p>



<p>(3) Right to Be Heard on Release, a Plea, or Sentencing. The court must permit a victim to be reasonably heard at any public proceeding in the district court concerning release, plea, or sentencing involving the crime.</p> <p> Under Fed. R. Crim. P. 1(b)(12), the term “victim” in this Rule means a “crime victim” as defined in the CVRA, 18 U.S.C. § 3771(e). This definition is included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> Victims also have rights under the CVRA to be present and heard at public court proceedings. 18 U.S.C. § 3771(a)(3)–(4). Additionally, 18 U.S.C. § 3771(b)(1) requires courts to make every effort to permit the fullest attendance possible by the victim and to consider reasonable alternatives to the exclusion of the victim from proceedings. These CVRA provisions are included above. 18 U.S.C. § 3510 provides that victims may not be excluded from trial because they may make a statement at sentencing. This provision is included below.</p> <p> A victim’s right to be present should provide for the victim’s presence during the entirety of the trial. Even if the victim is to be a witness and the court concludes that the victim’s testimony would be materially altered if the victim hears other testimony, consider discussing with the prosecutor the possibility of the victim testifying first to best ensure the victim’s right to be present during the entirety of the trial.</p>	
<p><b>Procedural Rule Regarding Victims’ Rights Enforcement and Limitations.</b></p> <p>(1) Time for Deciding a Motion. The court must promptly decide any motion asserting a victim’s rights described in these rules.</p> <p>(2) Who May Assert the Rights. A victim’s rights described in these rules may be asserted by the victim, the victim’s lawful representative, the attorney for the government, or any other person as authorized by 18 U.S.C. § 3771(d) and (e).</p>	<p>Fed. R. Crim. P. 60(b)(1)–(2).</p>

<p>(3) Multiple Victims. If the court finds that the number of victims makes it impracticable to accord all of them their rights described in these rules, the court must fashion a reasonable procedure that gives effect to these rights without unduly complicating or prolonging the proceedings.</p> <p>(4) Where Rights May Be Asserted. A victim’s rights described in these rules must be asserted in the district where a defendant is being prosecuted for the crime.</p> <p>(5) Limitations on Relief. A victim may move to reopen a plea or sentence only if:</p> <p>(A) the victim asked to be heard before or during the proceeding at issue, and the request was denied;</p> <p>(B) the victim petitions the court of appeals for a writ of mandamus within 10 days after the denial, and the writ is granted; and</p> <p>(C) in the case of a plea, the accused has not pleaded to the highest offense charged.</p> <p> Under Fed. R. Crim. P. 1(b)(12), the term “victim” in this Rule means a “crime victim” as defined in the CVRA, 18 U.S.C. § 3771(e). This definition is included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> Similar provisions regarding rights enforcement and the limitations of such enforcement are contained in the CVRA, 18 U.S.C. § 3771(d). The CVRA provisions are included above.</p>	
<p><b>United States Sentencing Guidelines: Victims’ Rights to Restitution.</b></p> <p>(a) In the case of an identifiable victim, the court shall--</p> <p>(1) enter a restitution order for the full amount of the victim’s loss, if such order is authorized under 18 U.S.C. § 1593, § 2248, § 2259, § 2264, § 2327, § 3663, or § 3663A, or 21 U.S.C. § 853(q); or</p> <p>(2) impose a term of probation or supervised release with a condition requiring restitution for the full amount of the victim’s loss, if the offense is not an offense for which restitution</p>	<p>U.S.S.G. 5E1.1.</p>

is authorized under 18 U.S.C. § 3663(a)(1) but otherwise meets the criteria for an order of restitution under that section.

(b) Provided, that the provisions of subsection (a) do not apply—

(1) when full restitution has been made; or

(2) in the case of a restitution order under 18 U.S.C. § 3663; a restitution order under 18 U.S.C. § 3663A that pertains to an offense against property described in 18 U.S.C. § 3663A(c)(1)(A)(ii); or a condition of restitution imposed pursuant to subsection (a)(2) above, to the extent the court finds, from facts on the record, that (A) the number of identifiable victims is so large as to make restitution impracticable; or (B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.


(c) If a defendant is ordered to make restitution to an identifiable victim and to pay a fine, the court shall order that any money paid by the defendant shall first be applied to satisfy the order of restitution.



(d) In a case where there is no identifiable victim and the defendant was convicted under 21 U.S.C. § 841, § 848(a), § 849, § 856, § 861, or § 863, the court, taking into consideration the amount of public harm caused by the offense and other relevant factors, shall order an amount of community restitution not to exceed the fine imposed under § 5E1.2.


(e) A restitution order may direct the defendant to make a single, lump sum payment, partial payments at specified intervals, in-kind payments, or a combination of payments at specified intervals and in-kind payments. See 18 U.S.C. § 3664(f)(3)(A). An in-kind payment may be in the form of (1) return of property; (2) replacement of property; or (3) if the victim agrees, services rendered to the victim or to a person or organization other than the victim. See 18 U.S.C. § 3664(f)(4).

(f) A restitution order may direct the defendant to make nominal periodic payments if the court finds from facts on the record that the economic circumstances of the defendant do not allow the payment of any amount of a restitution order and do not allow for the payment of

<p>the full amount of a restitution order in the foreseeable future under any reasonable schedule of payments.</p>	
<p><b>United States Sentencing Guidelines: Victims' Rights (Policy Statement).</b></p> <p>In any case involving the sentencing of a defendant for an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in 18 U.S.C. § 3771 and in any other provision of Federal law pertaining to the treatment of crime victims.</p>	<p>U.S.S.G. 6A1.5.</p>

<p><b>FEDERAL VICTIMS' RIGHTS: SELECT DEFINITIONS</b></p>	<p><b>Federal Statutes and Rules</b></p>
<p><b>Crime Victims' Rights Act (CVRA) Definitions.</b></p> <p>(1) Court of appeals. --The term "court of appeals" means--                      (A) the United States court of appeals for the judicial district in which a defendant is being prosecuted; or                      (B) for a prosecution in the Superior Court of the District of Columbia, the District of Columbia Court of Appeals.</p> <p>(2) Crime victim.                      (A) In general. --The term "crime victim" means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia.                      (B) Minors and certain other victims. --In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter, but in no event shall the defendant be named as such guardian or representative.</p> <p>(3) District court; court. --The terms "district court" and "court" include the Superior Court of the District of Columbia.</p> <p> These definitions apply generally to the CVRA, 18 U.S.C. § 3771. Many CVRA provisions are included above in the section "Select Federal Crime Victims' Rights." For purposes of a victim's CVRA rights relating to habeas corpus proceedings, the term "crime victim" is defined separately in 18 U.S.C. § 3771(b)(2)(D), which is included below.</p>	<p>18 U.S.C. § 3771(e).</p>

<p><b>CVRA Definition of “Crime Victim” for the Purposes of Victims’ Rights in Habeas Corpus Proceedings.</b></p> <p>For purposes of this paragraph, the term “crime victim” means the person against whom the State offense is committed or, if that person is killed or incapacitated, that person’s family member or other lawful representative.</p> <p> This definition applies to a victim’s CVRA rights relating to habeas proceedings, 18 U.S.C. § 3771(b)(2). These rights are included above in the section “Select Federal Crime Victims’ Rights.”</p>	<p>18 U.S.C. § 3771(b)(2)(D).</p>
<p><b>Sexual Assault Survivors’ Rights Definition of “Sexual Assault”.</b></p> <p>In this section, the term “sexual assault” means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.</p> <p> This definition applies to 18 U.S.C. § 3772, which provides sexual assault victims with rights related to medical forensic examinations and sexual assault evidence collection kits. These rights are included above in the section “Select Federal Crime Victims’ Rights.”</p>	<p>18 U.S.C. § 3772(c).</p>
<p><b>Mandatory Reporting of Child Abuse in Indian Country Definitions.</b></p> <p>For purposes of this section, the term—</p> <p>(1) “abuse” includes--                  (A) any case in which--                  (i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and</p>	<p>18 U.S.C. § 1169(c).</p>


<p>(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and                  (B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;</p> <p>(2) “child” means an individual who--                  (A) is not married, and                  (B) has not attained 18 years of age;</p> <p>(3) “local child protective services agency” means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country; and</p> <p>(4) “local law enforcement agency” means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved.</p> <p> These definitions apply to 18 U.S.C. § 1169, mandating reporting of child abuse in Indian Country. This statute is included above in the section “Select Federal Crime Victims’ Rights.”</p>	
<p><b>Mandatory Restitution for Crimes Involving Sexual Exploitation of Children and Other Abuse Definitions.</b></p> <p>(1) Child pornography production.--For purposes of this section and section 2259A, the term “child pornography production” means conduct proscribed by subsections (a) through (c) of section 2251, section 2251A, section 2252A(g) (in cases in which the series of felony violations involves at least 1 of the violations listed in this subsection), section 2260(a), or any offense under chapter 109A or chapter 117 that involved the production of child pornography (as such term is defined in section 2256).</p>	<p>18 U.S.C. § 2259(c).</p>

(2) Full amount of the victim's losses.--For purposes of this subsection, the term "full amount of the victim's losses" includes any costs incurred, or that are reasonably projected to be incurred in the future, by the victim, as a proximate result of the offenses involving the victim, and in the case of trafficking in child pornography offenses, as a proximate result of all trafficking in child pornography offenses involving the same victim, including--

- (A) medical services relating to physical, psychiatric, or psychological care;
- (B) physical and occupational therapy or rehabilitation;
- (C) necessary transportation, temporary housing, and child care expenses;
- (D) lost income;
- (E) reasonable attorneys' fees, as well as other costs incurred; and
- (F) any other relevant losses incurred by the victim.

(3) Trafficking in child pornography. --For purposes of this section and section 2259A, the term "trafficking in child pornography" means conduct proscribed by section 2251(d), 2252, 2252A(a)(1) through (5), 2252A(g) (in cases in which the series of felony violations exclusively involves violations of section 2251(d), 2252, 2252A(a)(1) through (5), or 2260(b)), or 2260(b).


(4) Victim. --For purposes of this section, the term "victim" means the individual harmed as a result of a commission of a crime under this chapter. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the crime victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.


 These definitions apply to 18 U.S.C. § 2259, which mandates restitution in child pornography cases, and 18 U.S.C. § 3509, which mandates restitution in cases involving the sexual exploitation of children or other abuse. These statutory provisions are included above in the section "Select Federal Crime Victims' Rights."




<p><b>Interstate Domestic Violence and Stalking Victims' Rights Definitions.</b></p> <p>In this chapter:</p> <p>(1) Bodily injury. --The term "bodily injury" means any act, except one done in self-defense, that results in physical injury or sexual abuse.</p> <p>(2) Course of conduct. --The term "course of conduct" means a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose.</p> <p>(3) Enter or leave Indian country. --The term "enter or leave Indian country" includes leaving the jurisdiction of 1 tribal government and entering the jurisdiction of another tribal government.</p> <p>(4) Indian country. --The term "Indian country" has the meaning stated in section 1151 of this title.</p> <p>(5) Protection order. --The term "protection order" includes--</p> <p>(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and</p> <p>(B) any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking.</p>	<p>18 U.S.C. § 2266.</p>
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<p>(6) Serious bodily injury. --The term “serious bodily injury” has the meaning stated in section 2119(2).</p> <p>(7) Spouse or intimate partner. --The term “spouse or intimate partner” includes--</p> <p>(A) for purposes of--</p> <p>(i) sections other than 2261A--</p> <p>(I) a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; or</p> <p>(II) a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship; and</p> <p>(ii) section 2261A--</p> <p>(I) a spouse or former spouse of the target of the stalking, a person who shares a child in common with the target of the stalking, and a person who cohabits or has cohabited as a spouse with the target of the stalking; or</p> <p>(II) a person who is or has been in a social relationship of a romantic or intimate nature with the target of the stalking, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.<sup>1</sup></p> <p>(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.</p> <p>(8) State. --The term “State” includes a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States.</p> <p>(9) Travel in interstate or foreign commerce. --The term “travel in interstate or foreign commerce” does not include travel from 1 State to another by an individual who is a member of an Indian tribe and who remains at all times in the territory of the Indian tribe of which the individual is a member.</p>	
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<p>(10) Dating partner. --The term “dating partner” refers to a person who is or has been in a social relationship of a romantic or intimate nature with the abuser. The existence of such a relationship is based on a consideration of--</p> <ul style="list-style-type: none"> <li>(A) the length of the relationship; and</li> <li>(B) the type of relationship; and</li> <li>(C) the frequency of interaction between the persons involved in the relationship.</li> </ul> <p>(11) Pet.--The term “pet” means a domesticated animal, such as a dog, cat, bird, rodent, fish, turtle, or other animal that is kept for pleasure rather than for commercial purposes.</p> <p>(12) Emotional support animal. --The term “emotional support animal” means an animal that is covered by the exclusion specified in section 5.303 of title 24, Code of Federal Regulations (or a successor regulation), and that is not a service animal.</p> <p>(13) Service animal. --The term “service animal” has the meaning given the term in section 36.104 of title 28, Code of Federal Regulations (or a successor regulation).</p> <p><sup>1</sup> So in original. The period probably should be “; and”.</p> <p> These definitions apply to Chapter 110A, 18 U.S.C. §§ 2261 through 2265a, which govern procedures and rights specific to the crimes of interstate domestic violence, stalking and violations of protective orders. Many of these statutory provisions are included above in the section “Select Federal Crime Victims’ Rights.”</p>	
<p><b>Interstate Domestic Violence and Stalking Victims’ Right to Mandatory Restitution Definitions.</b></p> <p>(b)(3) Definition. --For purposes of this subsection, the term “full amount of the victim’s losses” includes any costs incurred by the victim for--</p> <ul style="list-style-type: none"> <li>(A) medical services relating to physical, psychiatric, or psychological care;</li> <li>(B) physical and occupational therapy or rehabilitation;</li> <li>(C) necessary transportation, temporary housing, and child care expenses;</li> </ul>	<p>18 U.S.C. § 2264(b)(3), (c).</p>

<p>(D) lost income;                  (E) attorneys' fees, plus any costs incurred in obtaining a civil protection order;                  (F) veterinary services relating to physical care for the victim's pet, service animal, emotional support animal, or horse; and                  (G) any other losses suffered by the victim as a proximate result of the offense.                  ...</p> <p>(c) Victim defined.--For purposes of this section, the term "victim" means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.</p> <p> These definitions apply to 18 U.S.C. § 2264, which mandating restitution awards for victims of crimes of interstate domestic violence and stalking, including violations of protective orders.</p>	
<p><b>Mandatory Restitution for Crimes Involving Transportation of Persons for Illegal Sexual Activity and Related Crimes Definitions.</b></p> <p>(b)(3) As used in this subsection, the term "full amount of the victim's losses" has the same meaning as provided in section 2259(b)(3).                  ...</p> <p>(d) As used in this section, the term "victim" means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim's estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.</p>	<p>18 U.S.C. § 2429(b)(3), (d).</p>

 These definitions apply to 18 U.S.C. § 2429, which mandates restitution in cases involving transportation of persons for illegal sexual activity and related crimes. This statutory provision is included above in the section “Select Federal Crime Victims’ Rights.”	
<p><b>Child-Victims’ Rights Definitions.</b></p> <p>For purposes of this section—</p> <p>(1) the term “adult attendant” means an adult described in subsection (i) who accompanies a child throughout the judicial process for the purpose of providing emotional support;</p> <p>(2) the term “child” means a person who is under the age of 18, who is or is alleged to be--              (A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or              (B) a witness to a crime committed against another person;</p> <p>(3) the term “child abuse” means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;</p> <p>(4) the term “physical injury” includes lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;</p> <p>(5) the term “mental injury” means harm to a child’s psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response, or cognition;</p> <p>(6) the term “exploitation” means child pornography or child prostitution;</p> <p>(7) the term “multidisciplinary child abuse team” means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;</p>	<p>18 U.S.C. § 3509(a).</p>

(8) the term “sexual abuse” includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(9) the term “sexually explicit conduct” means actual or simulated--

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse;



(10) the term “sex crime” means an act of sexual abuse that is a criminal act;



(11) the term “negligent treatment” means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child; and

(12) the term “child abuse” does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.




These definitions apply to child-victims’ and witnesses’ rights as provided in 18 U.S.C. § 3509. These rights are included above in the section “Select Federal Crime Victims’ Rights.”



<p><b>Victims' Right to Be Present at Trial Definition of "Victim".</b></p> <p>As used in this section, the term "victim" includes all persons defined as victims in section 503(e)(2) of the Victims' Rights and Restitution Act of 1990.</p> <p> This definition applies to 18 U.S.C. § 3510, regarding victims' rights to attend trial.</p>	<p>18 U.S.C. § 3510(c).</p>
<p><b>Victim and Witness Protection Act (VWPA) Definition of "Victim".</b></p> <p>For the purposes of this section, the term "victim" means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.</p> <p> This definition applies to 18 U.S.C. § 3663, which governs the award of restitution for certain offenses. The VWPA is included above in the section "Select Federal Crime Victims' Rights."</p>	<p>18 U.S.C. § 3663(a)(2).</p>
<p><b>Mandatory Victims Restitution Act (MVRA) Definition of "Victim".</b></p> <p>For the purposes of this section, the term "victim" means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct</p>	<p>18 U.S.C. § 3663A(a)(2).</p>


<p>in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.</p> <p> This definition applies to 18 U.S.C. § 3663A, which governs mandatory restitution for certain offenses. The MVRA is included above in the section "Select Federal Crime Victims' Rights."</p>	
<p><b>Federal Sentencing Provisions Definitions.</b></p> <p>As used in chapters 227 and 229—</p> <p>(1) the term "found guilty" includes acceptance by a court of a plea of guilty or nolo contendere;</p> <p>(2) the term "commission of an offense" includes the attempted commission of an offense, the consummation of an offense, and any immediate flight after the commission of an offense; and</p> <p>(3) the term "law enforcement officer" means a public servant authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of an offense.</p> <p> These definitions apply to statutes governing federal sentencing, 18 U.S.C. §§ 3551 through 3586, and post-sentence administration, 18 U.S.C. §§ 3601 through 3635. Some of these statutory provisions are included above in the section "Select Federal Crime Victims' Rights."</p>	<p>18 U.S.C. § 3673.</p>










<p><b>Victims' Rights and Restitution Act of 1990 Definitions.</b></p> <p>For the purposes of this section—</p> <p>(1) the term “responsible official” means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and</p> <p>(2) the term “victim” means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including--</p> <p>(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and</p> <p>(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):</p> <ul style="list-style-type: none"><li>(i) a spouse;</li><li>(ii) a legal guardian;</li><li>(iii) a parent;</li><li>(iv) a child;</li><li>(v) a sibling;</li><li>(vi) another family member; or</li><li>(vii) another person designated by the court.</li></ul> <p> These definitions apply to a victim’s rights to receive various notices and services pursuant to the Victims’ Rights and Restitution Act of 1990, 34 U.S.C. § 20141. This right is included above in the section “Select Federal Crime Victims’ Rights Laws.”</p>	<p>34 U.S.C. § 20141(e).</p>
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2. State Victims' Rights



<p><b>SELECT STATE CRIME VICTIMS' RIGHTS</b></p>	<p><b>Kansas Constitutional Provisions and Statutes</b></p>
<p><b>Victims' Rights to Be Informed of and to Be Present at Public Hearings, and to Be Heard at Sentencing and Any Other Time Deemed Appropriate by the Court.</b></p> <p>Victims of crime, as defined by law, shall be entitled to certain basic rights, including the right to be informed of and to be present at public hearings, as defined by law, of the criminal justice process, and to be heard at sentencing or at any other time deemed appropriate by the court, to the extent that these rights do not interfere with the constitutional or statutory rights of the accused.</p> <p> Kan. Stat. Ann. § 74-7333(b)–(c) define the terms used in this provision. These definitions are include below in the section “State Victims’ Rights: Select Definitions.”</p> <p> State statutes provide additional rights to presence at court proceedings. <i>See, e.g.</i>, Kan. Stat. Ann. § 21-6817(a)(1) (victims’ right to be present at hearing to consider imposition of departure sentence); <i>id.</i> at § 22-3436(b) (victims’ right to be present at hearing involving plea agreement); <i>id.</i> at § 74-7335(a) (victims’ right to be present at any public hearing or juvenile offender proceeding); <i>id.</i> at § 74-7335(b) (victims’ right to be present at any proceeding or hearing involving the consideration of probation or parole, regardless of whether a public hearing is conducted or required)</p>	<p>Kan. Const. art. 15, § 15(a).</p>
<p><b>Victims' Constitutional Rights Do Not Create a Cause of Action for Money Damages.</b></p> <p>Nothing in this section shall be construed as creating a cause of action for money damages against the state, a county, a municipality, or any of the agencies, instrumentalities, or</p>	<p>Kan. Const. art. 15, § 15(b).</p>





<p>employees thereof. The legislature may provide for other remedies to ensure adequate enforcement of this section.</p>	
<p><b>Victims’ Constitutional Rights Do Not Authorize Courts to Set Aside or Void Determinations of Guilt or Acceptance of Pleas or to Set Aside Any Sentence or Final Disposition.</b></p> <p>Nothing in this section shall be construed to authorize a court to set aside or to void a finding of guilty or not guilty or an acceptance of a plea of guilty or to set aside any sentence imposed or any other final disposition in any criminal case.</p>	<p>Kan. Const. art. 15, § 15(c).</p>
<p><b>Victims’ Bill of Rights to Ensure Fair and Compassionate Treatment of Crime Victims and to Increase the Effectiveness of the Criminal Justice System.</b></p> <p>In order to ensure the fair and compassionate treatment of victims of crime and to increase the effectiveness of the criminal justice system by affording victims of crime certain basic rights and considerations, victims of crime shall have the following rights: [listing rights].</p> <p> Kan. Stat. Ann. § 74-7333(b)–(c) define the terms used in this provision. These definitions are include below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Kan. Stat. Ann. § 74-7333(a).</p>
<p><b>Victims’ Rights to Be Treated with Courtesy, Compassion and with Respect for Their Dignity and Privacy and to Suffer the Minimum of Necessary Inconvenience from Their Involvement with the Criminal Justice System.</b></p> <p>Victims should be treated with courtesy, compassion and with respect for their dignity and privacy and should suffer the minimum of necessary inconvenience from their involvement with the criminal justice system.</p>	<p>Kan. Stat. Ann. § 74-7333(a)(1).</p>

<p> Kan. Stat. Ann. § 74-7333(b) defines the term “victim” for the purposes of this provision. This definition is include below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Victims’ Right to Receive Prompt and Fair Redress for Harm Suffered.</b></p> <p>Victims should receive, through formal and informal procedures, prompt and fair redress for the harm which they have suffered.</p> <p> Kan. Stat. Ann. § 74-7333(b) defines the term “victim” for the purposes of this provision. This definition is include below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Kan. Stat. Ann. § 74-7333(a)(2).</p>
<p><b>Victims’ Right to Information Regarding the Availability of Restitution, Civil Recovery and Compensation.</b></p> <p>Information regarding the availability of criminal restitution, recovery of damages in a civil cause of action, the crime victims compensation fund and other remedies and the mechanisms to obtain such remedies should be made available to victims.</p> <p> Kan. Stat. Ann. § 74-7333(b) defines the term “victim” for the purposes of this provision. This definition is include below in the section “State Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy and procedure determining who is responsible for providing victims with such information regarding their rights and when. If the timing of notice is not otherwise specified, consideration should be given to providing such information at or promptly after the victims’ initial contact with law enforcement.</p>	<p>Kan. Stat. Ann. § 74-7333(a)(3).</p>


<p>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 should be informed that they are entitled to seek restitution upon the conviction of defendant for losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p><b>Victims’ Right to Information About Participation in Criminal Proceedings and Scheduling, Progress and Final Disposition of Case.</b></p> <p>Information should be made available to victims about their participation in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings.</p> <p> Kan. Stat. Ann. § 74-7333(b) defines the term “victim” for the purposes of this provision. This definition is include below in the section “State Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy and procedure determining who is responsible for providing victims with such information regarding their rights and when. If the timing of notice is not otherwise specified, consideration should be given to providing such information at or promptly after the victims’ initial contact with law enforcement. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	<p>Kan. Stat. Ann. § 74-7333(a)(4).</p>
<p><b>Victims’ Right to Have Views and Concerns Ascertained and Appropriate Assistance Provided.</b></p> <p>The views and concerns of victims should be ascertained and the appropriate assistance</p>	<p>Kan. Stat. Ann. § 74-7333(a)(5).</p>




<p>provided throughout the criminal process.</p> <p> Kan. Stat. Ann. § 74-7333(b) defines the term “victim” for the purposes of this provision. This definition is include below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Victims’ Right to Have Personal Interests Brought to the Attention of the Court.</b></p> <p>When the personal interests of victims are affected, the views or concerns of the victim should, when appropriate and consistent with criminal law and procedure, be brought to the attention of the court.</p> <p> Kan. Stat. Ann. § 74-7333(b) defines the term “victim” for the purposes of this provision. This definition is include below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Kan. Const. art. 15, § 15(a) affords victims the right to be heard at sentencing or at any other time deemed appropriate by the court. This provision is included above.</p> <p> This statutory right to be heard is broad. Other statutes offer narrower procedures for expressing this right. <i>See, e.g.</i>, Kan. Stat. Ann. § 22-3434(e) (victim has the right to address the court before imposition of a sentence); <i>id.</i> at § 22-3436(b) (victim has right to be present at hearing involving plea agreement and may submit written argument to the court prior to the hearing); <i>id.</i> at § 22-3424(e)(3) (before imposing sentence, the court must allow the victim to address the court, if the victim so requests); <i>id.</i> at § 22-3717(h) (parole board must consider victim comments made in person, contemporaneous or pre-recorded). These provisions are included below.</p>	<p>Kan. Stat. Ann. § 74-7333(a)(6).</p>



<p><b>Victims' Right to Safety.</b></p> <p>Measures may be taken when necessary to provide for the safety of victims and their families and to protect them from intimidation and retaliation.</p> <p> Kan. Stat. Ann. § 74-7333(b) defines the term “victim” for the purposes of this provision. This definition is include below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Kan. Stat. Ann. § 74-7333(a)(7).</p>
<p><b>Requirement of Enhanced Training and Guidelines to Sensitize Criminal Justice Personnel to Victims’ Needs and Concerns.</b></p> <p>Enhanced training should be made available to sensitize criminal justice personnel to the needs and concerns of victims and guidelines should be developed for this purpose.</p> <p> Kan. Stat. Ann. § 74-7333(b) defines the term “victim” for the purposes of this provision. This definition is include below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Kan. Stat. Ann. § 74-7333(a)(8).</p>
<p><b>Victims’ Right to Information Regarding Health and Social Services and Other Relevant Assistance.</b></p> <p>Victims should be informed of the availability of health and social services and other relevant assistance that they might continue to receive the necessary medical, psychological and social assistance through existing programs and services.</p>	<p>Kan. Stat. Ann. § 74-7333(a)(9).</p>


<p> Kan. Stat. Ann. § 74-7333(b) defines the term “victim” for the purposes of this provision. This definition is include below in the section “State Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy and procedure determining who is responsible for providing victims with such information regarding their rights and when. If the timing of notice is not otherwise specified, consideration should be given to providing such information at or promptly after the victims’ initial contact with law enforcement. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p><b>Victims’ Responsibility to Report Crime and Cooperate with Law Enforcement.</b></p> <p>Victims should report the crime and cooperate with law enforcement authorities.</p> <p> Kan. Stat. Ann. § 74-7333(b)–(c) define the terms used in this provision. These definitions are include below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Kan. Stat. Ann. § 74-7333(a)(10).</p>
<p><b>Cities with Municipal Courts Must Adopt Policies to Afford Victims Constitutional and Statutory Rights.</b></p> <p>The governing body of any city which has established a municipal court shall adopt policies which afford the rights granted to victims of crime pursuant to this act and pursuant to article 15 of section 15 of the Kansas constitution to victims of ordinance violations specified in such policies.</p> <p> Kan. Stat. Ann. § 74-7333(b)–(c) define the terms used in this provision. These definitions are include below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Kan. Stat. Ann. § 74-7333(d).</p>



<p><b>Nothing in the Bill of Rights for Victims of Crime Act Creates a Cause of Action.</b></p> <p>Nothing in [Bill of Rights for Victims of Crime Act] shall be construed as creating a cause of action on behalf of any person against the state, a county, a municipality or any of their agencies, instrumentalities or employees responsible for the enforcement of rights as provided in this act.</p>	<p>Kan. Stat. Ann. § 74-7333(e).</p>
<p><b>Victims' Right to Notice of Right to Be Present at Any Public Hearing and Any Proceeding or Hearing Involving Probation or Parole.</b></p> <p>(a) The victim of a crime or the victim's family shall be notified of the right to be present at any public hearing or any juvenile offender proceeding concerning the accused or the convicted person or the respondent or the juvenile offender.</p> <p>(b) The victim of a crime or the victim's family shall be notified of the right to be present at any proceeding or hearing where probation or parole is considered or granted by a judge whether or not a public hearing is conducted or required.</p> <p>...</p> <p>(d) The city, county or district attorney or municipal court clerk shall notify any victim of the crime who is alive and whose address is known to the city, county or district attorney or municipal court clerk or, if the victim is deceased, to the victim's family if the family's address is known to such attorney or clerk.</p> <p>(e) Costs of transportation for the victim to appear shall be borne by the victim unless the appearance is required pursuant to a subpoena or other order of the court.</p> <p> Kan. Stat. Ann. §§ 74-7335(c) defines the terms used in this provision. These definitions are include below in the section "State Victims' Rights: Select Definitions."</p>	<p>Kan. Stat. Ann. § 74-7335(a)–(b), (d)–(e).</p>

<p> Kan. Const. art. 15, § 15(a) affords victims to notice of and presence at public court proceedings. This provision is included above.</p> <p> A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p>	
<p><b>Victims' Right to Notice of Public Comment Session Regarding Parole; Victims' Obligation to Keep Contact Information Current.</b></p> <p>(a) Notwithstanding the provisions of K.S.A. 74-7335 and amendments thereto, in the case of any inmate convicted of an off-grid felony or a class A felony, the secretary of corrections shall give written notice of the time and place of the public comment session pursuant to K.S.A. 22-3717 and amendments thereto for such inmate, at least one month preceding the public comment session, to any victim or the victim's family pursuant to subsection (b).</p> <p>(b) Any victim, or a member of the victim's family of a crime, if such victim requests notice of the public comment session, shall give the secretary of corrections such victim's name and current address or the name and current address of the victim's family. It shall be the duty of the victim or the victim's family to provide the secretary with any change in name or address or change in the person to be notified pursuant to this section.</p> <p>(c) The secretary of corrections shall keep a record of all victims and their current addresses or such victims' family and their current addresses, who give the secretary such victim or victims' family name pursuant to subsection (b), and shall update such record as notified by the victims or the victims' family. Such record shall be kept confidential and separate from all other records and shall not be available to the inmate or any other party other than the victim or the victim's family.</p> <p> A promising practice is to let victims know, upon first contact, of their obligation to keep their contact information current.</p>	<p>Kan. Stat. Ann. § 74-7338</p>

<p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p><b>Right of Victims of Alcohol or Drug-Related Offenses that Resulted in Bodily Injury or Death to Notice of Right to Give Impact Statements and to Restitution.</b></p> <p>(a) As used in this section, “alcohol or drug-related offense” means: (1) A violation of K.S.A. 8-1567, and amendments thereto, or any ordinance of a city or resolution of a county prohibiting the acts prohibited by that statute; or (2) any other offense arising out of the operation or attempted operation of a motor vehicle while under the influence of alcohol or drugs, or both.</p> <p>(b) Prior to the sentencing of a person convicted of an alcohol or drug-related offense which resulted in serious bodily injury to a person or the death of a person, the court shall cause reasonable attempts to be made to notify the victim or the victim’s family, who shall be given an opportunity to make a victim impact statement as to the impact of the offense on the victim’s life or the lives of the victim’s family members.</p> <p>(c) Any court sentencing a person convicted of an alcohol or drug-related offense which resulted in personal injury to a person, the death of a person or injury to a person’s property may require, in addition to any other penalty provided by law, that the convicted person pay restitution as a condition of probation or parole.</p> <p> A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your jurisdiction’s law, victims may choose to: (1) read or speak their impact statement aloud at</p>	<p>Kan. Stat. Ann. § 8-1019.</p>

<p>the sentencing proceeding, or have another person do it for them; (2) submit a written victim impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.</p>	
<p><b>Victims' Right to Employ Attorney to Assist County Attorney.</b></p> <p>That the prosecuting witness in any criminal action or proceeding may, at his own expense, employ an attorney or attorneys to assist the county attorney to perform his duties in any criminal action or proceeding under any of the laws of the state of Kansas, and such attorney or attorneys shall be recognized by the county attorney and court as associate counsel in such action or proceeding, and no prosecution shall be dismissed over the objection of such associate counsel until the reason of the county attorney for such dismissal, together with the objections thereto of such associate counsel, shall have been filed in writing, argued by counsel, and fully considered by the court.</p> <p> A promising practice is to ensure that victims have notice of their right to hire an attorney as early as possible in the victims' involvement with the criminal justice system. Notifying victims of this right should include an explanation of the different roles of the prosecuting county attorney and the attorney hired by the victim to represent their interests and assert their rights.</p>	<p>Kan. Stat. Ann. § 19-717.</p>
<p><b>Inadmissibility of Evidence of Sexual Assault Victims' Prior Sexual Conduct; Exceptions.</b></p> <p>(a) The provisions of this section shall apply only in a prosecution for:</p> <ul style="list-style-type: none"> <li>(1) Rape, as defined in K.S.A. 21-5503, and amendments thereto;</li> <li>(2) indecent liberties with a child, as defined in K.S.A. 21-5506(a), and amendments thereto;</li> <li>(3) aggravated indecent liberties with a child, as defined in K.S.A. 21-5506(b), and amendments thereto;</li> <li>(4) criminal sodomy, as defined in K.S.A. 21-5504(a)(3) and (4), and amendments thereto;</li> </ul>	<p>Kan. Stat. Ann. § 21-5502.</p>

- (5) aggravated criminal sodomy, as defined in K.S.A. 21-5504(b), and amendments thereto;
- (6) aggravated indecent solicitation of a child, as defined in K.S.A. 21-5508(b), and amendments thereto;
- (7) sexual exploitation of a child, as defined in K.S.A. 21-5510, and amendments thereto;
- (8) aggravated sexual battery, as defined in K.S.A. 21-5505(b), and amendments thereto;
- (9) incest, as defined in K.S.A. 21-5604(a), and amendments thereto;
- (10) aggravated incest, as defined in K.S.A. 21-5604(b), and amendments thereto;
- (11) indecent solicitation of a child, as defined in K.S.A. 21-5508(a), and amendments thereto;
- (12) aggravated assault, as defined in K.S.A. 21-5412(b), and amendments thereto, with intent to commit any crime specified above;
- (13) sexual battery, as defined in K.S.A. 21-5505(a), and amendments thereto;
- (14) unlawful voluntary sexual relations, as defined in K.S.A. 21-5507, and amendments thereto;
- (15) aggravated human trafficking, as defined in K.S.A. 21-5426(b)(2), (4) and (5), and amendments thereto;
- (16) commercial sexual exploitation of a child, as defined in K.S.A. 21-6422, and amendments thereto;
- (17) electronic solicitation, as defined in K.S.A. 21-5509, and amendments thereto;
- (18) internet trading in child pornography, as defined in K.S.A. 21-5514(a), and amendments thereto;
- (19) aggravated internet trading in child pornography, as defined in K.S.A. 21-5514(b), and amendments thereto; or
- (20) attempt, as defined in K.S.A. 21-5301, and amendments thereto, or conspiracy, as defined in K.S.A. 21-5302, and amendments thereto, to commit any crime specified above.


(b) Except as provided in subsection (c), in any prosecution to which this section applies, evidence of the complaining witness' previous sexual conduct with any person including the defendant shall not be admissible, and no reference shall be made thereto in any proceeding before the court, except under the following conditions: The defendant shall make a written motion to the court to admit evidence or testimony concerning the previous sexual conduct of the complaining witness. The motion shall be made at least seven days before the commencement of the proceeding unless that requirement is waived by the court. The


<p>motion shall state the nature of such evidence or testimony and its relevancy and shall be accompanied by an affidavit in which an offer of proof of the previous sexual conduct of the complaining witness is stated. The motion, affidavits and any supporting or responding documents of the motion shall not be made available for examination without a written order of the court except that such motion, affidavits and supporting and responding documents or testimony when requested shall be made available to the defendant or the defendant's counsel and to the prosecutor. The defendant, defendant's counsel and prosecutor shall be prohibited from disclosing any matters relating to the motion, affidavits and any supporting or responding documents of the motion. The court shall conduct a hearing on the motion in camera. At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the previous sexual conduct of the complaining witness is relevant and is not otherwise inadmissible as evidence, the court may make an order stating what evidence may be introduced by the defendant and the nature of the questions to be permitted. The defendant may then offer evidence and question witnesses in accordance with the order of the court.</p> <p>(c) In any prosecution for a crime designated in subsection (a), the prosecutor may introduce evidence concerning any previous sexual conduct of the complaining witness, and the complaining witness may testify as to any such previous sexual conduct. If such evidence or testimony is introduced, the defendant may cross-examine the witness who gives such testimony and offer relevant evidence limited specifically to the rebuttal of such evidence or testimony introduced by the prosecutor or given by the complaining witness.</p> <p>(d) As used in this section, "complaining witness" means the alleged victim of any crime designated in subsection (a), the prosecution of which is subject to this section.</p>	
<p><b>Victims' Right to Have Victim Report Submitted as Part of a Presentence Investigation; Confidentiality of Victim Report.</b></p> <p>(b) Each presentence investigation report prepared for an offender to be sentenced for one or more felonies committed on or after July 1, 1993, shall be limited to the following information:</p>	<p>Kan. Stat. Ann. § 21-6813(b)(3), (c).</p>

<p>... (3) When there is an identifiable victim, a victim report. The person preparing the victim report shall submit the report to the victim and request that the information be returned to be submitted as a part of the presentence investigation. To the extent possible, the report shall include a complete listing of restitution for damages suffered by the victim. . . .</p> <p>(c) The presentence investigation report will become part of the court record and shall be accessible to the public, except that the official version, defendant's version and the victim's statement, any psychological reports, risk and needs assessments and drug and alcohol reports and assessments shall be accessible only to: The parties; the sentencing judge; the department of corrections; community correctional services; any entity required to receive the information under the interstate compact for adult offender supervision; and, if requested, the Kansas sentencing commission. If the offender is committed to the custody of the secretary of corrections, the report shall be sent to the secretary and, in accordance with K.S.A. 75-5220, and amendments thereto, to the warden of the state correctional institution to which the defendant is conveyed.</p>	
<p><b>Victims' Right to Notice of Right to Be Present at Hearing to Consider Imposition of a Departure Sentence; Court's Obligation to Review Victim Impact Statement.</b></p> <p>Whenever a person is convicted of a felony, the court upon motion of either the defendant or the state, shall hold a hearing to consider imposition of a departure sentence other than an upward durational departure sentence. The motion shall state the type of departure sought and the reasons and factors relied upon. The hearing shall be scheduled so that the parties have adequate time to prepare and present arguments regarding the issues of departure sentencing. The county or district attorney shall notify the victim of a crime or the victim's family of the right to be present at the hearing. The parties may submit written arguments to the court prior to the date of the hearing and may make oral arguments before the court at the hearing. The court shall review the victim impact statement. Prior to the hearing, the court shall transmit to the defendant or the defendant's attorney and the prosecutor copies of the presentence investigation report.</p>	<p>Kan. Stat. Ann. § 21-6817(a)(1).</p>

<p><b>Law Enforcement Must Adopt Written Policies Regarding Obligation to Provide Domestic Violence Victims with Specific Information.</b></p> <p>(a) All law enforcement agencies in this state shall adopt written policies regarding domestic violence calls as provided in subsections (b) and (c). These policies shall be made available to all officers of such agency.</p> <p>(b) Such written policies shall include, but not be limited to, the following:          . . .          (10) a statement that the law enforcement agency shall provide the following information to victims, in writing:          (A) Availability of emergency and medical telephone numbers, if needed;          (B) the law enforcement agency's report number;          (C) the address and telephone number of the prosecutor's office the victim should contact to obtain information about victims' rights pursuant to K.S.A. 74-7333 and 74-7335, and amendments thereto;          (D) the name and address of the crime victims' compensation board and information about possible compensation benefits;          (E) advise the victim that the details of the crime may be made public;          (F) advise the victim of such victims' rights under K.S.A. 74-7333 and 74-7335, and amendments thereto; and          (G) advise the victim of known available resources which may assist the victim; . . .</p> <p>(c) Such written policies shall provide that when an arrest is made for a domestic violence offense as defined in K.S.A. 21-5111, and amendments thereto, including an arrest for violation of a protection order as defined in K.S.A. 21-5924, and amendments thereto, the officer shall provide the victim information related to:          (A) The fact that in some cases the person arrested can be released from custody in a short amount of time;          (B) the fact that in some cases a bond condition may be imposed on the person arrested that prohibits contact with the victim for 72 hours, and that if the person arrested contacts the victim during that time, the victim should notify law enforcement immediately; and</p>	<p>Kan. Stat. Ann. § 22-2307.</p>
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<p>(C) any available services within the jurisdiction to monitor custody changes of the person being arrested, including, but not limited to, the Kansas victim information and notification everyday service if available in such jurisdiction.</p> <p>(d) All law enforcement agencies shall provide training to law enforcement officers about the policies adopted pursuant to this section.</p> <p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p><b>Law Enforcement Must Adopt Written Policies Regarding Obligation to Provide Stalking Victims with Specific Information.</b></p> <p>(a) All law enforcement agencies in this state shall adopt written policies regarding allegations of stalking as provided in subsection (b). These policies shall be made available to all officers of such agency.</p> <p>(b) Such written policies shall include, but not be limited to, the following: ...</p> <p>(8) a statement that the law enforcement agency shall provide the following information to victims, in writing:                  (A) Availability of emergency and medical telephone numbers, if needed;                  (B) the law enforcement agency's report number;                  (C) the address and telephone number of the prosecutor's office the victim should contact to obtain information about victims' rights pursuant to K.S.A. 74-7333 and 74-7335, and amendments thereto;                  (D) the name and address of the crime victims' compensation board and information about possible compensation benefits;                  (E) advise the victim that the details of the crime may be made public;</p>	<p>Kan. Stat. Ann. § 22-2310(a), (b)(8), (c).</p>

<p>(F) advise the victim of such victims' rights under K.S.A. 74-7333 and 74-7335, and amendments thereto; and                  (G) advise the victim of known available resources which may assist the victim; and                  (9) whether an arrest is made or not, a standard offense report shall be completed on all such incidents and sent to the Kansas bureau of investigation.</p> <p>(c) No law enforcement agency or employee of such agency acting within the scope of employment shall be liable for damages resulting from the adoption or enforcement of any policy adopted under this section.</p> <p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p><b>Limitations on Disclosure of Victims' Identifying Information in Discovery; Redaction of Personal Identifiers; Restrictions on Further Disclosure by Defense Counsel; Visual Depictions of Sexual Exploitation of Children to Remain in Care, Custody and Control of Prosecution, Law Enforcement or the Court.</b></p> <p>(a) Upon request, the prosecuting attorney shall permit the defense to inspect and copy or photograph the following, if relevant: (1) Written or recorded statements or confessions made by the defendant, or copies thereof, which are or have been in the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; (2) results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the particular case, or copies thereof, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; (3) recorded testimony of the defendant before a grand jury or at an inquisition; and (4) memoranda of any oral confession made by the defendant and a list of the witnesses to such confession, the existence of which is known, or by the exercise of due diligence may become known to the prosecuting attorney.</p>	<p>Kan. Stat. Ann. § 22-3212(a), (b), (g), (l).</p>

- (b)(1) Except as provided in subsection (l), upon request, the prosecuting attorney shall permit the defense to inspect and copy or photograph books, papers, documents, tangible objects, buildings or places, or copies, or portions thereof, which are or have been within the possession, custody or control of the prosecution, and which are material to the case and will not place an unreasonable burden upon the prosecution.
- (2) The prosecuting attorney shall also provide a summary or written report of what any expert witness intends to testify to on direct examination, including the witness' qualifications and the witness' opinions, at a reasonable time prior to trial by agreement of the parties or by order of the court.
- (3) Except as provided in subsections (a)(2) and (a)(4), and as otherwise provided by law, this section does not authorize the discovery or inspection of reports, memoranda or other internal government documents made by officers in connection with the investigation or prosecution of the case, or of statements made by state witnesses or prospective state witnesses, other than the defendant.
- (4) Except as provided in subsection (g), this section does not require the prosecuting attorney to provide unredacted vehicle identification numbers or personal identifiers of persons mentioned in such books, papers or documents.
- (5) As used in this subsection, personal identifiers include, but are not limited to, birthdates, social security numbers, taxpayer identification numbers, drivers license numbers, account numbers of active financial accounts, home addresses and personal telephone numbers of any victims or material witnesses.
- (6) If the prosecuting attorney does provide the defendant's counsel with unredacted vehicle identification numbers or personal identifiers, the defendant's counsel shall not further disclose the unredacted numbers or identifiers to the defendant or any other person, directly or indirectly, except as authorized by order of the court.
- (7) If the prosecuting attorney provides books, papers or documents to the defendant's counsel with vehicle identification numbers or personal identifiers redacted by the prosecuting attorney, the prosecuting attorney shall provide notice to the defendant's counsel that such books, papers or documents had such numbers or identifiers redacted by the prosecuting attorney.
- (8) Any redaction of vehicle identification numbers or personal identifiers by the prosecuting attorney shall be by alteration or truncation of such numbers or identifiers and shall not be by removal.

...

(g) Upon a sufficient showing the court may at any time order that the discovery or inspection be denied, restricted, enlarged or deferred or make such other order as is appropriate. Upon motion, the court may permit either party to make such showing, in whole or in part, in the form of a written statement to be inspected privately by the court. If the court enters an order granting relief following such a private showing, the entire text of the statement shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

...

(1)(1) In any criminal proceeding, any property or material that constitutes a visual depiction [of a child under 18 years of age shown or heard engaging in sexually explicit conduct with intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender or any other person], as defined in subsection (a)(2) of K.S.A. 21-5510, and amendments thereto, shall remain in the care, custody and control of either the prosecution, law enforcement or the court.

(2) Notwithstanding subsection (b), if the state makes property or material described in this subsection reasonably available to the defense, the court shall deny any request by the defense to copy, photograph, duplicate or otherwise reproduce any such property or material submitted as evidence.

(3) For the purpose of this subsection, property or material described in this subsection shall be deemed to be reasonably available to the defense if the prosecution provides ample and liberal opportunity for inspection, viewing and examination of such property or material at a government facility, whether inside or outside the state of Kansas, by the defendant, the defendant's attorney and any individual the defendant may seek to qualify to furnish expert testimony at trial.


**Victims' Right to Notice of Commitment of Incompetent Defendant; Victims' Right to Notice of Competency Hearing; Prosecutors' Obligation to Provide Notice of Commitment and/or Competency Hearing.**


Kan. Stat. Ann. § 22-3303(1), (3).

(1) A defendant who is charged with a crime and is found to be incompetent to stand trial shall be committed for evaluation and treatment to any appropriate state, county, private institution or facility. At the time of such commitment the institution of commitment shall notify the county or district attorney of the county in which the criminal proceedings are pending for the purpose of providing victim notification. Any such commitment shall be for a period not to exceed 90 days. Within 90 days after the defendant's commitment to such institution, the chief medical officer of such institution shall certify to the court whether the defendant has a substantial probability of attaining competency to stand trial in the foreseeable future. If such probability does exist, the court shall order the defendant to remain in an appropriate state, county, private institution or facility until the defendant attains competency to stand trial or for a period of six months from the date of the original commitment, whichever occurs first. If such probability does not exist, the court shall order the secretary for aging and disability services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony, or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719, prior to their repeal, or K.S.A. 21-5505 (b), 21-5506(b), 21-5508(b), 21-5604(b) or 21-5812(b), and amendments thereto, and commitment proceedings have commenced, for such proceeding, "mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in K.S.A. 59-2946(e), and amendments thereto, who is likely to cause harm to self and others, as defined in K.S.A. 59-2946(f)(3), and amendments thereto. The other provisions of K.S.A. 59-2946(f), and amendments thereto, shall not apply.

...

(3) When reasonable grounds exist to believe that a defendant who has been adjudged incompetent to stand trial is competent, the court in which the criminal case is pending shall conduct a hearing in accordance with K.S.A. 22-3302, and amendments thereto, to determine

<p>the person's present mental condition. Such court shall give reasonable notice of such hearings to the prosecuting attorney, the defendant and the defendant's attorney of record, if any. The prosecuting attorney shall provide victim notification. If the court, following such hearing, finds the defendant to be competent, the proceedings pending against the defendant shall be resumed.</p> <p> A promising practice is to have a procedure in place that reminds victims of their responsibility to keep their contact information current with the county or district attorney and that enables victims to make any necessary updates easily.</p>	
<p><b>Victims' Right to Notice of Result of Involuntary Commitment Proceedings; Victims' Right to Notice of Discharge from Treatment Facility; County or District Attorneys' Obligation to Provide Notice of Involuntary Commitment Proceedings and/or Discharge Order.</b></p> <p>(1) Whenever involuntary commitment proceedings have been commenced by the secretary for aging and disability services as required by K.S.A. 22-3303, and amendments thereto, and the defendant is not committed to a treatment facility as a patient, the defendant shall remain in the institution where committed pursuant to K.S.A. 22-3303, and amendments thereto. The secretary for aging and disability services shall promptly notify the court and the county or district attorney of the county in which the criminal proceedings are pending for the purpose of providing victim notification, of the result of the involuntary commitment proceeding.</p> <p>(2) Whenever involuntary commitment proceedings have been commenced by the secretary for aging and disability services as required by K.S.A. 22-3303, and amendments thereto, and the defendant is committed to a treatment facility as a patient but thereafter is to be discharged pursuant to the care and treatment act for mentally ill persons, the defendant shall remain in the institution where committed pursuant to K.S.A. 22-3303, and amendments thereto, and the head of the treatment facility shall promptly notify the court and the county or district attorney of the county in which the criminal proceedings are pending for the purpose of providing victim notification, that the defendant is to be discharged.</p>	<p>Kan. Stat. Ann. § 22-3305.</p>

<p>When giving notification to the court and the county or district attorney pursuant to subsection (1) or (2), the treatment facility shall include in such notification an opinion from the head of the treatment facility as to whether or not the defendant is now competent to stand trial. Upon request of the county or district attorney, the court may set a hearing on the issue of whether or not the defendant has been restored to competency. If such hearing request is granted, the county or district attorney shall provide victim notification regarding the hearing date. If no such request is made within 14 days after receipt of notice pursuant to subsection (1) or (2), the court shall order the defendant to be discharged from commitment and shall dismiss without prejudice the charges against the defendant, and the period of limitation for the prosecution for the crime charged shall not continue to run until the defendant has been determined to have attained competency in accordance with K.S.A. 22-3302, and amendments thereto. The county or district attorney shall provide victim notification regarding the discharge order.</p> <p> A promising practice is to have a procedure in place that reminds victims of their responsibility to keep their contact information current with the county or district attorney and that enables victims to make any necessary updates easily.</p>	
<p><b>Victims' Rights Regarding Restitution; Restitution for Victims of Human Trafficking; Victims' Right to Be Present and Heard at Sentencing.</b></p> <p>(a) The judgment shall be rendered and sentence imposed in open court.</p> <p>(b) If the verdict or finding is not guilty, judgment shall be rendered immediately and the defendant shall be discharged from custody and the obligation of the defendant's appearance bond.</p> <p>(c) If the verdict or finding is guilty, judgment shall be rendered and sentence pronounced without unreasonable delay, allowing adequate time for the filing and disposition of post-trial motions and for completion of such presentence investigation as the court may require.</p>	<p>Kan. Stat. Ann. § 22-3424.</p>

(d)(1) If the verdict or finding is guilty, upon request of the victim or the victim's family and before imposing sentence, the court shall hold a hearing to establish restitution. The defendant may waive the right to the hearing and accept the amount of restitution as established by the court. If the court orders restitution to be paid to the victim or the victim's family, the order shall be enforced as a judgment of restitution pursuant to K.S.A. 60-4301 through 60-4304, and amendments thereto.

(2)(A) The court shall order a person convicted of human trafficking or aggravated human trafficking, K.S.A. 21-3446 or 21-3447, prior to their repeal, or K.S.A. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, K.S.A. 21-6422, and amendments thereto, to pay restitution to the victim of the offense for:

(i) Expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including reasonable attorney fees and costs; and

(ii) an amount equal to three times the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim:

(a) The gross income to the defendant for, or the value to the defendant of, the victim's labor or services or sexual activity;

(b) the amount the defendant contracted to pay the victim; or

(c) the value of the victim's labor or services or sexual activity, calculated under the minimum wage and overtime provisions of the federal fair labor standards act, 29 U.S.C. § 201 et seq., or under K.S.A. 44-1203, and amendments thereto, whichever is higher, even if the provisions do not apply to the victim's labor or services or sexual activity.

(B) The court shall order restitution under subsection (d)(2) even if the victim is unavailable to accept payment of restitution.

(C) If the victim does not claim restitution ordered under subsection (d)(2) for five years after entry of the order, the restitution must be paid to the human trafficking victim assistance fund created by K.S.A. 75-758, and amendments thereto, to help victims.

(e) Before imposing sentence the court shall: (1) Allow the prosecuting attorney to address the court, if the prosecuting attorney so requests; (2) afford counsel an opportunity to speak on behalf of the defendant; (3) allow the victim or such members of the victim's family as the court deems appropriate to address the court, if the victim or the victim's family so requests; and (4) address the defendant personally and ask the defendant if the defendant



wishes to make a statement on the defendant's own behalf and to present any evidence in mitigation of punishment.

(f) After imposing sentence in a case which has gone to trial on a plea of not guilty, the court shall advise the defendant of the defendant's right to appeal and of the right of a person who is unable to pay the costs of an appeal to appeal in forma pauperis.



In October 2021, the Kansas Supreme Court found the final sentence of Kan. Stat. Ann. § 22-3424(d)(1) to be unconstitutional on the ground that a criminal defendant may not be faced with a civil judgment for restitution unless it has been obtained separately in a civil case. *State v. Robison*, No. 120,903, 2021 WL 4805294, at \*1, 8–9, --- P.3d ---- (Kan. Oct. 15, 2021).




Kan. Const. art. 15, § 15(a) affords victims the right to be heard at sentencing or at any other time deemed appropriate by the court. This provision is included above.




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



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

<p><b>Victims' Rights to Be Notified, Present and Heard Regarding Pleas; Prosecutors' Obligations to Provide Victims with Notice and Information Regarding Pleas and Plea Hearings.</b></p> <p>This section applies if a defendant is charged with a crime pursuant to articles 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments thereto.</p> <p>(a) The prosecuting attorney, as defined in K.S.A. 22-2202, and amendments thereto, shall:          (1) Inform the victim or the victim's family before any dismissal or declining of prosecuting charges; (2) inform the victim or the victim's family of the nature of any proposed plea agreement; and (3) inform and give notice to the victim or the victim's family of the rights established in subsection (b).</p> <p>(b) The victim of a crime or the victim's family have the right to be present at any hearing where a plea agreement is reviewed or accepted and the parties may submit written arguments to the court prior to the date of the hearing.</p> <p> Kan. Const. art. 15, § 15(a) affords victims to notice of and presence at public court proceedings. This provision is included above.</p>	<p>Kan. Stat. Ann. § 22-3436.</p>
<p><b>Victims' Right to Notice of Application for Pardon or Commutation of Sentence; Obligation of Secretary of Corrections to Provide Such Notice.</b></p> <p>Except as otherwise provided, no pardon or commutation of sentence shall be granted until more than 30 days after written notice of the application therefor has been given to: (1) The prosecuting attorney and the judge of the court in which the defendant was convicted; and (2) any victim of the person's crime or the victim's family, if the person was convicted of a crime specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments thereto.</p>	<p>Kan. Stat. Ann. § 22-3701(c).</p>

<p>Notice of such application for pardon or commutation of sentence shall be given by the secretary of corrections to the victim who is alive and whose address is known to the secretary of corrections, or if the victim is deceased, to the victim's family if the family's address is known to the secretary of corrections. Notice of the receipt of such application shall be given by publication in the official county paper of the county of conviction. The form of notice shall be prescribed by the board. If the applicant executes a poverty affidavit, the cost of one publication of the notice during a 12-month period shall be paid by the state. If more than one notice of application is published during any 12-month period the additional cost of publication shall be paid by the applicant. Subject to the provisions of subsection (d), if written notification is not given to such victim who is alive and whose address is known to the secretary of corrections or, if the victim is deceased, to the victim's family if the family's address is known to the secretary of corrections, the governor shall not grant or deny such application until a time at least 30 days after notification is given by publication as provided in this section.</p> <p> A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p>	
<p><b>Victims' Right to Notice of Public Comment Session Related to Parole Hearing; County or District Attorney's Obligation to Provide Such Notice; Parole Board's Obligation to Consider Comments from the Victim Made in Person or Via Recording.</b></p> <p>The prisoner review board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least one month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony, the secretary of corrections shall give written notice of the time and place of the public comment session</p>	<p>Kan. Stat. Ann. § 22-3717(h).</p>

for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the board shall consider:


(1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.







A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.





A promising practice is to make victims aware of the various ways in which they can communicate their comments to the parole board: in person, contemporaneous or pre-recorded.


<p><b>Victims' Right to Notice of Release on Parole, Conditional Release or Expiration of Sentence; Obligation of Secretary of Corrections to Provide Such Notice.</b></p> <p>Upon release, an inmate who has served the inmate's maximum term or terms, less such work and good behavior credits as have been earned, shall be subject to such written rules and conditions as the prisoner review board may impose, until the expiration of the maximum term or terms for which the inmate was sentenced or until the inmate is otherwise discharged. If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of release pursuant to this section, the board may set aside restitution as a condition of release payment of restitution, if the board finds compelling circumstances which would render a plan of restitution unworkable. If the court which sentenced an inmate specified reimbursement of all or part of the expenditures by the state board of indigents' defense services as a condition of release, the board may set aside such reimbursement, if the board finds compelling circumstances which would render a plan of reimbursement unworkable. Prior to the release of any inmate on parole, conditional release or expiration of sentence, if an inmate is released into the community under a program under the supervision of the secretary of corrections, the secretary shall give written notice of such release to any victim or victim's family as provided in K.S.A. 22-3727, and amendments thereto.</p> <p> A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p>	<p>Kan. Stat. Ann. § 22-3718.</p>
<p><b>Victims' Right to Notice of Offender's Release, Escape or Death.</b></p> <p>(a) Prior to the release of any inmate on parole, conditional release, expiration of sentence or postrelease supervision, if an inmate is released into the community under a program under the supervision of the secretary of corrections, or after the escape of an inmate or death of an inmate while in the secretary of corrections' custody, the secretary of corrections shall give written notice of such release, escape or death to any victim of the inmate's crime who is alive and whose address is known to the secretary or, if the victim is deceased, to the</p>	<p>Kan. Stat. Ann. § 22-3727(a).</p>


<p>victim’s family if the family’s address is known to the secretary. Such notice shall be required to be given to the victim or the victim’s family only if the inmate was convicted of any crime in article 33, 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments thereto. Except for notifications of releases due to a court order, escape or death, notification shall be given at least 14 working days prior to the release of such inmate. Failure to notify the victim or the victim’s family as provided in this section shall not be a reason for postponement of parole, conditional release or other forms of release.</p> <p> Kan. Stat. Ann. § 22-3727(b) defines the term “victim’s family” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p>	
<p><b>Victims’ Right to Notice of Escape or Death of Certain Committed Defendants or Inmates.</b></p> <p>(a) The county or district attorney shall, as soon as practicable, provide notification as provided in K.S.A. 22-3303, 22-3305, 22-3428, 22-3428a, 22-3430 and 22-3431, and amendments thereto, and upon the escape or death of a committed defendant while in the custody of the secretary for aging and disability services, to any victim of the defendant’s crime whose address is known to the county or district attorney, and the victim’s family, if so requested and the family’s addresses are known to the county or district attorney. Such notice shall be required to be given only if the defendant was charged with any crime in article 33, 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments thereto.</p>	<p>Kan. Stat. Ann. § 22-3727a(a).</p>

<p> Kan. Stat. Ann. § 22-3727a(b) defines the term “victim’s family” for the purposes of this provision. This definition is included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p>	
<p><b>Victims’ Right to Notice of Functional Incapacitation Release; Obligation of Secretary of Corrections to Provide Such Notice.</b></p> <p>(1) Upon application of the secretary of corrections, the prisoner review board may grant release to any person deemed to be functionally incapacitated, upon such terms and conditions as prescribed in the order granting such release.</p> <p>(2) The secretary of corrections shall adopt rules and regulations governing the prisoner review board’s procedure for initiating, processing, reviewing and establishing criteria for review of applications filed on behalf of persons deemed to be functionally incapacitated. Such rules and regulations shall include criteria and guidelines for determining whether the functional incapacitation precludes the person from posing a threat to the public.</p> <p>(3) Subject to the provisions of subsections (a)(4) and (a)(5), a functional incapacitation release shall not be granted until at least 30 days after written notice of the application has been given to: (A) The prosecuting attorney and the judge of the court in which the person was convicted; and (B) any victim of the person’s crime or the victim’s family. Notice of such application shall be given by the secretary of corrections to the victim who is alive and whose address is known to the secretary, or if the victim is deceased, to the victim’s family if the family’s address is known to the secretary. Subject to the provisions of subsection (a)(4), if there is no known address for the victim, if alive, or the victim’s family, if deceased, the board shall not grant or deny such application until at least 30 days after notification is given by publication in the county of conviction. Publication costs shall be paid by the department of corrections.</p>	<p>Kan. Stat. Ann. § 22-3728(a).</p>

<p>(4) All applications for functional incapacitation release shall be referred to the board. The board shall examine each case and may approve such application and grant a release. An application for release shall not be approved unless the board determines that the person is functionally incapacitated and does not represent a future risk to public safety. The board shall determine whether a hearing is necessary on the application. The board may request additional information or evidence it deems necessary from a medical or mental health practitioner.</p> <p>...</p> <p> A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p>	
<p><b>Victims' Right to Notice of Terminal Medical Release; Obligation of Secretary of Corrections to Provide Such Notice.</b></p> <p>The secretary [of corrections] shall give notice of the granting of a terminal medical condition release to: (1) The prosecuting attorney and the judge of the court in which the person was convicted; and (2) any victim of the person's crime if alive or the victim's family if the victim is deceased, whose address is known by the secretary.</p> <p> A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p>	<p>Kan. Stat. Ann. § 22-3729(c).</p>
<p><b>Law Enforcement Officers or Other Government Officials May Not Ask or Require Victims of Sexual Assault, Human Trafficking or Incest to Submit to a Polygraph Examination or Similar Device as a Condition for Proceeding with the Investigation, Charging or Prosecution of Such Offenses.</b></p> <p>No law enforcement officer, government official or prosecutor shall request or require any person who is alleged to be a victim of an offense described in article 55 of chapter 21 of the</p>	<p>Kan. Stat. Ann. § 22-4614.</p>




<p>Kansas Statutes Annotated or K.S.A. 21-6419 through 21-6422, and amendments thereto, human trafficking or aggravated human trafficking as defined in K.S.A. 21-5426, and amendments thereto, or incest or aggravated incest as defined in K.S.A. 21-5604, and amendments thereto, to submit to a polygraph examination or similar truth telling device as a condition for proceeding with an investigation, or charging or prosecuting such an offense.</p> <p> A promising practice is to ensure that officers who work with victims of sexual offenses, human trafficking and incest are aware that victims cannot be subjected to truth-telling examinations or devices as a condition for proceeding with the investigation or prosecution of such offenses.</p>	
<p><b>Employment Rights of Victims of Domestic Violence and Sexual Assault; Confidentiality.</b></p> <p>(a) An employer may not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence or a victim of sexual assault for taking time off from work to:</p> <ol style="list-style-type: none"> <li>(1) Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order or other injunctive relief to help ensure the health, safety or welfare of the victim or the victim’s child or children;</li> <li>(2) seek medical attention for injuries caused by domestic violence or sexual assault;</li> <li>(3) obtain services from a domestic violence shelter, domestic violence program or rape crisis center as a result of domestic violence or sexual assault; or</li> <li>(4) make court appearances in the aftermath of domestic violence or sexual assault.</li> </ol> <p>(b)(1) As a condition of taking time off for a purpose set forth in subsection (a), the employee shall give the employer reasonable advance notice of the employee’s intention to take time off, unless such advance notice is not feasible. Within 48 hours after returning from the requested time off, the employee shall provide documentation which may include, but is not limited to, that described in subsection (b)(2) to support taking time off for a purpose set forth in subsection (a).</p> <p>(2) When an unscheduled absence occurs, the employer shall not take any action against the</p>	<p>Kan. Stat. Ann. § 44-1132.</p>


<p>employee if the employee, within 48 hours after the beginning of the unscheduled absence, provides a certification to the employer in the form of any of the following:</p> <p>(A) A police report indicating that the employee was a victim of domestic violence or sexual assault;</p> <p>(B) a court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court; or</p> <p>(C) documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence or sexual assault.</p> <p>(c) To the extent allowed by law, the employer shall maintain the confidentiality of any employee requesting leave under subsection (a), as well as the confidentiality of any supporting documentation provided by the employee to the employer relating to a purpose set forth in subsection (a).</p> <p>(d) An employee may use any accrued paid leave or, if paid leave is unavailable to the employee, unpaid leave, not to exceed a total of eight days per calendar year, as time off for a purpose specified in subsection (a), unless a longer period of time is otherwise available to an employee under the applicable terms of employment or is provided by a collective bargaining agreement. The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.</p> <p> A promising practice is to have a policy and procedure in place to inform victims of domestic violence and sexual assault, at the first opportunity, of their employment-related rights and to provide employers with this information.</p>	
<p><b>Sexual Assault Victims' Rights Regarding Medical Examinations; Costs Associated with Medical Examinations to Be Paid by the County.</b></p> <p>(a) Upon the request of any law enforcement officer and with the written consent of the</p>	<p>Kan. Stat. Ann. § 65-448.</p>


reported victim, or upon the request of the victim, any physician, a licensed physician assistant, who has been specially trained in performing sexual assault evidence collection, or a registered professional nurse, who has been specially trained in performing sexual assault evidence collection, on call or on duty at a medical care facility of this state, as defined by K.S.A. 65-425(h), and amendments thereto, shall examine persons who may be victims of sexual offenses cognizable as violations of K.S.A. 21-5503, 21-5504, 21-5506 or 21-5604, and amendments thereto, using Kansas bureau of investigation sexual assault evidence collection kits or similar kits approved by the Kansas bureau of investigation, for the purposes of gathering evidence of any such crime. If an examination has taken place solely upon the request of the victim, the medical care facility shall not notify any law enforcement agency without the written consent of the victim, unless otherwise required by law. If the physician, licensed physician assistant or registered professional nurse refuses to perform such physical examination the prosecuting attorney is hereby empowered to seek a mandatory injunction against such physician, licensed physician assistant or registered professional nurse to enforce the provisions of this act. Any refusal by a physician, licensed physician assistant or registered professional nurse to perform an examination which has been requested pursuant to this section shall be reported by the county or district attorney to the state board of healing arts or the board of nursing, whichever is applicable, for appropriate disciplinary action. The department of health and environment, in cooperation with the Kansas bureau of investigation, shall establish procedures for gathering evidence pursuant to this section. A minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority, and consent of parent or guardian of the minor is not required for such examination. The hospital or medical facility shall give written notice to the parent or guardian of a minor that such an examination has taken place, except when: (1) The hospital or medical facility has information that a parent, guardian or family or household member is the subject of a related criminal investigation; or (2) the physician, licensed physician assistant or registered professional nurse, after consultation with law enforcement, reasonably believes that the child will be harmed if such notice is given.

(b) All sexual assault kits collected that are not released to law enforcement shall be sealed by either the sexual assault nurse examiner program or the facility that provided the examination and kept for five years in the evidence storage facilities of the Kansas bureau

<p>of investigation. After five years, such kits shall be destroyed by the Kansas bureau of investigation.</p> <p>(c) The fee chargeable for conducting an examination of a victim as herein provided shall be established by the department of health and environment. Such fee, including the cost of the sexual assault evidence collection kit shall be charged to and paid by the county where the alleged offense was committed, and refusal of the victim to report the alleged offense to law enforcement shall not excuse or exempt the county from paying such fee. The fee for conducting an examination of a victim as herein provided shall not be charged or billed to the victim or to the victim's insurance carrier. Such county shall be reimbursed such fee upon the costs being paid by the defendant as court costs assessed pursuant to K.S.A. 28-172a, and amendments thereto.</p> <p>(d) No medical care facility shall incur any civil, administrative or criminal liability as a result of notifying or failing to notify any law enforcement agency if an examination has taken place solely upon the request of the victim and such notification is not otherwise required by law.</p> <p>(e) The Kansas bureau of investigation may adopt rules and regulations as deemed necessary to implement the provisions of this section.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.</p>	
<p><b>Right of Victims of Stalking, Sexual Assault or Human Trafficking to Petition for Order of Protection; Nondisclosure of Address and Telephone Number.</b></p> <p>(a) A person may seek relief under the protection from stalking, sexual assault or human trafficking act by filing a verified petition with any judge of the district court or clerk of the court. A verified petition must allege facts sufficient to show the following:</p> <p>(1) The name of the stalking victim, sexual assault victim or human trafficking victim;</p>	<p>Kan. Stat. Ann. § 60-31a04.</p>

<p>(2) the name of the defendant;                  (3) the dates on which the alleged stalking, sexual assault or human trafficking behavior occurred; and                  (4) the acts committed by the defendant that are alleged to constitute stalking, sexual assault or human trafficking.</p> <p>(b) The following persons may seek relief under the protection from stalking, sexual assault or human trafficking act on behalf of a minor child by filing a verified petition with the judge of the district court or with the clerk of the court in the county where the stalking, sexual assault or human trafficking occurred: (1) A parent of the minor child; (2) an adult residing with the minor child; or (3) the child's court-appointed legal custodian or court-appointed legal guardian.</p> <p>(c) The following persons may seek relief for a minor child who is alleged to be a human trafficking victim under the protection from stalking, sexual assault or human trafficking act on behalf of the minor child by filing a verified petition with any district judge or with the clerk of the court alleging acts committed by an individual that are alleged to constitute human trafficking: (1) A parent of the minor child; (2) an adult residing with the minor child; (3) the child's court-appointed legal custodian or court-appointed legal guardian; (4) a county or district attorney; or (5) the attorney general.</p> <p>(d) The clerk of the court shall supply the forms for the petition and orders, which shall be prescribed by the judicial council.</p> <p>(e) Service of process served under this section shall be by personal service. No docket fee shall be required for proceedings under the protection from stalking, sexual assault or human trafficking act.</p> <p>(f) The victim's address and telephone number shall not be disclosed to the defendant or to the public, but only to authorized court or law enforcement personnel and to the commission on judicial performance in the discharge of the commission's duties pursuant to article 32 of chapter 20 of the Kansas Statutes Annotated, and amendments thereto.</p>	
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<p> For additional information regarding protective orders for victims of stalking, sexual assault or human trafficking, <i>see</i> Kan. Stat. Ann. § 60-31a05 (hearing; temporary orders pending hearing); <i>id.</i> at § 60-31a06 (orders; time periods; extension of orders; amendments; costs); <i>id.</i> at § 60-31a07 (notice of protection orders); <i>id.</i> at § 60-31a08 (procedure); <i>id.</i> at § 60-31a09 (contempt).</p>	
<p><b>Victims' Rights to Notice of Availability of Infectious Disease Tests for Arrested or Convicted Offenders and to Request Such Tests; Victims' Right to Access Test Results.</b></p> <p>(a) At the time of an appearance before a magistrate under K.S.A. 22-2901, and amendments thereto, the magistrate shall inform any person arrested and charged with a crime in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved of the availability of infectious disease tests and shall cause the alleged victim of such a crime, if any, to be notified that infectious disease tests and counseling are available. If the victim of the crime or the county or district attorney requests the court to order infectious disease tests of the alleged offender or if the person arrested and charged with a crime stated to the law enforcement officer making such arrest that the person arrested and charged with the crime has an infectious disease or is infected with an infectious disease, or used words of like effect, the court shall order the arrested person to submit to infectious disease tests. Testing for infectious disease shall occur not later than 48 hours after the alleged offender appears before a magistrate under K.S.A. 22-2901, and amendments thereto. The results of any test obtained under this section shall be inadmissible in any criminal or civil proceeding. The court shall also order the arrested person to submit to follow-up tests for infectious diseases as may be medically appropriate.</p> <p>(b) Upon conviction of a person for any crime which the court determines from the facts of the case involved or was likely to have involved the transmission of body fluids from one person to another, the court: (1) May order the convicted person to submit to infectious disease tests; or (2) shall order the convicted person to submit to infectious disease tests if the victim of the crime or the parent or legal guardian of the victim, if the victim is a minor, requests the court to issue such order. If infectious disease tests are ordered under this subsection, the victim of the crime, if any, who is not a minor, shall designate a health care</p>	<p>Kan. Stat. Ann. § 65-6009.</p>

<p>provider or counselor to receive such information on behalf of the victim. If the victim is a minor, the parent or legal guardian of the victim shall designate the health care provider or counselor to receive such information.</p> <p>(c) The results of any infectious disease test ordered under subsection (a) shall be disclosed to the law enforcement officer making such arrest, the person arrested, the victim, the parent or legal guardian of the victim and such other persons as the court determines have a legitimate need to know the test result in order to provide for their protection. The results of any infectious disease test ordered under subsection (b) shall be disclosed to the court which ordered the test, the convicted person and to the person designated under subsection (b) by the victim or victims of the crime or by the parent or legal guardian of a victim if the victim is a minor. If an infectious disease test ordered under this section results in a positive reaction, the results shall be reported to the secretary of health and environment and to the secretary of corrections.</p> <p>(d) As used in this section, infectious disease includes HIV and hepatitis B.</p> <p>(e) The costs of any counseling and testing provided under this section shall be paid from amounts appropriated to the department of health and environment for that purpose. The court shall order the adjudicated person to pay restitution to the department of health and environment for the costs of any counseling provided under this section and the costs of any test ordered or otherwise performed under this section.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p><b>Certain Victims’ Right to Address Confidentiality.</b></p> <p>(a) An adult person, an adult family member residing with the victim, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, may apply by and through an enrolling agent to have an address designated by the attorney</p>	<p>Kan. Stat. Ann. § 75-453.</p>

general serve as the person's address or the address of the minor or incapacitated person. Program participants shall not apply directly to the attorney general. The attorney general shall approve an application if it is filed in the manner and on the form prescribed by the attorney general, signed by the applicant and enrolling agent under penalty of perjury, and it contains all of the following:

- (1) A statement by the applicant that the applicant has good reason to believe that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, human trafficking or stalking and:
  - (A) That the applicant fears for the applicant's safety or the applicant's children's safety or the safety of the minor or incapacitated person on whose behalf the application is made; or
  - (2)<sup>1</sup> that by virtue of living with an enrolled program participant, the applicant fears that the knowledge or publication of the applicant's whereabouts will put the enrolled participant in danger.
- (2) A designation of the attorney general as agent for purposes of service of process and for the purpose of receipt of mail.
- (3) The confidential mailing address where the applicant can be contacted by the attorney general, and the phone number or numbers where the applicant can be called by the attorney general.
- (4) The confidential address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence, sexual assault, human trafficking or stalking.
- (5) Evidence that the applicant or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, human trafficking or stalking, or is an adult family member residing with the victim. This evidence may include any of the following:
  - (A) Law enforcement, court or other federal, state or local government records or files.
  - (B) Documentation from a public or private entity that provides assistance to victims of domestic violence, sexual assault, human trafficking or stalking.
  - (C) Documentation from a religious, medical or other professional from whom the applicant has sought assistance in dealing with the alleged domestic violence, sexual assault, human trafficking or stalking.
  - (D) Other forms of evidence as determined by the attorney general.



(6) A statement of whether there are any existing court orders involving the applicant for child support, child custody or child visitation and whether there are any active court actions involving the applicant for child support, child custody or child visitation, the name and address of legal counsel of record and the last known address of the other parent or parents involved in those court orders or court actions.

(7) The signature of the applicant and of any individual or representative of any enrolling agent who assisted in the preparation of the application, and the date on which the applicant signed the application.


(b) Applications shall be filed in accordance with procedures prescribed by the attorney general.


(c) Upon filing a properly completed application, the attorney general 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 invalidated before that date. The attorney general shall adopt rules and regulations prescribing a renewal procedure.


(d) Upon certification in the program, in any case where there are court orders or court actions identified in subsection (a)(6), the attorney general, within 10 days, shall notify the other parent or parents of the address designated by the attorney general for the program participant and the designation of the attorney general as agent for purpose of service of process. The notice shall be given by mail, return receipt requested, postage prepaid, to the last known address of the other parent to be notified. A copy shall also be sent to that parent's counsel of record.


(e) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, may be prosecuted for, convicted of and punished under K.S.A. 21-5824, and amendments thereto, or other applicable statutes.



<sup>1</sup> So in original. Likely supposed to be (B).

<p> Further details about the operation of Kansas’s address confidentiality program can be found elsewhere in the code. <i>See, e.g.</i>, Kan. Stat. Ann. § 75-451 (purpose); <i>id.</i> at § 75-452 (definitions); <i>id.</i> at § 75-454 (program cancellation; address change; use of false information); <i>id.</i> at § 75-455 (use of substitute address); <i>id.</i> at § 75-457 (exceptions warranting release of substitute address); <i>see also</i> <a href="https://sos.kansas.gov/services/safe-at-home/">https://sos.kansas.gov/services/safe-at-home/</a>.</p>	
<p><b>Property Crime Compensation: Law Enforcement’s Obligation to Notify Victim Compensation Coordinator and to Provide Victim with Specific Information.</b></p> <p>(a) Within seven days after the initial contact between the victim of a reported crime and the law enforcement agency investigating the crime, such agency shall notify the victim compensation coordinator<sup>1</sup> of the report of the crime and the name and address of the victim or victims.</p> <p>(b) A law enforcement agency shall provide the following information to the victim:</p> <ol style="list-style-type: none"> <li>(1) The availability of emergency and medical services numbers, if needed;</li> <li>(2) the police report number, in writing;</li> <li>(3) the address and telephone number of the prosecutor’s office that the victim should contact to obtain information about victims’ rights pursuant to K.S.A. 74-7333 and 74-7335, and amendments thereto;</li> <li>(4) the name, address and telephone number of the local board and information about victim compensation benefits, if any local board has been appointed in the county;</li> <li>(5) advise the victim that the details of the crime may be made public; and</li> <li>(6) advise the victim of such victim’s rights under K.S.A. 74-7333 and 74-7335, and amendments thereto.</li> </ol> <p>(c) A law enforcement agency may adopt any procedure to transmit such information which substantially complies with the provisions of this section.</p> <p><sup>1</sup> So in enrolled bill; probably intended to read “property crime compensation coordinator”.</p>	<p>Kan. Stat. Ann. § 19-4808.</p>

 For the purposes of this section and other statutes governing property crime compensation, the term “victim” “means an individual who suffers loss as a result of the commission of a crime, loss due to the good faith effort of any individual person to prevent a crime or loss due to the good faith effort of any individual person to apprehend a person suspected of engaging in a crime; where the context so requires, “victim” includes those persons filing a claim at the request of and on behalf of the victim, or the actual owner of property interests which were the subject of the crime.” Kan. Stat. Ann.§ 19-4802(h). For the definitions of other relevant terms, *see generally id.* at § 19-4802.

 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><b>STATE VICTIMS' RIGHTS: SELECT DEFINITIONS</b></p>	<p><b>Kansas Statutes</b></p>
<p><b>Bill of Rights for Crime Victims Act Definitions.</b></p> <p>(b) As used in this act, “victim” means any person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime against such person.</p> <p>(c) As used in this act and as used in article 15 of section 15 of the Kansas constitution, the term “crime” shall not include violations of ordinances of cities except for violations of ordinances of cities which prohibit acts or omissions which are prohibited by articles 33, 34, 35 and 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, and as provided in subsection (d).</p> <p> These definitions apply to Kan. Const. art. 15, § 15, and the Bill of Rights for Crime Victims Act, Kan. Stat. Ann. § 74-7333. These provisions are included above in the section “Select State Crime Victims’ Rights.”</p>	<p>Kan. Stat. Ann. § 74-7333(b)–(c).</p>
<p><b>Victims’ Right to Be Present Definitions.</b></p> <p>As used in this section:</p> <p>(1) “Public hearing” means any court proceeding or administrative hearing which is open to the public and shall include but not be limited to the:</p> <p>(A) Preliminary hearing;</p> <p>(B) trial;</p> <p>(C) sentencing;</p> <p>(D) sentencing modification;</p>	<p>Kan. Stat. Ann. § 74-7335(c).</p>

<p>(E) public comment sessions, pursuant to K.S.A. 22-3717, and amendments thereto;                  (F) expungement hearing; and                  (G) granting of probation or parole by a judge.</p> <p>(2) “Victim’s family” means a spouse, surviving spouse, children, parents, legal guardian, siblings, stepparent or grandparents.</p> <p>(3) “Juvenile offender proceedings” means any hearing concerning a juvenile pursuant to the revised Kansas juvenile justice code.</p> <p> These definitions apply to the statute governing victims’ rights to notice and presence at all public hearings and any hearings/proceedings related to probation or parole, Kan. Stat. Ann. § 74-7335. This provision is included above in the section “Select State Crime Victims’ Rights.”</p>	
<p><b>Notification Provisions When Offender Released, Escapes or Dies Definition of “Victim’s Family”.</b></p> <p>As used in this section, “victim’s family” means a spouse, surviving spouse, children, parents, legal guardian, siblings, stepparents or grandparents.</p> <p> This definition applies to two statutes governing victims’ rights to notice of an offender’s release, escape or death, Kan. Stat. Ann. § 22-3727 and § 22-3727a. These provisions are included above in the section “Select State Crime Victims’ Rights.”</p>	<p>Kan. Stat. Ann. § 22-3727(b);                  Kan. Stat. Ann. § 22-3727a(b).</p>

**Address Confidentiality Program Definitions.**

The following words and phrases when used in K.S.A. 75-451 to 75-458, inclusive, and amendments thereto, shall have the meanings respectively ascribed to them herein, unless the context clearly requires otherwise:

(a) "Abuse" means:

- (1) Causing or attempting to cause physical harm;
- (2) placing another person in fear of imminent physical harm;
- (3) causing another person to engage involuntarily in sexual relations by force, threats or duress, or threatening to do so;
- (4) engaging in mental abuse, which includes threats, intimidation and acts designed to induce terror;
- (5) depriving another person of necessary health care, housing or food; or
- (6) unreasonably and forcibly restraining the physical movement of another.


(b) "Confidential address" means a residential street address, school street address or work street address of an individual, as specified on the individual's application to be a program participant under K.S.A. 75-451 to 75-458, inclusive, and amendments thereto.

(c) "Confidential mailing address" means an address that is recognized for delivery by the United States postal service.

(d) "Domestic violence" means abuse committed against a victim or the victim's spouse or dependent child by:

- (1) A current or former spouse of the victim;
- (2) a person with whom the victim shares parentage of a child in common;
- (3) a person who is cohabitating with, or has cohabitated with, the victim;
- (4) a person who is related by blood or marriage; or
- (5) a person with whom the victim has or had a dating or engagement relationship.

Kan. Stat. Ann. § 75-452.

<p>(e) “Program participant” means a person certified as a program participant under K.S.A. 75-453, and amendments thereto.</p> <p>(f) “Enrolling agent” means state and local agencies, law enforcement offices, nonprofit agencies and any others designated by the secretary of state that provide counseling and shelter services to victims of domestic violence, sexual assault, human trafficking or stalking.</p> <p>(g) “Sexual assault” means an act which if committed in this state would constitute any crime defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6419 through 21-6422, and amendments thereto.</p> <p>(h) “Stalking” means an act which if committed in this state would constitute “stalking” as defined by K.S.A. 60-31a01, and amendments thereto.</p> <p>(i) “Human trafficking” means an act which if committed in this state would constitute the crime of human trafficking as defined by K.S.A. 21-3446, prior to its repeal, or K.S.A. 21-5426(a), and amendments thereto.</p> <p> These definitions apply to Kansas’s address confidentiality statutes, Kan. Stat. Ann. §§ 75-451 through 75-458. Kan. Stat. Ann. § 75-453 is included above in the section “Select State Crime Victims’ Rights.”</p>	
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