



TRIBAL LAW ENFORCEMENT-BASED VICTIM SERVICES IN MINNESOTA: 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 members¹ 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: JURISDICTION

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 Minnesota'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.

¹ 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 Indian²; the type and seriousness of the crime at issue;⁴ the type of punishment sought;⁵ and whether Public Law 280⁶ or another federal statute⁷ 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.⁸ 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,

² 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.

³ *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).

⁴ *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”).

⁵ *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).

⁶ 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).

⁷ *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”).

⁸ *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.⁹ 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.¹⁰

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 located within Minnesota—such as the Red Lake Nation—has jurisdiction, the victim services provider can contact the relevant tribal court or tribal legal department to learn about applicable tribal-based crime victims' rights.¹¹ 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.¹²

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

⁹ 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).

¹⁰ 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).

¹¹ 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).

¹² 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 Minnesota is available in the companion resource, *Tribal Law Enforcement-Based Victim Services in Minnesota: 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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¹³ 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





SELECT FEDERAL CRIME VICTIMS' RIGHTS	Federal Statutes and Rules
<p>Victims' Right to Be Reasonably Protected from the Accused.</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 CVRA¹⁴. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3771(a)(1).</p>
<p>Victims' Right to Reasonable, Accurate, and Timely Notice of Any Public Court Proceeding or Any Parole Proceeding, Relating to Crime, Release or Escape.</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>




¹⁴ 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>Victims' Right to Be Present at Public Court Proceedings.</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>Victims' Right to Be Reasonably Heard at Any Public Court Proceeding Involving Release, Plea, Sentencing or Parole.</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>Victims' Right to Confer with the Attorney for the Government in the Case.</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>Victims' Right to Full and Timely Restitution.</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>Victims’ Right to Proceedings Free from Unreasonable Delay.</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>Victims’ Right to Be Treated with Fairness and with Respect for the Victim’s Dignity and Privacy.</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>Victims' Right to be Informed in Timely Manner of Plea Bargain or Deferred Prosecution Agreement.</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>Victims' Right to be Informed of Their Rights and Available Services.</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>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.</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>Courts' Duties Regarding Victims' Rights in Habeas Proceedings Arising Out of State Convictions: Ensuring Victims are Afforded Certain Rights.</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>Victims’ Standing to Enforce CVRA Rights in Habeas Corpus Proceedings; Multiple Victims.</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>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.</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>Victims' Standing to Enforce Rights; Crime Victim, Crime Victim's Lawful Representative and the Prosecutor May Assert Victims' Rights.</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>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.</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>Enforcement of Victims' Rights: Assertion of Rights; Motions for Relief and Writs of Mandamus.</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>Enforcement of Victims' Rights: Government's Assertion of Error in Any Appeal.</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>Enforcement of Victims' Rights: Limitations on Relief.</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>Sexual Assault Survivors' Rights in Addition to Those Available Under the CVRA: Medical Forensic Examinations; Sexual Assault Evidence Kits; Information Regarding Rights.</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>Mandatory Reporting of Child Abuse in Indian Country.</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>The Rights of Child-Victims of Sexual Exploitation Regarding: Civil Recovery, Including Attorney’s Fees; Statute of Limitations.</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>Mandatory Restitution for Child-Victims of Sexual Exploitation; Process for Determining Restitution in Child Pornography Cases; Election to Receive Defined Monetary Assistance.</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>Interstate Domestic Violence and Stalking Victims’ Right to Be Heard at Pretrial Release Hearings.</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>Courts' Duty to Accord Full Faith and Credit to Protection Orders Issued by Courts of Other States, Indian Tribes, or Territories; Tribal Court Jurisdiction.</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 Territory¹ 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 injunction² 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>Mandatory Restitution for Victims of Crimes Involving Transportation of Persons for Illegal Sexual Activity and Related Crimes.</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>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.</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>Child-Victims' Rights: Alternatives to Live In-Court Testimony.</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>Child-Victims’ Rights: Competency Examinations.</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"> (A) the judge; (B) the attorney for the Government; (C) the attorney for the defendant; (D) a court reporter; and (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. 	<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>Child-Victims' Rights: Privacy Protections. 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"> (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; (ii) employees of the court; (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 (iv) members of the jury. <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"> (A) the complete paper to be kept under seal; and (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. <p>(3) Protective orders.</p> <ul style="list-style-type: none"> (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. (B) A protective order issued under subparagraph (A) may-- <ul style="list-style-type: none"> (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 (ii) provide for any other measures that may be necessary to protect the privacy of the child. <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>Child-Victims’ Rights: Closing the Courtroom.</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>Child-Victims’ Rights: Victim Impact Statement.</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>Child-Victims’ Rights: Use of Multidisciplinary Child Abuse Teams.</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"> (A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings; (B) telephone consultation services in emergencies and in other situations; (C) medical evaluations related to abuse or neglect; (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; (E) expert medical, psychological, and related professional testimony; (F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and (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. <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>Child-Victims' Rights: Guardians ad Litem.</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>Child-Victims' Rights: Adult Attendants.</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>Child-Victims' Rights: Speedy Trial.</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>Child-Victims’ Rights: Stay of Civil Action.</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>Child-Victims’ Rights: Testimonial Aids.</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>Child-Victims' Rights: Prohibition on Reproduction of Child Pornography.</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>Victims' Right to Be Present at Trial; No Exclusion from Trial Because Victim May Present Information or Make Statement at Sentencing.</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>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.</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>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.</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),¹ 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>¹ 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>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.</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>Victims’ Right to Restitution: Procedures for Issuance and Enforcement of Restitution Orders Under Federal Restitution Laws.</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.

<p>Victims' Right to Restitution: Order of Special Forfeiture When Required by Restitution Order; Defendant to Forfeit Proceeds from Contract Relating to Depiction of Crime.</p> <p>(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.</p> <p>(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.</p> <p>(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--</p> <p>(A) be levied upon to satisfy--</p> <p>(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</p> <p>(ii) a fine imposed by a court of the United States; and</p> <p>(B) if ordered by the court in the interest of justice, be used to--</p> <p>(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</p> <p>(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>	<p>18 U.S.C. § 3681.</p>
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<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>Victims’ Right to Notice of Order of Special Forfeiture.</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>Courts’ Duty to Order Restitution in Accordance with the VWPA and the MVRA; Procedures in Section 3664 to Apply to All Restitution Orders.</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>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.</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>Payment of Restitution as Directed.</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>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</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>

<p>(b) Information to be included in judgment; judgment to be transmitted to Attorney General.</p> <p>—</p> <p>(1) A judgment or order imposing, modifying, or remitting a fine or restitution order of more than \$100 shall include--</p> <p>(A) the name, social security account number, mailing address, and residence address of the defendant;</p> <p>(B) the docket number of the case;</p> <p>(C) the original amount of the fine or restitution order and the amount that is due and unpaid;</p> <p>(D) the schedule of payments (if other than immediate payment is permitted under section 3572(d));</p> <p>(E) a description of any modification or remission;</p> <p>(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</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(1) A penalty assessment under section 3013 of title 18, United States Code.</p> <p>(2) Restitution of all victims.</p> <p>(3) All other fines, penalties, costs, and other payments required under the sentence.</p>	
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(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>Court May Resentence Defendant Who Knowingly Fails to Pay Delinquent Restitution to Any Sentence That Might Have Been Originally Imposed, Including Imprisonment.</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>Victims of Sexual Assault Rights Regarding Ordering Defendant to Be Tested for AIDS; Required Showing; Test Results Confidential.</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>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.</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> <p>(1) identify the victim or victims of a crime;</p> <p>(2) inform the victims of their right to receive, on request, the services described in subsection (c); and</p> <p>(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).</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>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>Duty of Responsible Officials to Provide Victims with Certain Information Regarding Available Services.</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 and¹ 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>Duty of Responsible Officials to Arrange for Victims' Reasonable Protection.</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>Duty of Responsible Official to Provide Victims with Notice of Certain Pre-Sentencing Events within the Criminal Justice System.</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>Duty of Responsible Official to Ensure Secure Waiting Area.</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>Duty of Responsible Official to Provide Victims with Notice of Certain Post-Sentencing Events within the Criminal Justice System.</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>Duty of Responsible Official to Ensure Return of Victims’ Property.</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>Head of Investigating Agency’s Duty to Pay Costs of Victims’ Physical Exams, STD Testing and Counseling Sessions Regarding Such Testing and Results.</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>Duty of Responsible Official to Provide Victims with Information Regarding the Corrections Process.</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>Victims’ Privacy and Protection Rights Regarding Disclosure of Witnesses When Defendant Raises Alibi Defense.</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>Victims' Privacy and Protection Rights Regarding Disclosure of Witnesses When Defendant Raises Public-Authority Defense.</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>Victims’ Rights Related to Subpoenas for Personal or Confidential Information; Subpoena Content and Related Procedures.</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>Courts’ Authority to Appoint an Interpreter for Crime Victims.</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>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.</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"> (i) provide the defendant’s attorney an opportunity to speak on the defendant’s behalf; (ii) address the defendant personally in order to permit the defendant to speak or present any information to mitigate the sentence; and (iii) provide an attorney for the government an opportunity to speak equivalent to that of the defendant’s attorney. <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>Victims’ Restitution and Notification Rights During an Appeal.</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"> (A) a restraining order; (B) an injunction; (C) an order requiring the defendant to deposit all or part of any monetary restitution into the district court’s registry; or (D) an order requiring the defendant to post a bond. <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’ Privacy Rights and Protections Regarding Court Filings: Redaction of Personally Identifiable Information; Exemptions; Filings Under Seal; Protective Orders; Waiver.</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"> (1) the last four digits of the social-security number and taxpayer-identification number; (2) the year of the individual’s birth; (3) the minor’s initials; (4) the last four digits of the financial-account number; and (5) the city and state of the home address. <p>(b) Exemptions from the Redaction Requirement. The redaction requirement does not apply to the following:</p> <ul style="list-style-type: none"> (1) a financial-account number or real property address that identifies the property allegedly subject to forfeiture in a forfeiture proceeding; (2) the record of an administrative or agency proceeding; 	<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>Government’s Duty to Use Best Efforts to Give Victims Notice of Any Public Proceeding Involving the Crime.</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>Victims’ Right to Be Present and Heard at Public Court Proceedings; Courts’ Duty to Not Exclude</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>Procedural Rule Regarding Victims’ Rights Enforcement and Limitations.</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>United States Sentencing Guidelines: Victims’ Rights to Restitution.</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>United States Sentencing Guidelines: Victims' Rights (Policy Statement).</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>FEDERAL VICTIMS' RIGHTS: SELECT DEFINITIONS</p>	<p>Federal Statutes and Rules</p>
<p>Crime Victims' Rights Act (CVRA) Definitions.</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>CVRA Definition of “Crime Victim” for the Purposes of Victims’ Rights in Habeas Corpus Proceedings.</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>Sexual Assault Survivors’ Rights Definition of “Sexual Assault”.</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>Mandatory Reporting of Child Abuse in Indian Country Definitions.</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>Mandatory Restitution for Crimes Involving Sexual Exploitation of Children and Other Abuse Definitions.</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>Interstate Domestic Violence and Stalking Victims' Rights Definitions.</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.¹</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"> (A) the length of the relationship; and (B) the type of relationship; and (C) the frequency of interaction between the persons involved in the relationship. <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>¹ 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>Interstate Domestic Violence and Stalking Victims’ Right to Mandatory Restitution Definitions.</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"> (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; 	<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>Mandatory Restitution for Crimes Involving Transportation of Persons for Illegal Sexual Activity and Related Crimes Definitions.</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>Child-Victims’ Rights Definitions.</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>


<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;</p> <p>(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;</p> <p>(10) the term “sex crime” means an act of sexual abuse that is a criminal act;</p> <p>(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</p> <p>(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.</p> <p> 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>	
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<p>Victims' Right to Be Present at Trial Definition of "Victim".</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>Victim and Witness Protection Act (VWPA) Definition of "Victim".</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>Mandatory Victims Restitution Act (MVRA) Definition of "Victim".</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>Federal Sentencing Provisions Definitions.</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>Victims' Rights and Restitution Act of 1990 Definitions.</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"> (i) a spouse; (ii) a legal guardian; (iii) a parent; (iv) a child; (v) a sibling; (vi) another family member; or (vii) another person designated by the court. <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

SELECT STATE CRIME VICTIMS' RIGHTS	Minnesota Statutes and Rules
<p>Scope of Victims' Rights.</p> <p>The rights afforded to crime victims in sections 611A.01 to 611A.06 are applicable to adult criminal cases, juvenile delinquency proceedings, juvenile traffic proceedings involving driving under the influence of alcohol or drugs, and proceedings involving any other act committed by a juvenile that would be a crime as defined in section 609.02, if committed by an adult.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p>	<p>Minn. Stat. Ann. § 611A.015.</p>
<p>Victims' Right to Notification of Rights and Available Services.</p> <p>(a) The Office of Justice Programs in the Department of Public Safety shall update the two model notices of the rights of crime victims.</p> <p>(b) The initial notice of the rights of crime victims must be distributed by a peace officer to each victim, as defined in section 611A.01, at the time of initial contact with the victim. The notice must inform a victim of:</p> <ol style="list-style-type: none"> (1) the victim's right to apply for reparations to cover losses, not including property losses, resulting from a violent crime and the telephone number to call to request an application; (2) the victim's right to request that the law enforcement agency withhold public access to data revealing the victim's identity under section 13.82, subdivision 17, paragraph (d); (3) the additional rights of domestic abuse victims as described in section 629.341; (4) information on the nearest crime victim assistance program or resource; 	<p>Minn. Stat. Ann. § 611A.02, subd. 2.</p>

(5) the victim's rights, if an offender is charged, to be informed of and participate in the prosecution process, including the right to request restitution; and
(6) in homicide cases, information on rights and procedures available under sections 524.2-803, 524.3-614, and 524.3-615.

(c) A supplemental notice of the rights of crime victims must be distributed by the city or county attorney's office to each victim, within a reasonable time after the offender is charged or petitioned. This notice must inform a victim of all the rights of crime victims under this chapter.



Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."



Minn. Stat. Ann. § 13.82, subd. 17(d), which affords victims the right to request the withholding of their identifying information from publicly accessible data, is included below.








Minn. Stat. Ann. § 629.341, which provides certain rights to domestic abuse victims, is included below.



Minn. Stat. Ann. §§ 524.2-803, 524.3-614, and 524.3-615 govern the effects of homicide on certain probate rights and procedures.



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> A promising practice is to have a policy establishing what constitutes “a reasonable time after the offender is charged or petitioned.”</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>Victims’ Right to Request that Law Enforcement Withhold Public Access to Data that Would Reveal the Victim’s Identity.</p> <p>A victim has a right under section 13.82, subdivision 17, clause (d), to request a law enforcement agency to withhold public access to data revealing the victim’s identity.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Minn. Stat. Ann. § 13.82, subd. 17(d), which affords victims the right to request the withholding of their identifying information from publicly accessible data, is included below.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights.</p>	<p>Minn. Stat. Ann. § 611A.021.</p>

Victims' Rights Regarding Plea Agreements: to Notice and Information Regarding Right to Be Present and Heard at Sentencing and Plea Hearing; Prosecutor's Duties Related to Victim Notification.

Minn. Stat. Ann. § 611A.03.

Subd. 1. Plea agreements; notification of victim. Prior to the entry of the factual basis for a plea pursuant to a plea agreement recommendation, a prosecuting attorney shall make a reasonable and good faith effort to inform the victim of:

- (1) the contents of the plea agreement recommendation, including the amount of time recommended for the defendant to serve in jail or prison if the court accepts the agreement; and
- (2) the right to be present at the sentencing hearing and at the hearing during which the plea is presented to the court and to express orally or in writing, at the victim's option, any objection to the agreement or to the proposed disposition. If the victim is not present when the court considers the recommendation, but has communicated objections to the prosecuting attorney, the prosecuting attorney shall make these objections known to the court.

Subd. 2. Notification duties. A prosecuting attorney satisfies the requirements of subdivision 1 by notifying:




- (1) the victim's legal guardian or guardian ad litem; or
- (2) the three victims the prosecuting attorney believes to have suffered the most, if there are more than three victims of the offense.



Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."








A promising practice is to have a policy and procedure in place establishing what constitutes "a reasonable and good faith effort to inform the victim" of the contents of a plea and of their rights to be present and heard at sentencing and/or a plea hearing.




<p>Victims' Right to Submit a Statement at a Plea Presentation Hearing.</p> <p>A victim has the rights described in section 611A.03, subdivision 1, clause (2), at a plea presentation hearing.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p> <p> Minn. Stat. Rev. Ann. § 611A.03, subd. 1, cl. 2 governs the prosecutor's notification duties regarding plea agreements. This provision is included above.</p>	<p>Minn. Stat. Ann. § 611A.0301.</p>
<p>Victims' Right to Provide Input Prior to Pretrial Diversion.</p> <p>A prosecutor shall make every reasonable effort to notify and seek input from the victim prior to referring a person into a pretrial diversion program in lieu of prosecution for a violation of sections 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.224, 609.2242, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, 609.582, subdivision 1, 609.687, 609.713, and 609.749.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p>	<p>Minn. Stat. Ann. § 611A.031.</p>
<p>Domestic Abuse Prosecutions Plan and Procedures; Pilot Program.</p> <p>Contents of plan. Each county and city attorney shall develop and implement a written plan to expedite and improve the efficiency and just disposition of domestic abuse cases brought</p>	<p>Minn. Stat. Ann. § 611A.0311, subd. 2.</p>



to the prosecuting authority. Domestic abuse advocates, law enforcement officials, and other interested members of the public must have an opportunity to assist in the development or adaptation of the plans in each jurisdiction. The commissioner shall make the plan and related training and technical assistance available to all city and county attorneys. All plans must state goals and contain policies and procedures to address the following matters:



- (1) early assignment of a trial prosecutor who has the responsibility of handling the domestic abuse case through disposition, whenever feasible, or, where applicable, probation revocation; and early contact between the trial prosecutor and the victim;
- (2) procedures to facilitate the earliest possible contact between the prosecutor's office and the victim for the purpose of acquainting the victim with the criminal justice process, the use of subpoenas, the victim's role as a witness in the prosecution, and the domestic abuse or victim services that are available;
- (3) procedures to coordinate the trial prosecutor's efforts with those of the domestic abuse advocate or victim advocate, where available, and to facilitate the early provision of advocacy services to the victim;
- (4) procedures to encourage the prosecution of all domestic abuse cases where a crime can be proven;
- (5) methods that will be used to identify, gather, and preserve evidence in addition to the victim's in-court testimony that will enhance the ability to prosecute a case when a victim is reluctant to assist, including but not limited to physical evidence of the victim's injury, evidence relating to the scene of the crime, eyewitness testimony, and statements of the victim made at or near the time of the injury;
- (6) procedures for educating local law enforcement agencies about the contents of the plan and their role in assisting with its implementation;
- (7) the use for subpoenas to victims and witnesses, where appropriate;

<p>(8) procedures for annual review of the plan to evaluate whether it is meeting its goals effectively and whether improvements are needed; and</p> <p>(9) a timetable for implementation.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 and § 611A.0311, subd. 1, define the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Certain Victims’ Rights to Notice of Decision to Not Prosecute.</p> <p>(a) A prosecutor shall make every reasonable effort to notify a victim of domestic assault, a criminal sexual conduct offense, or harassment or stalking that the prosecutor has decided to decline prosecution of the case or to dismiss the criminal charges filed against the defendant. Efforts to notify the victim should include, in order of priority: (1) contacting the victim or a person designated by the victim by telephone; and (2) contacting the victim by mail. If a suspect is still in custody, the notification attempt shall be made before the suspect is released from custody.</p> <p>(b) Whenever a prosecutor dismisses criminal charges against a person accused of domestic assault, a criminal sexual conduct offense, or harassment or stalking, a record shall be made of the specific reasons for the dismissal. If the dismissal is due to the unavailability of the witness, the prosecutor shall indicate the specific reason that the witness is unavailable.</p> <p>(c) Whenever a prosecutor notifies a victim of domestic assault, criminal sexual conduct, or harassment or stalking under this section, the prosecutor shall also inform the victim of the method and benefits of seeking an order for protection under section 518B.01 or a restraining order under section 609.748 and that the victim may seek an order without paying a fee.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 and Minn. Stat. Ann. § 611A.0315, subd. 2, define the terms used in this statutory provision. These definitions are included below in the section</p>	<p>Minn. Stat. Ann. § 611A.0315, subd. 1.</p>

<p>“State Victims’ Rights: Select Definitions.”</p> <p> Minn. Rev. Stat. Ann. § 518B.01, which governs protective orders for victims of domestic abuse, and Minn. Rev. Stat. Ann. § 609.748, which governs harassment restraining orders, are included below.</p>	
<p>Victims’ Right to Request that Prosecutor Make a Speedy Trial Demand; Prosecutor’s Discretion to Make Speedy Trial Demand Without a Request When Victim is a Vulnerable Adult.</p> <p>(a) A victim has the right to request that the prosecutor make a demand under rule 11.09 of the Rules of Criminal Procedure that the trial be commenced within 60 days of the demand. The prosecutor shall make reasonable efforts to comply with the victim’s request.</p> <p>...</p> <p>(c) In a criminal proceeding in which a vulnerable adult, as defined in section 609.232, subdivision 11, is a victim, the state may move the court for a speedy trial. The court, after consideration of the age and health of the victim, may grant a speedy trial. The motion may be filed and served with the complaint or any time after the complaint is filed and served.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy in place to establish what constitutes “reasonable efforts” by the prosecutor.</p>	<p>Minn. Stat. Ann. § 611A.033(a), (c).</p>

<p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights.</p>	
<p>Victims’ Right to Notice of Schedule Change Regarding Proceedings Where Victims Were Subpoenaed or Requested to Testify.</p> <p>A prosecutor shall make reasonable efforts to provide advance notice of any change in the schedule of the court proceedings to a victim who has been subpoenaed or requested to testify.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy in place to establish what constitutes “reasonable efforts” by the prosecutor.</p>	<p>Minn. Stat. Ann. § 611A.033(b).</p>
<p>Victims’ Right to Separate Waiting Areas in Courthouse or Other Safeguards to Minimize Victims’ Contact with Defendants, Defendants’ Relatives, and Defendants’ Witnesses.</p> <p>The court shall provide a waiting area for victims during court proceedings which is separate from the waiting area used by the defendant, the defendant’s relatives, and defense witnesses, if such a waiting area is available and its use is practical. If a separate waiting area for victims is not available or practical, the court shall provide other safeguards to minimize the victim’s contact with the defendant, the defendant’s relatives, and defense witnesses during court proceedings, such as increased bailiff surveillance and victim escorts.</p>	<p>Minn. Stat. Ann. § 611A.034.</p>

<p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Although this provision is directed at courts, the same concept can and should be applied to law enforcement.</p>	
<p>Prosecutors’ Discretion to Not Disclose Certain Identifying and Locating Information of Victims.</p> <p>(a) A prosecutor may elect not to disclose a victim’s or witness’s home or employment address, telephone number, or date of birth if the prosecutor certifies to the trial court that:</p> <ol style="list-style-type: none"> (1) the defendant or respondent has been charged with or alleged to have committed a crime; (2) the nondisclosure is needed to address the victim’s or witness’s concerns about safety or security; and (3) the victim’s or witness’s home or employment address, telephone number, or date of birth is not relevant to the prosecution’s case. <p>(b) If such a certification is made, the prosecutor must make a motion with proper notice for the court’s permission to continue to withhold this information. The court shall either:</p> <ol style="list-style-type: none"> (1) order the information disclosed to defense counsel, but order it not disclosed to the defendant; or (2) order the prosecutor to contact the victim or witness to arrange a confidential meeting between defense counsel, or defense counsel’s agent, and the victim or witness, at a neutral location, if the victim or witness consents to a meeting. <p>This subdivision shall not be construed to compel a victim or witness to give any statement to or attend any meeting with defense counsel or defense counsel’s agent.</p>	<p>Minn. Stat. Ann. § 611A.035, subd. 1.</p>

<p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Victims’ Right to Not Disclose Certain Identifying and Locating Information When Testifying in Court.</p> <p>No victim or witness providing testimony in court proceedings may be compelled to state a home or employment address, telephone number, or the date of birth of the victim or witness on the record in open court unless the court finds that the testimony would be relevant evidence.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Minn. Stat. Ann. § 611A.035, subd. 2.</p>
<p>Victims’ Employment-Related Rights.</p> <p>Subd. 1. Victim or witness. An employer must allow a victim or witness, who is subpoenaed or requested by the prosecutor to attend court for the purpose of giving testimony, reasonable time off from work to attend criminal proceedings related to the victim’s case.</p> <p>Subd. 2. Victim’s spouse or immediate family members. An employer must allow a victim of a violent crime, as well as the victim’s spouse or immediate family members, reasonable time off from work to attend criminal proceedings related to the victim’s case.</p> <p>Subd. 3. Prohibited acts. An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee’s compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to attend a criminal proceeding pursuant to this section.</p>	<p>Minn. Stat. Ann. § 611A.036, subds. 1–6.</p>

Subd. 4. Verification; confidentiality. An employee who is absent from the workplace shall give 48 hours' advance notice to the employer, unless impracticable or an emergency prevents the employee from doing so. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

Subd. 5. Penalty. An employer who violates this section is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to offer job reinstatement to any employee discharged from employment in violation of this section, and to pay the employee back wages as appropriate.

Subd. 6. Civil action. In addition to any remedies otherwise provided by law, an employee injured by a violation of this section may bring a civil action for recovery for damages, together with costs and disbursements, including reasonable attorneys fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court.



Minn. Rev. Stat. Ann. § 611A.01 and Minn. Stat. Ann. § 611A.036, subd. 7 define the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."







Under Minn. Stat. Ann. § 518B.01, subd. 23, domestic violence victims also have the right to not be retaliated against by their employer for taking reasonable time off from work to obtain or attempt to obtain a protective order. Under Minn. Stat. Ann. § 609.748, subd. 10, victims who apply for a restraining order may not be penalized by an employer for time taken off from work to obtain or attempt to obtain such an order. These provisions are included below.









A promising practice is to have a policy and procedure in place to notify victims, at the



<p>first opportunity, of their employment-related rights and to provide employers with this information.</p>	
<p>Victims' Rights Regarding Impact Statement and Presentence Investigation: Contents of Statement; Notice from Officer Conducting Presentence Investigation to Victim About Conviction or Guilty Plea, Right to Request Restitution, Time and Place of Sentencing, and Proposed Sentence or Plea Agreement.</p> <p>Subd. 1. Victim impact statement. A presentence investigation report prepared under section 609.115 shall include the following information relating to victims:</p> <ul style="list-style-type: none"> (1) a summary of the damages or harm and any other problems generated by the criminal occurrence; (2) a concise statement of what disposition the victim deems appropriate for the defendant or juvenile court respondent, including reasons given, if any, by the victim in support of the victim's opinion; and (3) an attachment to the report, consisting of the victim's written objections, if any, to the proposed disposition if the victim provides the officer conducting the presentence investigation with this written material within a reasonable time prior to the disposition. <p>Subd. 2. Notice to victim. The officer conducting a presentence or predispositional investigation shall make reasonable and good faith efforts to assure that the victim of that crime is provided with the following information by contacting the victim or assuring that another public or private agency has contacted the victim: (1) the charge or juvenile court petition to which the defendant has been convicted or pleaded guilty, or the juvenile respondent has admitted in court or has been found to have committed by the juvenile court, and of any plea agreement between the prosecution and the defense counsel; (2) the victim's right to request restitution pursuant to section 611A.04; (3) the time and place of the sentencing or juvenile court disposition and the victim's right to be present; and (4) the victim's right to object in writing to the court, prior to the time of sentencing or juvenile court disposition, to the proposed sentence or juvenile dispositional alternative, or to the terms of the proposed plea agreement. To assist the victim in making a recommendation under clause (4), the officer shall provide the victim with information about the court's</p>	<p>Minn. Stat. Ann. § 611A.037.</p>

<p>options for sentencing and other dispositions. Failure of the officer to comply with this subdivision does not give any rights or grounds for postconviction or postjuvenile disposition relief to the defendant or juvenile court respondent, nor does it entitle a defendant or a juvenile court respondent to withdraw a plea of guilty.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Victims’ Right to Submit a Statement, Orally or in Writing, at Sentencing.</p> <p>(a) A victim has the right to submit an impact statement to the court at the time of sentencing or disposition hearing. The impact statement may be presented to the court orally or in writing, at the victim’s option. If the victim requests, the prosecutor must orally present the statement to the court. Statements may include the following, subject to reasonable limitations as to time and length:</p> <ul style="list-style-type: none"> (1) a summary of the harm or trauma suffered by the victim as a result of the crime; (2) a summary of the economic loss or damage suffered by the victim as a result of the crime; and (3) a victim’s reaction to the proposed sentence or disposition. <p>(b) A representative of the community affected by the crime may submit an impact statement in the same manner that a victim may as provided in paragraph (a). This impact statement shall describe the adverse social or economic effects the offense has had on persons residing and businesses operating in the community where the offense occurred.</p> <p>(c) If the court permits the defendant or anyone speaking on the defendant’s behalf to present a statement to the court, the court shall limit the response to factual issues which are relevant to sentencing.</p> <p>(d) Nothing in this section shall be construed to extend the defendant’s right to address the court under section 631.20.</p>	<p>Minn. Stat. Ann. § 611A.038.</p>

<p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Victims’ Right to Notice of Offender’s Release and Expungement.</p> <p>At the time of sentencing or the disposition hearing in a case in which there is an identifiable victim, the court or its designee shall make reasonable good faith efforts to inform each affected victim of the offender notice of release and notice of expungement provisions of section 611A.06. If the victim is a minor, the court or its designee shall, if appropriate, also make reasonable good faith efforts to inform the victim’s parent or guardian of the right to notice of release and notice of expungement. The state court administrator, in consultation with the commissioner of corrections and the prosecuting authorities, shall prepare a form that outlines the notice of release and notice of expungement provisions under section 611A.06 and describes how a victim should complete and submit a request to the commissioner of corrections or other custodial authority to be informed of an offender’s release or submit a request to the prosecuting authorities to be informed of an offender’s petition for expungement. The state court administrator shall make these forms available to court administrators who shall assist the court in disseminating right to notice of offender release and notice of expungement information to victims.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy in place to establish what constitutes “reasonable good faith efforts” to provide victims with this information.</p>	<p>Minn. Stat. Ann. § 611A.0385.</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> 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 through the submission of such requests to the commissioner of corrections, other custodial authorities, or the prosecuting attorney. Agencies should carefully document a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Victims’ Right to Notice of Final Disposition of the Case and of Certain Sentence Modifications.</p> <p>Subd. 1. Notice required. Except as otherwise provided in subdivision 2, within 15 working days after a conviction, acquittal, or dismissal in a criminal case in which there is an identifiable crime victim, the prosecutor shall make reasonable good faith efforts to provide to each affected crime victim oral or written notice of the final disposition of the case. When the court is considering modifying the sentence for a felony or a crime of violence or an attempted crime of violence, the court or its designee shall make a reasonable and good faith effort to notify the victim of the crime. If the victim is incapacitated or deceased, notice must be given to the victim’s family. If the victim is a minor, notice must be given to the victim’s parent or guardian. The notice must include:</p> <ol style="list-style-type: none"> (1) the date and approximate time of the review; (2) the location where the review will occur; (3) the name and telephone number of a person to contact for additional information; and (4) a statement that the victim and victim’s family may provide input to the court concerning the sentence modification. <p>As used in this section, “crime of violence” has the meaning given in section 624.712, subdivision 5, and also includes gross misdemeanor violations of section 609.224, and nonfelony violations of sections 518B.01, 609.2231, 609.3451, 609.748, and 609.749.</p>	<p>Minn. Stat. Ann. § 611A.039.</p>

<p>Subd. 2. Exception. If a prosecutor contacts an identifiable crime victim in advance of the final case disposition, either orally or in writing, and notifies the victim of the victim’s right to request information on the final disposition of the case, the prosecutor shall only be required to provide the notice described in subdivision 1 to those victims who have indicated in advance their desire to be notified of the final case disposition.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy in place to establish what constitutes “reasonable good faith efforts” to provide victims with this information.</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> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Victims’ Right to Information Regarding Defendant’s Appeal.</p> <p>Subd. 1. Prosecuting attorney to notify victims. (a) The prosecuting attorney shall make a reasonable and good faith effort to provide to each affected victim oral or written notice of a pending appeal. This notice must be provided within 30 days of filing of the respondent’s brief. The notice must contain a brief explanation of the contested issues or a copy of the brief, an explanation of the applicable process, information about scheduled oral arguments</p>	<p>Minn. Stat. Ann. § 611A.0395.</p>

<p>or hearings, a statement that the victim and the victim’s family may attend the argument or hearing, and the name and telephone number of a person that may be contacted for additional information.</p> <p>(b) In a criminal case in which there is an identifiable crime victim, within 15 working days of a final decision on an appeal, the prosecuting attorney shall make a reasonable and good faith effort to provide to each affected victim oral or written notice of the decision. This notice must include a brief explanation of what effect, if any, the decision has upon the judgment of the trial court and the name and telephone number of a person that may be contacted for additional information.</p> <p>Subd. 2. Exception. The notices described in subdivision 1 do not have to be given to victims who have previously indicated a desire not to be notified.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included above in the section “Select Definitions.”</p> <p> A promising practice is to have a policy in place to establish what constitutes “reasonable good faith efforts” to provide victims with this information.</p>	
<p>Victims’ Right to Restitution; Procedures Related to Restitution Payment.</p> <p>Subd. 1. Request; decision. (a) A victim of a crime has the right to receive restitution as part of the disposition of a criminal charge or juvenile delinquency proceeding against the offender if the offender is convicted or found delinquent. The court, or a person or agency designated by the court, shall request information from the victim to determine the amount of restitution owed. The court or its designee shall obtain the information from the victim in affidavit form or by other competent evidence. Information submitted relating to restitution must describe the items or elements of loss, itemize the total dollar amounts of restitution claimed, and specify the reasons justifying these amounts, if restitution is in the form of money or property. A request for restitution may include, but is not limited to, any out-of-pocket losses resulting from the crime, including medical and therapy costs, replacement of wages and services, expenses incurred to return a child who was a victim of</p>	<p>Minn. Stat. Ann. § 611A.04.</p>

a crime under section 609.26 to the child's parents or lawful custodian, and funeral expenses. An actual or prospective civil action involving the alleged crime shall not be used by the court as a basis to deny a victim's right to obtain court-ordered restitution under this section. In order to be considered at the sentencing or dispositional hearing, all information regarding restitution must be received by the court administrator of the appropriate court at least three business days before the sentencing or dispositional hearing. The court administrator shall provide copies of this request to the prosecutor and the offender or the offender's attorney at least 24 hours before the sentencing or dispositional hearing. The issue of restitution is reserved or the sentencing or dispositional hearing or hearing on the restitution request may be continued if the victim's affidavit or other competent evidence submitted by the victim is not received in time. At the sentencing or dispositional hearing, the court shall give the offender an opportunity to respond to specific items of restitution and their dollar amounts in accordance with the procedures established in section 611A.045, subdivision 3.

(b) The court may amend or issue an order of restitution after the sentencing or dispositional hearing if:

- (1) the offender is on probation, committed to the commissioner of corrections, or on supervised release;
- (2) sufficient evidence of a right to restitution has been submitted; and
- (3) the true extent of the victim's loss or the loss of the Crime Victims Reparations Board was not known at the time of the sentencing or dispositional hearing, or hearing on the restitution request.

If the court holds a hearing on the restitution request, the court must notify the offender, the offender's attorney, the victim, the prosecutor, and the Crime Victims Reparations Board at least five business days before the hearing. The court's restitution decision is governed by this section and section 611A.045.

(c) The court shall grant or deny restitution or partial restitution and shall state on the record its reasons for its decision on restitution if information relating to restitution has been presented. If the court grants partial restitution it shall also specify the full amount of restitution that may be docketed as a civil judgment under subdivision 3. The court may not require that the victim waive or otherwise forfeit any rights or causes of action as a condition of granting restitution or partial restitution. In the case of a defendant who is on probation, the court may not refuse to enforce an order for restitution solely on the grounds that the order has been docketed as a civil judgment.

Subd. 1a. Crime board request. The Crime Victims Reparations Board may request restitution on behalf of a victim by filing a copy of orders of the board, if any, which detail any amounts paid by the board to the victim. The board may file the payment order with the court administrator or with the person or agency the court has designated to obtain information relating to restitution. The board shall submit the payment order not less than three business days after it is issued by the board. The court administrator shall provide copies of the payment order to the prosecutor and the offender or the offender's attorney within 48 hours of receiving it from the board or at least 24 hours before the sentencing or dispositional hearing, whichever is earlier. By operation of law, the issue of restitution is reserved if the payment order is not received at least three days before the sentencing or dispositional hearing. The filing of a payment order for reparations with the court administrator shall also serve as a request for restitution by the victim. The restitution requested by the board may be considered to be both on its own behalf and on behalf of the victim. If the board has not paid reparations to the victim or on the victim's behalf, restitution may be made directly to the victim. If the board has paid reparations to the victim or on the victim's behalf, the court shall order restitution payments to be made directly to the board.

Subd. 1b. Affidavit of disclosure. An offender who has been ordered by the court to make restitution in an amount of \$500 or more shall file an affidavit of financial disclosure with the correctional agency responsible for investigating the financial resources of the offender on request of the agency. The commissioner of corrections shall prescribe what financial information the affidavit must contain.



Subd. 2. Procedures. The offender shall make restitution payments to the court administrator of the county, municipal, or district court of the county in which the restitution is to be paid. The court administrator shall disburse restitution in incremental payments and may not keep a restitution payment for longer than 30 days; except that the court administrator is not required to disburse a restitution payment that is under \$10 unless the payment would fulfill the offender's restitution obligation. The court administrator shall keep records of the amount of restitution ordered in each case, any change made to the restitution order, and the amount of restitution actually paid by the offender. The court

administrator shall forward the data collected to the state court administrator who shall compile the data and make it available to the supreme court and the legislature upon request.

Subd. 3. Effect of order for restitution. An order of restitution may be enforced by any person named in the order to receive the restitution, or by the Crime Victims Reparations Board in the same manner as a judgment in a civil action. Any order for restitution in favor of a victim shall also operate as an order for restitution in favor of the Crime Victims Reparations Board, if the board has paid reparations to the victim or on the victim's behalf. Filing fees for docketing an order of restitution as a civil judgment are waived for any victim named in the restitution order. An order of restitution shall be docketed as a civil judgment, in the name of any person named in the order and in the name of the crime victims reparations board, by the court administrator of the district court in the county in which the order of restitution was entered. The court administrator also shall notify the commissioner of revenue of the restitution debt in the manner provided in chapter 270A, the Revenue Recapture Act. A juvenile court is not required to appoint a guardian ad litem for a juvenile offender before docketing a restitution order. Interest shall accrue on the unpaid balance of the judgment as provided in section 549.09. Whether the order of restitution has been docketed or not, it is a debt that is not dischargeable in bankruptcy. A decision for or against restitution in any criminal or juvenile proceeding is not a bar to any civil action by the victim or by the state pursuant to section 611A.61 against the offender. The offender shall be given credit, in any order for judgment in favor of a victim in a civil action, for any restitution paid to the victim for the same injuries for which the judgment is awarded.

Subd. 4. Payment of restitution. When the court orders the payment of restitution and the payment of a fine, fees, surcharges, or other financial obligations, the court administrator shall apply any payments to the restitution obligation before applying payments to the fine, fees, surcharges, or other financial obligations, unless otherwise ordered by the court.

Subd. 5. Unclaimed restitution payments. Restitution payments held by the court for a victim that remain unclaimed by the victim for more than three years shall be deposited in the crime victims account created in section 611A.612. At the time the deposit is made, the court shall record the name and last known address of the victim and the amount being deposited, and shall forward the data to the Crime Victims Reparations Board.

<p>Subd. 6. Estate of victim. If a victim dies before or after a request for restitution is made or an order for restitution is issued, the personal representative of the victim’s estate may request or enforce an order for restitution on behalf of the victim. If a personal representative is not appointed and no application is pending, an heir of the victim may file an affidavit to request or enforce an order for restitution pursuant to this subdivision. Appointment of a personal representative does not affect the right of other victims, as defined in section 611A.01, to request an order for restitution on their behalf.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section “State 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>Procedures Related to Issuance of Restitution Order.</p> <p>Subd. 1. Criteria. (a) The court, in determining whether to order restitution and the amount of the restitution, shall consider the following factors:</p> <ul style="list-style-type: none"> (1) the amount of economic loss sustained by the victim as a result of the offense; and (2) the income, resources, and obligations of the defendant. <p>(b) If there is more than one victim of a crime, the court shall give priority to victims who are not governmental entities when ordering restitution.</p> <p>Subd. 2. Presentence investigation. The presentence investigation report made pursuant to section 609.115, subdivision 1, must contain information pertaining to the factors set forth in Subd. 1.</p>	<p>Minn. Stat. Ann. § 611A.045.</p>



Subd. 2a. Payment structure. The court shall include in every restitution order a provision requiring a payment schedule or structure. The court may assign the responsibility for developing the schedule or structure to the court administrator, a probation officer, or another designated person. The person who develops the payment schedule or structure shall consider relevant information supplied by the defendant. If the defendant is placed on supervised probation, the payment schedule or structure must be incorporated into the probation agreement and must provide that the obligation to pay restitution continues throughout the term of probation. If the defendant is not placed on probation, the structure or schedule must provide that the obligation to pay restitution begins no later than 60 days after the restitution order is issued.

Subd. 3. Dispute; evidentiary burden; procedures. (a) At the sentencing, dispositional hearing, or hearing on the restitution request, the offender shall have the burden to produce evidence if the offender intends to challenge the amount of restitution or specific items of restitution or their dollar amounts. This burden of production must include a detailed sworn affidavit of the offender setting forth all challenges to the restitution or items of restitution, and specifying all reasons justifying dollar amounts of restitution which differ from the amounts requested by the victim or victims. The affidavit must be served on the prosecuting attorney and the court at least five business days before the hearing. A dispute as to the proper amount or type of restitution must be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of loss sustained by a victim as a result of the offense and the appropriateness of a particular type of restitution is on the prosecution.

(b) An offender may challenge restitution, but must do so by requesting a hearing within 30 days of receiving written notification of the amount of restitution requested, or within 30 days of sentencing, whichever is later. The hearing request must be made in writing and filed with the court administrator. A defendant may not challenge restitution after the 30-day time period has passed.



Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”

<p>Victims' Right to Request Probation Review Hearing Upon Defendants' Failure to Pay Restitution.</p> <p>A victim has the right to ask the offender's probation officer to request a probation review hearing if the offender fails to pay restitution as required in a restitution order.</p> <p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully document a victim's request to exercise rights.</p>	<p>Minn. Stat. Ann. § 611A.046.</p>
<p>Victims Right to Pursue Civil Remedies.</p> <p>The provision in any law for a penalty or forfeiture for its violation shall not be construed to deprive an injured person of the right to recover from the offender damages sustained by reason of the violation of such law.</p>	<p>Minn. Stat. Ann. § 611A.05.</p>
<p>Victims' Right to Notice of Release or Escape from Imprisonment or Incarceration.</p> <p>Subd. 1. Notice of release required. The commissioner of corrections or other custodial authority shall make a good faith effort to notify the victim that the offender is to be released from imprisonment or incarceration, including release on extended furlough and for work release; released from a juvenile correctional facility; released from a facility in which the offender was confined due to incompetency, mental illness, or mental deficiency, or commitment under section 253B.18 or chapter 253D; or if the offender's custody status is reduced, if the victim has mailed to the commissioner of corrections or to the head of the</p>	<p>Minn. Stat. Ann. § 611A.06.</p>

facility in which the offender is confined a written request for this notice, or the victim has made a request for this notice to the commissioner of corrections through the Department of Corrections electronic victim notification system. The good faith effort to notify the victim must occur prior to the offender's release or when the offender's custody status is reduced. For a victim of a felony crime against the person for which the offender was sentenced to imprisonment for more than 18 months, the good faith effort to notify the victim must occur 60 days before the offender's release.

Subd. 1a. Notice of expungement required. The prosecuting authority with jurisdiction over an offense for which expungement is being sought shall make a good faith effort to notify a victim that the expungement is being sought if: (1) the victim has mailed to the prosecuting authority with jurisdiction over an offense for which expungement is being sought a written request for this notice, or (2) the victim has indicated on a request for notice of expungement submitted under subdivision 1 a desire to be notified in the event the offender seeks an expungement for the offense.

A copy of any written request for a notice of expungement request received by the commissioner of corrections or other custodial authority shall be forwarded to the prosecutorial authority with jurisdiction over the offense to which the notice relates. The prosecutorial authority complies with this section upon mailing a copy of an expungement petition relating to the notice to the address which the victim has most recently provided in writing.

Subd. 2. Contents of notice. The notice given to a victim of a crime against a person must include the conditions governing the offender's release, and either the identity of the corrections agent who will be supervising the offender's release or a means to identify the court services agency that will be supervising the offender's release. The commissioner or other custodial authority complies with this section upon mailing the notice of impending release to the victim at the address which the victim has most recently provided to the commissioner or authority in writing, or by providing electronic notice to the victim who requested this notice through the Department of Corrections electronic victim notification system.

Subd. 3. Notice of escape. If an offender escapes from imprisonment or incarceration, including from release on extended furlough or work release, or from any facility described in subdivision 1, the commissioner or other custodial authority shall make all reasonable efforts to notify a victim who has requested notice of the offender's release under subdivision 1 within six hours after discovering the escape and shall also make reasonable efforts to notify the victim within 24 hours after the offender is apprehended.

Subd. 3a. Offender location. (a) Upon the victim's written or electronic request and if the victim and offender have been household or family members as defined in section 518B.01, subdivision 2, paragraph (b), the commissioner of corrections or the commissioner's designee shall disclose to the victim of an offender convicted of a qualified domestic violence-related offense as defined in section 609.02, subdivision 16, notification of the city and five-digit zip code of the offender's residency upon release from a Department of Corrections facility, unless:




(1) the offender is not under correctional supervision at the time of the victim's request;
(2) the commissioner or the commissioner's designee does not have the city or zip code; or
(3) the commissioner or the commissioner's designee reasonably believes that disclosure of the city or zip code of the offender's residency creates a risk to the victim, offender, or public safety.

(b) All identifying information regarding the victim including, but not limited to, the notification provided by the commissioner or the commissioner's designee is classified as private data on individuals as defined in section 13.02, subdivision 12, and is accessible only to the victim.

(c) This subdivision applies only where the offender is serving a prison term for a qualified domestic violence-related offense committed against the victim seeking notification.

Subd. 4. Private data. All identifying information regarding the victim, including the victim's request and the notice provided by the commissioner or custodial authority, is classified as private data on individuals as defined in section 13.02, subdivision 12, and is accessible only to the victim.

Subd. 5. Definition. As used in this section, "crime against the person" means a crime listed in section 611A.031.

<p> Minn. Rev. Stat. Ann. § 611A.01 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ 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> 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 through the submission of such requests to the commissioner of corrections, other custodial authorities, or the prosecuting attorney. Agencies should carefully document a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Sex Offense Victims’ Right to Request Testing of Sex Offender for HIV.</p> <p>Subd. 1. Testing on request of victim. (a) Upon the request or with the consent of the victim, the prosecutor shall make a motion in camera and the sentencing court shall issue an order requiring an adult convicted of or a juvenile adjudicated delinquent for violating section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or any other violent crime, as defined in section 609.1095, to submit to testing to determine the presence of human immunodeficiency virus (HIV) antibody if:</p> <p>(1) the crime involved sexual penetration, however slight, as defined in section 609.341, subdivision 12; or</p> <p>(2) evidence exists that the broken skin or mucous membrane of the victim was exposed to or had contact with the offender’s semen or blood during the commission of the crime in a</p>	<p>Minn. Stat. Ann. § 611A.19.</p>

manner which has been demonstrated epidemiologically to transmit the human immunodeficiency virus (HIV).


(b) When the court orders an offender to submit to testing under paragraph (a), the court shall order that the test be performed by an appropriate health professional who is trained to provide the counseling described in section 144.7414, and that no reference to the test, the motion requesting the test, the test order, or the test results may appear in the criminal record or be maintained in any record of the court or court services, except in the medical record maintained by the Department of Corrections.

(c) The order shall include the name and contact information of the victim's choice of health care provider.

Subd. 2. Disclosure of test results. The date and results of a test performed under subdivision 1 are private data as defined in section 13.02, subdivision 12, when maintained by a person subject to chapter 13, or may be released only with the subject's consent, if maintained by a person not subject to chapter 13. The results are available, on request, to the victim or, if the victim is a minor, to the victim's parent or guardian and positive test results shall be reported to the commissioner of health. Unless the subject of the test is an inmate at a state correctional facility, any test results given to a victim or victim's parent or guardian shall be provided by a health professional who is trained to provide the counseling described in section 144.7414. If the subject of the test is an inmate at a state correctional facility, test results shall be given by the Department of Corrections' medical director to the victim's health care provider who shall give the results to the victim or victim's parent or guardian. Data regarding administration and results of the test are not accessible to any other person for any purpose and shall not be maintained in any record of the court or court services or any other record. After the test results are given to the victim or the victim's parent or guardian, data on the test must be removed from any medical data or health records maintained under sections 13.384 or 144.291 to 144.298 and destroyed, except for those medical records maintained by the Department of Corrections.



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 in writing or otherwise. Agencies should carefully document a victim's request to exercise rights.

<p>Victims' Right to Notice of Risk of Sexually Transmitted Disease.</p> <p>Subd. 1. Notice required. A hospital shall give a written notice about sexually transmitted diseases to a person receiving medical services in the hospital who reports or evidences a sexual assault or other unwanted sexual contact or sexual penetration. When appropriate, the notice must be given to the parent or guardian of the victim.</p> <p>Subd. 2. Contents of notice. The commissioners of public safety and corrections, in consultation with sexual assault victim advocates and health care professionals, shall develop the notice required by Subd. 1. The notice must inform the victim of:</p> <ol style="list-style-type: none"> (1) the risk of contracting sexually transmitted diseases as a result of a sexual assault; (2) the symptoms of sexually transmitted diseases; (3) recommendations for periodic testing for the diseases, where appropriate; (4) locations where confidential testing is done and the extent of the confidentiality provided; (5) information necessary to make an informed decision whether to request a test of the offender under section 611A.19; and (6) other medically relevant information. <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>Minn. Stat. Ann. § 611A.20.</p>
<p>Sexual Conduct and Sex Trafficking Victims' Right to Not Submit to a Polygraph as a Part or a Condition of Proceeding with the Investigation, Charging or Prosecution of Such an Offense; Informed Consent to Polygraph.</p> <p>Subd. 1. Polygraph prohibition. No law enforcement agency or prosecutor shall require that a complainant of a criminal sexual conduct or sex trafficking offense submit to a polygraph examination as part of or a condition to proceeding with the investigation, charging, or prosecution of such offense.</p>	<p>Minn. Stat. Ann. § 611A.26, subs. 1–6.</p>

Subd. 2. Law enforcement inquiry. A law enforcement agency or prosecutor may not ask that a complainant of a criminal sexual conduct offense submit to a polygraph examination as part of the investigation, charging, or prosecution of such offense unless the complainant has been referred to, and had the opportunity to exercise the option of consulting with a sexual assault counselor as defined in section 595.02, subdivision 1, paragraph (k).

Subd. 3. Informed consent requirement. At the request of the complainant, a law enforcement agency may conduct a polygraph examination of the complainant only with the complainant's written, informed consent as provided in this subdivision.

Subd. 4. Informed consent. To consent to a polygraph, a complainant must be informed in writing that:

- (1) the taking of the polygraph examination is voluntary and solely at the victim's request;
- (2) a law enforcement agency or prosecutor may not ask or require that the complainant submit to a polygraph examination;
- (3) the results of the examination are not admissible in court; and
- (4) the complainant's refusal to take a polygraph examination may not be used as a basis by the law enforcement agency or prosecutor not to investigate, charge, or prosecute the offender.

Subd. 5. Polygraph refusal. A complainant's refusal to submit to a polygraph examination shall not prevent the investigation, charging, or prosecution of the offense.




Minn. Rev. Stat. Ann. § 611A.26, subd. 6 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."



A promising practice is to ensure that officers who work with victims of sexual offenses are aware that they cannot require victims to submit to a polygraph examination as a part or a condition of proceeding with the investigation.

<p>Sexual Assault Victims' Right to Access Evidence Related to Sexual Assault Examination Kit.</p> <p>Subd. 1. Access to law enforcement data. (a) Upon written request from the victim or victim's designee as described in subdivision 2, the investigating law enforcement agency shall release the following active investigative data, as defined in section 13.82, subdivision 7, to a victim of sexual assault about a submitted sexual assault examination kit, as defined in section 299C.106, subdivision 1, paragraph (g):</p> <ul style="list-style-type: none"> (1) the date that a sexual assault examination kit was submitted to a forensic laboratory, as defined in section 299C.157, subdivision 1, clause (2), and the date that the agency received notice of the results of that testing; and (2) whether a DNA profile was obtained from the testing. <p>(b) The agency may refuse the request under paragraph (a) if the release of that data will interfere with the investigation.</p> <p>Subd. 2. Responding to a victim request for data. No later than January 1, 2019, each law enforcement agency shall adopt policies and procedures subject to section 13.82, subdivision 7, to provide investigative data under this section that includes but is not limited to the following requirements:</p> <ul style="list-style-type: none"> (1) agency identification of a representative or representatives to respond to requests for data from sexual assault victims and to serve as a liaison between the agency and the forensic laboratory; (2) agency response to inquiries within 30 days of receipt, unless the agency declines to provide the information under subdivision 1, paragraph (b); (3) the sexual assault victim can designate another person to request information on the victim's behalf by providing written authorization to the agency except that an agency can decline to provide the information under subdivision 1, paragraph (b); and (4) agency development of a procedure that allows a sexual assault victim to contact the agency representative to request that a restricted kit as defined in section 299C.106, subdivision 1, paragraph (e), be reclassified as an unrestricted kit as defined in section 299C.106, subdivision 1, paragraph (h), if the restricted kit is in the possession of the agency. 	<p>Minn. Stat. Ann. § 611A.27.</p>
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 <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 in writing or otherwise. Agencies should carefully document a victim’s request to exercise rights.</p>	
<p>Crime Victims’ Reparations; Prohibitions on Awards; Limitations on Awards.</p> <p>Subd. 1. Generally. Except as provided in subdivisions 1a and 2, the following persons shall be entitled to reparations upon a showing by a preponderance of the evidence that the requirements for reparations have been met:</p> <ol style="list-style-type: none"> (1) a victim who has incurred economic loss; (2) a dependent who has incurred economic loss; (3) the estate of a deceased victim if the estate has incurred economic loss; (4) any other person who has incurred economic loss by purchasing any of the products, services, and accommodations described in section 611A.52, subdivision 8, for a victim; (5) the guardian, guardian ad litem, conservator or authorized agent of any of these persons. <p>Subd. 1a. Providers; limitations. No hospital, medical organization, health care provider, or other entity that is not an individual may qualify for reparations under subdivision 1, clause (4). If a hospital, medical organization, health care provider, or other entity that is not an individual qualifies for reparations under subdivision 1, clause (5), because it is a guardian, guardian ad litem, conservator, or authorized agent, any reparations to which it is entitled must be made payable solely or jointly to the victim, if alive, or to the victim’s estate or successors, if the victim is deceased.</p> <p>Subd. 1b. Minnesota residents injured elsewhere. (a) A Minnesota resident who is the victim of a crime committed outside the geographical boundaries of this state but who otherwise meets the requirements of this section shall have the same rights under this chapter as if the crime had occurred within this state upon a showing that the state, territory, United States possession, country, or political subdivision of a country in which the crime occurred does not have a crime victim reparations law covering the resident’s injury or death.</p> <p>(b) Notwithstanding paragraph (a), a Minnesota resident who is the victim of a crime involving international terrorism who otherwise meets the requirements of this section has</p>	<p>Minn. Stat. Ann. § 611A.53.</p>

the same rights under this chapter as if the crime had occurred within this state regardless of where the crime occurred or whether the jurisdiction has a crime victims reparations law.

Subd. 2. Limitations on awards. No reparations shall be awarded to a claimant otherwise eligible if:

(1) the crime was not reported to the police within 30 days of its occurrence or, if it could not reasonably have been reported within that period, within 30 days of the time when a report could reasonably have been made. A victim of criminal sexual conduct in the first, second, third, or fourth degree who does not report the crime within 30 days of its occurrence is deemed to have been unable to have reported it within that period;

(2) the victim or claimant failed or refused to cooperate fully with the police and other law enforcement officials;

(3) the victim or claimant was the offender or an accomplice of the offender or an award to the claimant would unjustly benefit the offender or an accomplice;

(4) the victim or claimant was in the act of committing a crime at the time the injury occurred;


(5) no claim was filed with the board within three years of victim's injury or death; except that (i) if the claimant was unable to file a claim within that period, then the claim can be made within three years of the time when a claim could have been filed; and (ii) if the victim's injury or death was not reasonably discoverable within three years of the injury or death, then the claim can be made within three years of the time when the injury or death is reasonably discoverable. The following circumstances do not render a claimant unable to file a claim for the purposes of this clause: (A) lack of knowledge of the existence of the Minnesota Crime Victims Reparations Act, (B) the failure of a law enforcement agency to provide information or assistance to a potential claimant under section 611A.66, (C) the incompetency of the claimant if the claimant's affairs were being managed during that period by a guardian, guardian ad litem, conservator, authorized agent, or parent, or (D) the fact that the claimant is not of the age of majority; or

(6) the claim is less than \$50.

The limitations contained in clauses (1) and (6) do not apply to victims of child abuse. In those cases the three-year limitation period commences running with the report of the crime to the police.



Minn. Rev. Stat. Ann. § 611A.52 defines the terms used in this statutory provision.

<p>These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Crime Victims’ Reparations: Law Enforcement’s Obligation to Provide Victims with Information Regarding Their Right to Seek Reparations.</p> <p>All law enforcement agencies investigating crimes shall provide victims with notice of their right to apply for reparations with the telephone number to call to request an application form.</p> <p>Law enforcement agencies shall assist the board in performing its duties under sections 611A.51 to 611A.68. Law enforcement agencies within ten days after receiving a request from the board shall supply the board with requested reports, notwithstanding any provisions to the contrary in chapter 13, and including reports otherwise maintained as confidential or not open to inspection under section 260B.171 or 260C.171. All data released to the board retains the data classification that it had in the possession of the law enforcement agency.</p> <p> Minn. Rev. Stat. Ann. § 611A.52 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Minn. Stat. Ann. § 611A.66.</p>
<p>Crime Victim Oversight Act: Complaints of Rights Violations.</p> <p>Subd. 1. Authority. The commissioner shall have the authority under sections 611A.72 to 611A.74 to investigate decisions, acts, and other matters of the criminal justice system so as to promote the highest attainable standards of competence, efficiency, and justice for crime victims in the criminal justice system.</p> <p>Subd. 1a. Repealed by Laws 2002, c. 220, art. 7, § 33, par. (b).</p>	<p>Minn. Stat. Ann. § 611A.74.</p>

Subd. 2. Duties. The commissioner may investigate complaints concerning possible violation of the rights of crime victims or witnesses provided under this chapter, the delivery of victim services by victim assistance programs, the administration of the crime victims reparations act, and other complaints of mistreatment by elements of the criminal justice system or victim assistance programs. The commissioner shall act as a liaison, when the commissioner deems necessary, between agencies, either in the criminal justice system or in victim assistance programs, and victims and witnesses. The commissioner may be concerned with activities that strengthen procedures and practices which lessen the risk that objectionable administrative acts will occur. The commissioner must answer questions concerning the criminal justice system and victim services put to the commissioner by victims and witnesses in accordance with the commissioner's knowledge of the facts or law, unless the information is otherwise restricted. The commissioner shall establish a procedure for referral to the crime victim crisis centers, the crime victims reparations board, and other victim assistance programs when services are requested by crime victims or deemed necessary by the commissioner.

The commissioner's files are confidential data as defined in section 13.02, subdivision 3, during the course of an investigation or while the files are active. Upon completion of the investigation or when the files are placed on inactive status, they are private data on individuals as defined in section 13.02, subdivision 12.

Subd. 3. Powers. The commissioner has those powers necessary to carry out the duties set out in subdivision 2, including:

- (a) The commissioner may investigate, with or without a complaint, any action of an element of the criminal justice system or a victim assistance program included in subdivision 2.
- (b) The commissioner may request and shall be given access to information and assistance the commissioner considers necessary for the discharge of responsibilities. The commissioner may inspect, examine, and be provided copies of records and documents of all elements of the criminal justice system and victim assistance programs. The commissioner may request and shall be given access to police reports pertaining to juveniles and juvenile delinquency petitions, notwithstanding section 260B.171 or 260C.171. Any information received by the commissioner retains its data classification under chapter 13 while in the commissioner's possession. Juvenile records obtained under this subdivision may not be released to any person.

(c) The commissioner may prescribe the methods by which complaints are to be made, received, and acted upon; may determine the scope and manner of investigations to be made; and subject to the requirements of sections 611A.72 to 611A.74, may determine the form, frequency, and distribution of commissioner conclusions, recommendations, and proposals.

(d) After completing investigation of a complaint, the commissioner shall inform in writing the complainant, the investigated person or entity, and other appropriate authorities of the action taken. If the complaint involved the conduct of an element of the criminal justice system in relation to a criminal or civil proceeding, the commissioner's findings shall be forwarded to the court in which the proceeding occurred.


(e) Before announcing a conclusion or recommendation that expressly or impliedly criticizes an administrative agency or any person, the commissioner shall consult with that agency or person.


Subd. 4. No compelled testimony. Neither the commissioner nor any member of the commissioner's staff may be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to matters involving the exercise of official duties under sections 611A.72 to 611A.74 except as may be necessary to enforce the provisions of this section.



Subd. 5. Recommendations. (a) On finding a complaint valid after duly considering the complaint and whatever material the commissioner deems pertinent, the commissioner may recommend action to the appropriate authority.



(b) If the commissioner makes a recommendation to an appropriate authority for action, the authority shall, within a reasonable time period, but not more than 30 days, inform the commissioner about the action taken or the reasons for not complying with the recommendation.



(c) The commissioner may publish conclusions and suggestions by transmitting them to the governor, the legislature or any of its committees, the press, and others who may be concerned. When publishing an opinion adverse to an administrative agency, the commissioner shall include any statement the administrative agency may have made to the commissioner by way of explaining its past difficulties or its present rejection of the commissioner's proposals.

<p>Subd. 6. Reports. In addition to whatever reports the commissioner may make from time to time, the commissioner shall biennially report to the legislature and to the governor concerning the exercise of the commissioner's functions under sections 611A.72 to 611A.74 during the preceding biennium. The biennial report is due on or before the beginning of the legislative session following the end of the biennium.</p> <p> Minn. Rev. Stat. Ann. § 611A.73 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p>	
<p>Child Abuse Victims' Right to Nondisclosure of Videotape in Which They Detail Their Abuse, Absent a Court Order.</p> <p>Subd. 2. Court order required. (a) A custodian of a videotape of a child victim or alleged victim alleging, explaining, denying, or describing an act of physical or sexual abuse as part of an investigation or evaluation of the abuse may not release a copy of the videotape without a court order, notwithstanding that the subject has consented to the release of the videotape or that the release is authorized under law.</p> <p>(b) The court order may govern the purposes for which the videotape may be used, reproduction, release to other persons, retention and return of copies, and other requirements reasonably necessary for protection of the privacy and best interests of the child.</p> <p>Subd. 3. Petition. An individual subject of data, as defined in section 13.02, or a patient, as defined in sections 144.291 to 144.298, who is seeking a copy of a videotape governed by this section may petition the district court in the county where the alleged abuse took place or where the custodian of the videotape resides for an order releasing a copy of the videotape under subdivision 2. Nothing in this section establishes a right to obtain access to a videotape by any other person nor limits a right of a person to obtain access if access is otherwise authorized by law or pursuant to discovery in a court proceeding.</p>	<p>Minn. Stat. Ann. § 611A.90, subs. 2–3.</p>

 Minn. Rev. Stat. Ann. § 611A.90, subd. 1 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”	
<p>Sexual Assault Victims’ Right to Notice by Hospital of Rights and Available Resources.</p> <p>Subd. 1. Notice required. A hospital shall give a written notice about victim rights and available resources to a person seeking medical services in the hospital who reports to hospital staff or presents evidence of a sexual assault or other unwanted sexual contact or sexual penetration. The hospital shall make a good faith effort to provide this notice prior to medical treatment or the examination performed for the purpose of gathering evidence, subject to applicable federal and state laws and regulations regarding the provision of medical care, and in a manner that does not interfere with any medical screening examination or initiation of treatment necessary to stabilize a victim’s emergency medical condition.</p> <p>Subd. 2. Contents of notice. The commissioners of health and public safety, in consultation with sexual assault victim advocates and health care professionals, shall develop the notice required by Subd. 1. The notice must inform the victim, at a minimum, of:</p> <ul style="list-style-type: none"> (1) the obligation under section 609.35 of the county where the criminal sexual conduct occurred to pay for the examination performed for the purpose of gathering evidence, that payment is not contingent on the victim reporting the criminal sexual conduct to law enforcement, and that the victim may incur expenses for treatment of injuries; (2) the victim’s rights if the crime is reported to law enforcement, including the victim’s right to apply for reparations under sections 611A.51 to 611A.68, information on how to apply for reparations, and information on how to obtain an order for protection or a harassment restraining order; and (3) the opportunity under section 611A.27 to obtain status information about an unrestricted sexual assault examination kit, as defined in section 299C.106, subdivision 1, paragraph (h). 	<p>Minn. Stat. Ann. § 144.6586</p>

<p>Murder Victims' Rights Related to an Offender's Conditional Release: to Notice and to Submit Statement at Review Hearing; Commissioner's Obligation to Consider Statement When Making Parole Decision.</p> <p>(a) This subdivision applies to parole decisions relating to inmates convicted of first-degree murder who are described in subdivision 1, clauses (a) and (b) [regarding conditional release]. As used in this subdivision, "victim" means the murder victim's surviving spouse or next of kin.</p> <p>(b) The commissioner shall make reasonable efforts to notify the victim, in advance, of the time and place of the inmate's parole review hearing. The victim has a right to submit an oral or written statement at the review hearing. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the inmate should be paroled at that time. The commissioner must consider the victim's statement when making the parole decision.</p> <p> A promising practice is to have a policy in place to establish what constitutes "reasonable efforts" by the commissioner of corrections.</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>Minn. Stat. Ann. § 243.05, subd. 1b.</p>
<p>Victims' Rights Related to Supervised Release of Inmate Serving a Mandatory Life Sentence: to Notice and to Submit Statement at Review Hearing; Commissioner's Obligation to Consider Statement When Making Parole Decision.</p> <p>The commissioner shall make reasonable efforts to notify the victim, in advance, of the time and place of the inmate's supervised release review hearing. The victim has a right to submit an oral or written statement at the review hearing. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation</p>	<p>Minn. Stat. Ann. § 244.05, subd. 5(c).</p>

<p>on whether the inmate should be given supervised release at this time. The commissioner must consider the victim's statement when making the supervised release decision.</p> <p> A promising practice is to have a policy in place to establish what constitutes "reasonable efforts" by the commissioner of corrections.</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>Victims' Rights Related to Release of Certain Offenders' Release: Notice and Information.</p> <p>Subd. 1. Notice of impending release. At least 60 days before the release of any inmate convicted of an offense requiring registration under section 243.166, the commissioner of corrections shall send written notice of the impending release to the sheriff of the county and the police chief of the city in which the inmate will reside or in which placement will be made in a work release program. The sheriff of the county where the offender was convicted also shall be notified of the inmate's impending release.</p> <p>Subd. 2. Additional notice. The same notice shall be sent to the following persons concerning a specific inmate convicted of an offense requiring registration under section 243.166:</p> <ul style="list-style-type: none"> (1) the victim of the crime for which the inmate was convicted or a deceased victim's next of kin if the victim or deceased victim's next of kin requests the notice in writing; (2) any witnesses who testified against the inmate in any court proceedings involving the offense, if the witness requests the notice in writing; and (3) any person specified in writing by the prosecuting attorney. <p>The notice sent to victims under clause (1) must inform the person that the person has the right to request and receive information about the offender authorized for disclosure under the community notification provisions of section 244.052.</p>	<p>Minn. Stat. Ann. § 244.053.</p>

<p>If the victim or witness is under the age of 16, the notice required by this section shall be sent to the parents or legal guardian of the child. The commissioner shall send the notices required by this provision to the last address provided to the commissioner by the requesting party. The requesting party shall furnish the commissioner with a current address. Information regarding witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are private data on individuals, as defined in section 13.02, subdivision 12, and are not available to the inmate.</p> <p>The notice to victims provided under this subdivision does not limit the victim's right to request notice of release under section 611A.06.</p> <p>Subd. 3. No extension of release date. The existence of the notice requirements contained in this section shall in no event require an extension of the release date.</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> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully document a victim's request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Certain Victims' Right to Terminate Lease.</p> <p>Subd. 1. Right to terminate; procedure.</p> <p>(a) A tenant to a residential lease may terminate a lease agreement in the manner provided in this section without penalty or liability, if the tenant or another authorized occupant fears imminent violence after being subjected to:</p> <p>(1) domestic abuse, as that term is defined under section 518B.01, subdivision 2;</p>	<p>Minn. Stat. Ann. § 504B.206, subs. 1–5, 7.</p>

<p>(2) criminal sexual conduct under sections 609.342 to 609.3451; or (3) harassment under section 609.749. (b) The tenant must provide signed and dated advance written notice to the landlord: (1) stating the tenant fears imminent violence from a person as indicated in a qualifying document against the tenant or an authorized occupant if the tenant or authorized occupant remains in the leased premises; (2) stating that the tenant needs to terminate the tenancy; (3) providing the date by which the tenant will vacate; and (4) providing written instructions for the disposition of any remaining personal property in accordance with section 504B.271. (c) The written notice must be delivered before the termination of the tenancy by mail, fax, or in person, and be accompanied by a qualifying document. (d) The landlord may request that the tenant disclose the name of the perpetrator and, if a request is made, inform the tenant that the landlord seeks disclosure to protect other tenants in the building. The tenant may decline to provide the name of the perpetrator for safety reasons. Disclosure shall not be a precondition of terminating the lease. (e) The tenancy terminates, including the right of possession of the premises, as provided in subdivision 3.</p> <p>Subd. 2. Treatment of information. (a) A landlord must not disclose: (1) any information provided to the landlord by a tenant in the written notice required under subdivision 1, paragraph (b); (2) any information contained in the qualifying document; (3) the address or location to which the tenant has relocated; or (4) the status of the tenant as a victim of violence. (b) The information referenced in paragraph (a) must not be entered into any shared database or provided to any person or entity but may be used when required as evidence in an eviction proceeding, action for unpaid rent or damages arising out of the tenancy, claims under section 504B.178, with the consent of the tenant, or as otherwise required by law.</p> <p>Subd. 3. Liability for rent; termination of tenancy. (a) A tenant who is a sole tenant and is terminating a lease under subdivision 1 is responsible for the rent payment for the full month in which the tenancy terminates. The tenant forfeits all claims for the return of the security</p>	
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deposit under section 504B.178 and is relieved of any other contractual obligation for payment of rent or any other charges for the remaining term of the lease, except as provided in this section. In a sole tenancy, the tenancy terminates on the date specified in the notice provided to the landlord as required under Subd. 1.

(b) In a tenancy with multiple tenants, one of whom is terminating the lease under subdivision 1, any lease governing all tenants is terminated at the later of the end of the month or the end of the rent interval in which one tenant terminates the lease under Subd. 1. All tenants are responsible for the rent payment for the full month in which the tenancy terminates. Upon termination, all tenants forfeit all claims for the return of the security deposit under section 504B.178 and are relieved of any other contractual obligation for payment of rent or any other charges for the remaining term of the lease, except as provided in this section. Any tenant whose tenancy was terminated under this paragraph may reapply to enter into a new lease with the landlord.

(c) This section does not affect a tenant's liability for delinquent, unpaid rent or other amounts owed to the landlord before the lease was terminated by the tenant under this section.

Subd. 4. Deleted by amendment, Laws 2014, c. 188, § 2, eff. Aug. 1, 2014.


Subd. 5. Waiver prohibited. A residential tenant may not waive, and a landlord may not require the residential tenant to waive, the tenant's rights under this section.

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Subd. 7. Conflicts with other laws. If a federal statute, regulation, or handbook permitting termination of a residential tenancy subsidized under a federal program conflicts with any provision of this section, then the landlord must comply with the federal statute, regulation, or handbook.



Minn. Rev. Stat. Ann. § 504B.206, subd. 6 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."

 A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, of their housing-related rights and to provide landlords with this information.	
<p>Domestic Abuse Act: Victims' Right to Seek Order for Protection at No Cost; Courts Duty to Provide Victims with Certain Information Regarding the Procedures and Rights Related to a Petition for an Order for Protection; Protective Order Hearings; Relief; Subsequent Orders and Extensions; Violations.</p> <p>Subd. 3. Court jurisdiction. An application for relief under this section may be filed in the court having jurisdiction over dissolution actions, in the county of residence of either party, in the county in which a pending or completed family court proceeding involving the parties or their minor children was brought, or in the county in which the alleged domestic abuse occurred. There are no residency requirements that apply to a petition for an order for protection. In a jurisdiction which utilizes referees in dissolution actions, the court or judge may refer actions under this section to a referee to take and report the evidence in the action in the same manner and subject to the same limitations provided in section 518.13. Actions under this section shall be given docket priorities by the court.</p> <p>Subd. 3a. Filing fee. The filing fees for an order for protection under this section are waived for the petitioner and respondent. The court administrator, the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when the sheriff or other law enforcement or corrections officer is unavailable or if service is made by publication, without requiring the petitioner to make application under section 563.01.</p> <p>Subd. 3b. Information on petitioner's location or residence. Upon the petitioner's request, information maintained by the court regarding the petitioner's location or residence is not accessible to the public and may be disclosed only to court personnel or law enforcement for purposes of service of process, conducting an investigation, or enforcing an order.</p>	<p>Minn. Stat. Ann. § 518B.01, subds. 3–23.</p>

Subd. 4. Order for protection. There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(a) A petition for relief under this section may be made by any family or household member personally or by a family or household member, a guardian as defined in section 524.1-201, clause (27), or, if the court finds that it is in the best interests of the minor, by a reputable adult age 25 or older on behalf of minor family or household members. A minor age 16 or older may make a petition on the minor's own behalf against a spouse or former spouse, or a person with whom the minor has a child in common, if the court determines that the minor has sufficient maturity and judgment and that it is in the best interests of the minor.

(b) A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(c) A petition for relief must state whether the petitioner has ever had an order for protection in effect against the respondent.

(d) A petition for relief must state whether there is an existing order for protection in effect under this chapter governing both the parties and whether there is a pending lawsuit, complaint, petition or other action between the parties under chapter 257, 518, 518A, 518B, or 518C. The court administrator shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A subsequent order in a separate action under this chapter may modify only the provision of an existing order that grants relief authorized under subdivision 6, paragraph (a), clause (1). A petition for relief may be granted, regardless of whether there is a pending action between the parties.

(e) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

(f) The court shall advise a petitioner under paragraph (e) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist with the writing and filing of the motion and affidavit.

(g) The court shall advise a petitioner under paragraph (e) of the right to serve the respondent by published notice under subdivision 5, paragraph (b), if the respondent is avoiding personal service by concealment or otherwise, and shall assist with the writing and filing of the affidavit.

(h) The court shall advise the petitioner of the right to seek restitution under the petition for relief.

(i) The court shall advise the petitioner of the right to request a hearing under subdivision 7, paragraph (c). If the petitioner does not request a hearing, the court shall advise the petitioner that the respondent may request a hearing and that notice of the hearing date and time will be provided to the petitioner by mail at least five days before the hearing.

(j) The court shall advise the petitioner of the right to request supervised parenting time, as provided in section 518.175, subdivision 1a.

Subd. 5. Hearing on application; notice. (a) Upon receipt of the petition, the court shall order a hearing which shall be held not later than 14 days from the date of the order for hearing unless an ex parte order is issued.

(b) If an ex parte order has been issued under subdivision 7 and the petitioner seeks only the relief under subdivision 7, paragraph (a), a hearing is not required unless:

- (1) the court declines to order the requested relief; or
- (2) one of the parties requests a hearing.

(c) If an ex parte order has been issued under subdivision 7 and the petitioner seeks relief beyond that specified in subdivision 7, paragraph (a), or if the court declines to order relief requested by the petitioner, a hearing must be held within seven days. Personal service of the ex parte order may be made upon the respondent at any time up to 12 hours prior to the time set for the hearing, provided that the respondent at the hearing may request a continuance of up to five days if served fewer than five days prior to the hearing which continuance shall be granted unless there are compelling reasons not to.

(d) If an ex parte order has been issued only granting relief under subdivision 7, paragraph (a), and the respondent requests a hearing, the hearing shall be held within ten days of the court's receipt of the respondent's request. Service of the notice of hearing must be made upon the petitioner not less than five days prior to the hearing. The court shall serve the notice of hearing upon the petitioner by mail in the manner provided in the Rules of Civil Procedure for pleadings subsequent to a complaint and motions and shall also mail notice of the date and time of the hearing to the respondent. In the event that service cannot be completed in time to give the respondent or petitioner the minimum notice required under this subdivision, the court may set a new hearing date no more than five days later.

(e) If for good cause shown either party is unable to proceed at the initial hearing and requests a continuance and the court finds that a continuance is appropriate, the hearing may be continued. Unless otherwise agreed by the parties and approved by the court, the continuance shall be for no more than five days. If the court grants the requested continuance, the court shall also issue a written order continuing all provisions of the ex parte order pending the issuance of an order after the hearing.

(f) Notwithstanding the preceding provisions of this subdivision, service on the respondent may be made by one week published notice, as provided under section 645.11, provided the petitioner files with the court an affidavit stating that an attempt at personal service made by a sheriff or other law enforcement or corrections officer was unsuccessful because the respondent is avoiding service by concealment or otherwise, and that a copy of the petition and notice of hearing has been mailed to the respondent at the respondent's residence or that the residence is not known to the petitioner. Service under this paragraph is complete seven days after publication. The court shall set a new hearing date if necessary to allow the respondent the five-day minimum notice required under paragraph (d).

Subd. 6. Relief by court. (a) Upon notice and hearing, the court may provide relief as follows:

- (1) restrain the abusing party from committing acts of domestic abuse;
- (2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;
- (3) exclude the abusing party from a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order;
- (4) award temporary custody or establish temporary parenting time with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. In addition to the primary safety considerations, the court may consider particular best interest factors that are found to be relevant to the temporary custody and parenting time award. Findings under section 257.025, 518.17, or 518.175 are not required with respect to the particular best interest factors not considered by the court. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted parenting time, the court shall condition or restrict parenting time as to time, place, duration, or supervision, or deny parenting time entirely, as needed to guard the safety of the victim and the children. The court's decision on custody and parenting time shall in

no way delay the issuance of an order for protection granting other relief provided for in this section. The court must not enter a parenting plan under section 518.1705 as part of an action for an order for protection;

- (5) on the same basis as is provided in chapter 518 or 518A, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518A;
- (6) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;
- (7) order the abusing party to participate in treatment or counseling services, including requiring the abusing party to successfully complete a domestic abuse counseling program or educational program under section 518B.02;
- (8) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;
- (9) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment;
- (10) order the abusing party to have no contact with the petitioner whether in person, by telephone, mail, or electronic mail or messaging, through a third party, or by any other means;
- (11) order the abusing party to pay restitution to the petitioner;
- (12) order the continuance of all currently available insurance coverage without change in coverage or beneficiary designation;
- (13) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or other law enforcement or corrections officer as provided by this section;
- (14) direct the care, possession, or control of a pet or companion animal owned, possessed, or kept by the petitioner or respondent or a child of the petitioner or respondent; and
- (15) direct the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.

- (b) Any relief granted by the order for protection shall be for a period not to exceed two years, except when the court determines a longer period is appropriate. When a referee presides at the hearing on the petition, the order granting relief becomes effective upon the referee's signature.
- (c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.
- (d) An order granting the relief authorized in paragraph (a), clause (2) or (3), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.
- (e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.
- (f) An order for restitution issued under this subdivision is enforceable as civil judgment.
- (g) An order granting relief shall prohibit the abusing party from possessing firearms for the length the order is in effect if the order (1) restrains the abusing party from harassing, stalking, or threatening the petitioner or restrains the abusing party from engaging in other conduct that would place the petitioner in reasonable fear of bodily injury, and (2) includes a finding that the abusing party represents a credible threat to the physical safety of the petitioner or prohibits the abusing party from using, attempting to use, or threatening to use physical force against the petitioner. The order shall inform the abusing party of that party's prohibited status. Except as provided in paragraph (i), the court shall order the abusing party to transfer any firearms that the person possesses, within three business days, to a federally licensed firearms dealer, a law enforcement agency, or a third party who may lawfully receive them. The transfer may be permanent or temporary. A temporary firearm transfer only entitles the receiving party to possess the firearm. A temporary transfer does not transfer ownership or title. An abusing party may not transfer firearms to a third party who resides with the abusing party. If an abusing party makes a temporary transfer, a federally licensed firearms dealer or law enforcement agency may charge the abusing party a

reasonable fee to store the person's firearms and may establish policies for disposal of abandoned firearms, provided such policies require that the person be notified via certified mail prior to disposal of abandoned firearms. For temporary firearms transfers under this paragraph, a law enforcement agency, federally licensed firearms dealer, or third party shall exercise due care to preserve the quality and function of the transferred firearms and shall return the transferred firearms to the person upon request after the expiration of the prohibiting time period, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The return of temporarily transferred firearms to an abusing party shall comply with state and federal law. If an abusing party permanently transfers the abusing party's firearms to a law enforcement agency, the agency is not required to compensate the abusing party and may charge the abusing party a reasonable processing fee. A law enforcement agency is not required to accept an abusing party's firearm under this paragraph.

(h) An abusing party who is ordered to transfer firearms under paragraph (g) must file proof of transfer as provided for in this paragraph. If the transfer is made to a third party, the third party must sign an affidavit under oath before a notary public either acknowledging that the abusing party permanently transferred the abusing party's firearms to the third party or agreeing to temporarily store the abusing party's firearms until such time as the abusing party is legally permitted to possess firearms. The affidavit shall indicate the serial number, make, and model of all firearms transferred by the abusing party to the third party. The third party shall acknowledge in the affidavit that the third party may be held criminally and civilly responsible under section 624.7144 if the abusing party gains access to a transferred firearm while the firearm is in the custody of the third party. If the transfer is to a law enforcement agency or federally licensed firearms dealer, the law enforcement agency or federally licensed firearms dealer shall provide proof of transfer to the abusing party. The proof of transfer must specify whether the firearms were permanently or temporarily transferred and include the name of the abusing party, date of transfer, and the serial number, make, and model of all transferred firearms. The abusing party shall provide the court with a signed and notarized affidavit or proof of transfer as described in this section within two business days of the firearms transfer. The court shall seal affidavits and proofs of transfer filed pursuant to this paragraph.

(i) When a court issues an order containing a firearms restriction provided for in paragraph (g), the court shall determine by a preponderance of evidence if an abusing party poses an

imminent risk of causing another person substantial bodily harm. Upon a finding of imminent risk, the court shall order that the local law enforcement agency take immediate possession of all firearms in the abusing party's possession. The local law enforcement agency shall exercise due care to preserve the quality and function of the abusing party's firearms and shall return the firearms to the person upon request after the expiration of the prohibiting time period, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The local law enforcement agency shall, upon written notice from the abusing party, transfer the firearms to a federally licensed firearms dealer or a third party who may lawfully receive them. Before a local law enforcement agency transfers a firearm under this paragraph, the agency shall require the third party or federally licensed firearms dealer receiving the firearm to submit an affidavit or proof of transfer that complies with the requirements for affidavits or proofs of transfer established in paragraph (h). The agency shall file all affidavits or proofs of transfer received with the court within two business days of the transfer. The court shall seal all affidavits or proofs of transfer filed pursuant to this paragraph. A federally licensed firearms dealer or third party who accepts a firearm transfer pursuant to this paragraph shall comply with paragraphs (g) and (h) as if accepting transfer from the abusing party. If the law enforcement agency does not receive written notice from the abusing party within three business days, the agency may charge a reasonable fee to store the abusing party's firearms. A law enforcement agency may establish policies for disposal of abandoned firearms, provided such policies require that the abusing party be notified via certified mail prior to disposal of abandoned firearms.

Subd. 6a. Subsequent orders and extensions. (a) Upon application, notice to all parties, and hearing, the court may extend the relief granted in an existing order for protection or, if a petitioner's order for protection is no longer in effect when an application for subsequent relief is made, grant a new order. If the petitioner seeks only the relief under subdivision 7, paragraph (a), a hearing is not required unless the court declines to order the requested relief or the respondent requests a hearing. If a hearing is required, subdivisions 5 and 7 apply to service of the application, notice to the parties, and time for the hearing.

(b) The court may extend the terms of an existing order or, if an order is no longer in effect, grant a new order upon a showing that:

- (1) the respondent has violated a prior or existing order for protection;
- (2) the petitioner is reasonably in fear of physical harm from the respondent;

<p>(3) the respondent has engaged in the act of harassment within the meaning of section 609.749, subdivision 2; or</p> <p>(4) the respondent is incarcerated and about to be released, or has recently been released from incarceration.</p> <p>A petitioner does not need to show that physical harm is imminent to obtain an extension or a subsequent order under this subdivision.</p> <p>(c) Relief granted by the order for protection may be for a period of up to 50 years, if the court finds:</p> <p>(1) the respondent has violated a prior or existing order for protection on two or more occasions; or</p> <p>(2) the petitioner has had two or more orders for protection in effect against the same respondent.</p> <p>An order issued under this paragraph may restrain the abusing party from committing acts of domestic abuse; or prohibit the abusing party from having any contact with the petitioner, whether in person, by telephone, mail or electronic mail or messaging, through electronic devices, through a third party, or by any other means.</p> <p>Subd. 7. Ex parte order. (a) Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte order for protection and granting relief as the court deems proper, including an order:</p> <p>(1) restraining the abusing party from committing acts of domestic abuse;</p> <p>(2) excluding any party from the dwelling they share or from the residence of the other, including a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order, except by further order of the court;</p> <p>(3) excluding the abusing party from the place of employment of the petitioner or otherwise limiting access to the petitioner by the abusing party at the petitioner's place of employment;</p> <p>(4) ordering the abusing party to have no contact with the petitioner whether in person, by telephone, mail, e-mail, through electronic devices, or through a third party;</p> <p>(5) continuing all currently available insurance coverage without change in coverage or beneficiary designation;</p> <p>(6) directing the care, possession, or control of a pet or companion animal owned, possessed, or kept by a party or a child of a party; and</p>	
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(7) directing the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.

(b) A finding by the court that there is a basis for issuing an ex parte order for protection constitutes a finding that sufficient reasons exist not to require notice under applicable court rules governing applications for ex parte relief.

(c) Subject to paragraph (d), an ex parte order for protection shall be effective for a fixed period set by the court, as provided in subdivision 6, paragraph (b), or until modified or vacated by the court pursuant to a hearing. When signed by a referee, the ex parte order becomes effective upon the referee's signature. Upon request, a hearing, as provided by this section, shall be set. Except as provided in paragraph (d), the respondent shall be personally served forthwith a copy of the ex parte order along with a copy of the petition and, if requested by the petitioner, notice of the date set for the hearing. If the petitioner does not request a hearing, an order served on a respondent under this subdivision must include a notice advising the respondent of the right to request a hearing, must be accompanied by a form that can be used by the respondent to request a hearing and must include a conspicuous notice that a hearing will not be held unless requested by the respondent within five days of service of the order.

(d) Service of the ex parte order may be made by published notice, as provided under subdivision 5, provided that the petitioner files the affidavit required under that subdivision. If personal service is not made or the affidavit is not filed within 14 days of issuance of the ex parte order, the order expires. If the petitioner does not request a hearing, the petition mailed to the respondent's residence, if known, must be accompanied by the form for requesting a hearing and notice described in paragraph (c). Unless personal service is completed, if service by published notice is not completed within 28 days of issuance of the ex parte order, the order expires.

(e) If the petitioner seeks relief under subdivision 6 other than the relief described in paragraph (a), the petitioner must request a hearing to obtain the additional relief.

(f) Nothing in this subdivision affects the right of a party to seek modification of an order under subdivision 11.

Subd. 8. Service; alternate service; publication; notice. (a) The petition and any order issued under this section other than orders for dismissal shall be served on the respondent personally. Orders for dismissal may be served personally or by certified mail. In lieu of personal service of an order for protection, a law enforcement officer may serve a person with a short-form notification as provided in subdivision 8a.

(b) When service is made out of this state and in the United States, it may be proved by the affidavit of the person making the service. When service is made outside the United States, it may be proved by the affidavit of the person making the service, taken before and certified by any United States minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in the other country, including all deputies or other representatives of the officer authorized to perform their duties; or before an office authorized to administer an oath with the certificate of an officer of a court of record of the country in which the affidavit is taken as to the identity and authority of the officer taking the affidavit.

(c) If personal service cannot be made, the court may order service of the petition and any order issued under this section by alternate means, or by publication, which publication must be made as in other actions. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Service shall be deemed complete 14 days after mailing or 14 days after court-ordered publication.

(d) A petition and any order issued under this section, including the short-form notification, must include a notice to the respondent that if an order for protection is issued to protect the petitioner or a child of the parties, upon request of the petitioner in any parenting time

proceeding, the court shall consider the order for protection in making a decision regarding parenting time.

Subd. 8a. Short-form notification. (a) In lieu of personal service of an order for protection under subdivision 8, a law enforcement officer may serve a person with a short-form notification. The short-form notification must include the following clauses: the respondent's name; the respondent's date of birth, if known; the petitioner's name; the names of other protected parties; the date and county in which the ex parte order for protection or order for protection was filed; the court file number; the hearing date and time, if known; the conditions that apply to the respondent, either in checklist form or handwritten; and the name of the judge who signed the order.

The short-form notification must be in bold print in the following form:

The order for protection is now enforceable. You must report to your nearest sheriff office or county court to obtain a copy of the order for protection. You are subject to arrest and may be charged with a misdemeanor, gross misdemeanor, or felony if you violate any of the terms of the order for protection or this short-form notification.

(b) Upon verification of the identity of the respondent and the existence of an unserved order for protection against the respondent, a law enforcement officer may detain the respondent for a reasonable time necessary to complete and serve the short-form notification.

(c) When service is made by short-form notification, it may be proved by the affidavit of the law enforcement officer making the service.

(d) For service under this section only, service upon an individual may occur at any time, including Sundays, and legal holidays.

(e) The superintendent of the Bureau of Criminal Apprehension shall provide the short form to law enforcement agencies.

Subd. 9. Assistance of sheriff in service or execution. When an order is issued under this section upon request of the petitioner, the court shall order the sheriff to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in execution or service of the order of protection. If the application for relief is brought in a county in which the respondent is not present, the sheriff shall forward the pleadings necessary for service upon the respondent to the sheriff of the county in which the respondent is present. This transmittal must be expedited to allow for timely service.

Subd. 9a. Service by others. Peace officers licensed by the state of Minnesota and corrections officers, including, but not limited to, probation officers, court services officers, parole officers, and employees of jails or correctional facilities, may serve an order for protection.

Subd. 10. Right to apply for relief. (a) A person's right to apply for relief shall not be affected by the person's leaving the residence or household to avoid abuse.
(b) The court shall not require security or bond of any party unless it deems necessary in exceptional cases.

Subd. 11. Modifying or vacating order. (a) Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection.
(b) If the court orders relief under subdivision 6a, paragraph (c), the respondent named in the order for protection may request to have the order vacated or modified if the order has been in effect for at least five years and the respondent has not violated the order during that time. Application for relief under this subdivision must be made in the county in which the order for protection was issued. Upon receipt of the request, the court shall set a hearing date. Personal service must be made upon the petitioner named in the order for protection not less than 30 days before the date of the hearing. At the hearing, the respondent named in the order for protection has the burden of proving by a preponderance of the evidence that there has been a material change in circumstances and that the reasons upon which the court relied in granting or extending the order for protection no longer apply and are unlikely to occur. If the court finds that the respondent named in the order for protection has met the burden of proof, the court may vacate or modify the order. If the court finds that the respondent named in the order for protection has not met the burden of proof, the court shall deny the request and no request may be made to vacate or modify the order for protection until five years have elapsed from the date of denial. An order vacated or modified under this paragraph must be personally served on the petitioner named in the order for protection.

Subd. 12. Real estate. Nothing in this section shall affect the title to real estate.

Subd. 13. Copy to law enforcement agency. (a) An order for protection and any continuance of an order for protection granted pursuant to this section shall be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the residence of the applicant.

Each appropriate law enforcement agency shall make available to other law enforcement officers through a system for verification, information as to the existence and status of any order for protection issued pursuant to this section.

(b) If the applicant notifies the court administrator of a change in the applicant's residence so that a different local law enforcement agency has jurisdiction over the residence, the order for protection and any continuance of an order for protection must be forwarded by the court administrator to the new law enforcement agency within 24 hours of the notice. If the applicant notifies the new law enforcement agency that an order for protection has been issued under this section and the applicant has established a new residence within that agency's jurisdiction, within 24 hours the local law enforcement agency shall request a copy of the order for protection from the court administrator in the county that issued the order.

(c) When an order for protection is granted, the applicant for an order for protection must be told by the court that:

(1) notification of a change in residence should be given immediately to the court administrator and to the local law enforcement agency having jurisdiction over the new residence of the applicant;

(2) the reason for notification of a change in residence is to forward an order for protection to the proper law enforcement agency; and

(3) the order for protection must be forwarded to the law enforcement agency having jurisdiction over the new residence within 24 hours of notification of a change in residence, whether notification is given to the court administrator or to the local law enforcement agency having jurisdiction over the applicant's new residence.

An order for protection is enforceable even if the applicant does not notify the court administrator or the appropriate law enforcement agency of a change in residence.

Subd. 14. Violation of an order for protection. (a) A person who violates an order for protection issued by a judge or referee is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), whenever an order for protection is granted by a judge or referee or pursuant to a similar law of another state, the United States, the District of Columbia, tribal lands, United States territories, Canada, or a Canadian province, and the respondent or person to be restrained knows of the existence of the order, violation of the order for protection is a misdemeanor. Upon a misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of three days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. If the court stays imposition or execution of the jail sentence and the defendant refuses or fails to comply with the court's treatment order, the court must impose and execute the stayed jail sentence. A violation of an order for protection shall also constitute contempt of court and be subject to the penalties provided in chapter 588.

(c) A person is guilty of a gross misdemeanor who violates this subdivision within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency. Upon a gross misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of ten days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person violates this subdivision:

(1) within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency; or

(2) while possessing a dangerous weapon, as defined in section 609.02, subdivision 6.

Upon a felony conviction under this paragraph in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. The court also shall order that the defendant participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for felony convictions.

(e) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to this section or a similar law of another state, the United States, the District of Columbia, tribal

lands, United States territories, Canada, or a Canadian province restraining the person or excluding the person from the residence or the petitioner's place of employment, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The probable cause required under this paragraph includes probable cause that the person knows of the existence of the order. If the order has not been served, the officer shall immediately serve the order whenever reasonably safe and possible to do so. An order for purposes of this subdivision, includes the short-form order described in subdivision 8a. When the order is first served upon the person at a location at which, under the terms of the order, the person's presence constitutes a violation, the person shall not be arrested for violation of the order without first being given a reasonable opportunity to leave the location in the presence of the peace officer. A person arrested under this paragraph shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

(f) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent, and not to exceed \$10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(g) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted pursuant to this section or a similar law of another state, the United States, the District of Columbia, tribal lands, United States territories, Canada, or a Canadian province,

the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation, or in the county in which the alleged violation occurred, if the petitioner and respondent do not reside in this state. The court also shall refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (b), (c), or (d).

(h) If it is alleged that the respondent has violated an order for protection issued under subdivision 6 or a similar law of another state, the United States, the District of Columbia, tribal lands, United States territories, Canada, or Canadian province, and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the court finds that the respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year, except when the court determines a longer fixed period is appropriate.

(i) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection. A peace officer is not liable under section 609.43, clause (1), for a failure to perform a duty required by paragraph (e).

(j) When a person is convicted under paragraph (b) or (c) of violating an order for protection and the court determines that the person used a firearm in any way during commission of the violation, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(k) Except as otherwise provided in paragraph (j), when a person is convicted under paragraph (b) or (c) of violating an order for protection, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(l) Except as otherwise provided in paragraph (j), a person is not entitled to possess a pistol if the person has been convicted under paragraph (b) or (c) after August 1, 1996, of violating an order for protection, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(m) If the court determines that a person convicted under paragraph (b) or (c) of violating an order for protection owns or possesses a firearm and used it in any way during the commission of the violation, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

Subd. 14a. Venue. A person may be prosecuted under subdivision 14 at the place where any call is made or received or, in the case of wireless or electronic communication or any communication made through any available technologies, where the actor or victim resides, or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established under chapter 5B.

Subd. 15. Admissibility of testimony in criminal proceeding. Any testimony offered by a respondent in a hearing pursuant to this section is inadmissible in a criminal proceeding.

Subd. 16. Other remedies available. Any proceeding under this section shall be in addition to other civil or criminal remedies.

Subd. 17. Effect on custody proceedings. In a subsequent custody proceeding the court must consider a finding in a proceeding under this chapter or under a similar law of another state that domestic abuse has occurred between the parties.

Subd. 18. Notices. (a) Each order for protection granted under this chapter must contain a conspicuous notice to the respondent or person to be restrained that:

(1) violation of an order for protection is either (i) a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$1,000, or both, (ii) a gross misdemeanor punishable by imprisonment of up to one year or a fine of up to \$3,000, or both, or (iii) a felony punishable by imprisonment of up to five years or a fine of up to \$10,000, or both;

(2) the respondent is forbidden to enter or stay at the petitioner's residence, even if invited to do so by the petitioner or any other person; in no event is the order for protection voided;

(3) a peace officer must arrest without warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order for protection restraining the person or excluding the person from a residence; and

(4) pursuant to the Violence Against Women Act of 1994, United States Code, title 18, section 2265, the order is enforceable in all 50 states, the District of Columbia, tribal lands, and United States territories, that violation of the order may also subject the respondent to federal charges and punishment under United States Code, title 18, sections 2261 and 2262, and that if a final order is entered against the respondent after the hearing, the respondent may be prohibited from possessing, transporting, or accepting a firearm under the 1994 amendment to the Gun Control Act, United States Code, title 18, section 922(g)(8).



(b) If the court grants relief under subdivision 6a, paragraph (c), the order for protection must also contain a conspicuous notice to the respondent or person to be restrained that the respondent must wait five years to seek a modification of the order.


Subd. 19. Recording required. Proceedings under this section must be recorded.

Subd. 19a. Entry and enforcement of foreign protective orders. (a) As used in this subdivision, "foreign protective order" means an order for protection entered by a court of another state; an order by an Indian tribe or United States territory that would be a protective order entered under this chapter; a Canadian order for protection as defined in section 518F.02; a temporary or permanent order or protective order to exclude a respondent from a dwelling; or an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault if it had been entered in Minnesota.

- (b) A person for whom a foreign protection order has been issued or the issuing court or tribunal may provide a certified or authenticated copy of a foreign protective order to the court administrator in any county that would have venue if the original action was being commenced in this state or in which the person in whose favor the order was entered may be present, for filing and entering of the same into the state order for protection database.
- (c) The court administrator shall file and enter foreign protective orders that are not certified or authenticated, if supported by an affidavit of a person with personal knowledge, subject to the penalties for perjury. The person protected by the order may provide this affidavit.
- (d) The court administrator shall provide copies of the order as required by this section.
- (e) A valid foreign protective order has the same effect and shall be enforced in the same manner as an order for protection issued in this state whether or not filed with a court administrator or otherwise entered in the state order for protection database.
- (f) A foreign protective order is presumed valid if it meets all of the following:
- (1) the order states the name of the protected individual and the individual against whom enforcement is sought;
 - (2) the order has not expired;
 - (3) the order was issued by a court or tribunal that had jurisdiction over the parties and subject matter under the law of the foreign jurisdiction; and
 - (4) the order was issued in accordance with the respondent's due process rights, either after the respondent was provided with reasonable notice and an opportunity to be heard before the court or tribunal that issued the order, or in the case of an ex parte order, the respondent was granted notice and an opportunity to be heard within a reasonable time after the order was issued.
- (g) Proof that a foreign protective order failed to meet all of the factors listed in paragraph (f) is an affirmative defense in any action seeking enforcement of the order.
- (h) A peace officer shall treat a foreign protective order as a valid legal document and shall make an arrest for a violation of the foreign protective order in the same manner that a peace officer would make an arrest for a violation of a protective order issued within this state.
- (i) The fact that a foreign protective order has not been filed with the court administrator or otherwise entered into the state order for protection database shall not be grounds to refuse to enforce the terms of the order unless it is apparent to the officer that the order is invalid on its face.


<p>(j) A peace officer acting reasonably and in good faith in connection with the enforcement of a foreign protective order is immune from civil and criminal liability in any action arising in connection with the enforcement.</p> <p>(k) Filing and service costs in connection with foreign protective orders are waived.</p> <p>Subd. 20. Statewide application. An order for protection granted under this section applies throughout this state.</p> <p>Subd. 21. Order for protection forms. The state court administrator, in consultation with city and county attorneys and legal advocates who work with victims, shall update the uniform order for protection form that facilitates the consistent enforcement of orders for protection throughout the state.</p> <p>Subd. 22. Repealed by Laws 2010, c. 299, eff. August 1, 2010.</p> <p>Subd. 23. Prohibition against employer retaliation. (a) An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to obtain or attempt to obtain relief under this chapter. Except in cases of imminent danger to the health or safety of the employee or the employee's child, or unless impracticable, an employee who is absent from the workplace shall give 48 hours' advance notice to the employer. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.</p> <p>(b) An employer who violates paragraph (a) is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to pay back wages and offer job reinstatement to any employee discharged from employment in violation of paragraph (a).</p> <p>(c) In addition to any remedies otherwise provided by law, an employee injured by a violation of paragraph (a) may bring a civil action for recovery of damages, together with costs and disbursements, including reasonable attorneys fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court.</p>	
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<p> Minn. Stat. Ann. § 518B.01, subd. 2 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Sexual Assault Counselor-Victim Privilege.</p> <p>Every person of sufficient understanding, including a party, may testify in any action or proceeding, civil or criminal, in court or before any person who has authority to receive evidence, except as provided in this subdivision: . . .</p> <p>Sexual assault counselors may not be allowed to disclose any opinion or information received from or about the victim without the consent of the victim. However, a counselor may be compelled to identify or disclose information in investigations or proceedings related to neglect or termination of parental rights if the court determines good cause exists. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the treatment relationship, and the treatment services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from compliance with the provisions of section 626.557 and chapter 260E.</p> <p> Minn. Stat. Ann. § 595.02, subd. 1(k) defines the term “sexual assault counselor” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Minn. Stat. Ann. § 595.02, subd. 1(k).</p>
<p>Domestic Abuse Advocate-Victim Privilege.</p> <p>Every person of sufficient understanding, including a party, may testify in any action or proceeding, civil or criminal, in court or before any person who has authority to receive evidence, except as provided in this subdivision: . . .</p>	<p>Minn. Stat. Ann. § 595.02, subd. 1(l).</p>

<p>A domestic abuse advocate may not be compelled to disclose any opinion or information received from or about the victim without the consent of the victim unless ordered by the court. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the relationship between the victim and domestic abuse advocate, and the services if disclosure occurs. Nothing in this paragraph exempts domestic abuse advocates from compliance with the provisions of section 626.557 and chapter 260E.</p> <p> Minn. Stat. Ann. § 595.02, subd. 1(1) defines the term “domestic abuse advocate” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Admissibility of Out of Court Statements by Certain Child-Victims and Victims with Mental Impairments.</p> <p>An out-of-court statement made by a child under the age of ten years or a person who is mentally impaired as defined in section 609.341, subdivision 6, alleging, explaining, denying, or describing any act of sexual contact or penetration performed with or on the child or any act of physical abuse of the child or the person who is mentally impaired by another, not otherwise admissible by statute or rule of evidence, is admissible as substantive evidence if:</p> <p>(a) the court or person authorized to receive evidence finds, in a hearing conducted outside of the presence of the jury, that the time, content, and circumstances of the statement and the reliability of the person to whom the statement is made provide sufficient indicia of reliability; and</p> <p>(b) the child or person mentally impaired as defined in section 609.341, subdivision 6, either:</p> <p>(i) testifies at the proceedings; or</p> <p>(ii) is unavailable as a witness and there is corroborative evidence of the act; and</p>	<p>Minn. Stat. Ann. § 595.02, subd. 3.</p>

<p>(c) the proponent of the statement notifies the adverse party of the proponent’s intention to offer the statement and the particulars of the statement sufficiently in advance of the proceeding at which the proponent intends to offer the statement into evidence to provide the adverse party with a fair opportunity to prepare to meet the statement.</p> <p>For purposes of this subdivision, an out-of-court statement includes video, audio, or other recorded statements. An unavailable witness includes an incompetent witness.</p>	
<p>Child-Victims’ Right to Testify Outside of the Courtroom; Court Order Regarding Accommodations; Support Person Presence During Testimony.</p> <p>(a) In a proceeding in which a child less than 12 years of age is alleging, denying, or describing:</p> <p>(1) an act of physical abuse or an act of sexual contact or penetration performed with or on the child or any other person by another; or</p> <p>(2) an act that constitutes a crime of violence committed against the child or any other person, the court may, upon its own motion or upon the motion of any party, order that the testimony of the child be taken in a room other than the courtroom or in the courtroom and televised at the same time by closed-circuit equipment, or recorded for later showing to be viewed by the jury in the proceeding, to minimize the trauma to the child of testifying in the courtroom setting and, where necessary, to provide a setting more amenable to securing the child witness’s uninhibited, truthful testimony.</p> <p>(b) At the taking of testimony under this subdivision, only the judge, the attorneys for the defendant and for the state, any person whose presence would contribute to the welfare and well-being of the child, persons necessary to operate the recording or closed-circuit equipment and, in a child protection proceeding under chapter 260 or a dissolution or custody proceeding under chapter 518, the attorneys for those parties with a right to participate may be present with the child during the child’s testimony.</p> <p>(c) The court shall permit the defendant in a criminal or delinquency matter to observe and hear the testimony of the child in person. If the court, upon its own motion or the motion of</p>	<p>Minn. Stat. Ann. § 595.02, subd. 4.</p>

<p>any party, finds in a hearing conducted outside the presence of the jury, that the presence of the defendant during testimony taken pursuant to this subdivision would psychologically traumatize the witness so as to render the witness unavailable to testify, the court may order that the testimony be taken in a manner that:</p> <p>(1) the defendant can see and hear the testimony of the child in person and communicate with counsel, but the child cannot see or hear the defendant; or</p> <p>(2) the defendant can see and hear the testimony of the child by video or television monitor from a separate room and communicate with counsel, but the child cannot see or hear the defendant.</p> <p>(d) As used in this subdivision, “crime of violence” has the meaning given it in section 624.712, subdivision 5, and includes violations of section 609.26.</p>	
<p>Inclusion of Victim Statement in Presentence Investigation.</p> <p>(a) When a defendant has been convicted of a misdemeanor or gross misdemeanor, the court may, and when the defendant has been convicted of a felony, the court shall, before sentence is imposed, cause a presentence investigation and written report to be made to the court concerning the defendant’s individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused by it to others and to the community. At the request of the prosecutor in a gross misdemeanor case, the court shall order that a presentence investigation and report be prepared. The investigation shall be made by a probation officer of the court, if there is one; otherwise it shall be made by the commissioner of corrections. The officer conducting the presentence or predispositional investigation shall make reasonable and good faith efforts to contact and provide the victim with the information required under section 611A.037, subdivision 2. Presentence investigations shall be conducted and summary hearings held upon reports and upon the sentence to be imposed upon the defendant in accordance with this section, section 244.10, and the Rules of Criminal Procedure.</p> <p>(b) When the crime is a violation of sections 609.561 to 609.563, 609.5641, or 609.576 and involves a fire, the report shall include a description of the financial and physical harm the</p>	<p>Minn. Stat. Ann. § 609.115, subd. 1(a)–(d).</p>


<p>offense has had on the public safety personnel who responded to the fire. For purposes of this paragraph, “public safety personnel” means the state fire marshal; employees of the Division of the State Fire Marshal; firefighters, regardless of whether the firefighters receive any remuneration for providing services; peace officers, as defined in section 626.05, subdivision 2; individuals providing emergency management services; and individuals providing emergency medical services.</p> <p>(c) When the crime is a felony violation of chapter 152 involving the sale or distribution of a controlled substance, the report may include a description of any adverse social or economic effects the offense has had on persons who reside in the neighborhood where the offense was committed.</p> <p>(d) The report shall also include the information relating to crime victims required under section 611A.037, subdivision 1. If the court directs, the report shall include an estimate of the prospects of the defendant’s rehabilitation and recommendations as to the sentence which should be imposed. In misdemeanor cases the report may be oral.</p> <p> Minn. Stat. Ann. § 611A.037 governs victims’ rights with respect to presentence investigations. This statutory provision is included above.</p>	
<p>Confidentiality of Victim Impact Presentence Domestic Abuse Investigations.</p> <p>Subd. 1. Investigation. A presentence domestic abuse investigation must be conducted and a report submitted to the court by the corrections agency responsible for conducting the investigation when:</p> <p>(1) a defendant is convicted of an offense described in section 518B.01, subdivision 2;</p> <p>(2) a defendant is arrested for committing an offense described in section 518B.01, subdivision 2, but is convicted of another offense arising out of the same circumstances surrounding the arrest; or</p> <p>(3) a defendant is convicted of a violation against a family or household member of: (a) an order for protection under section 518B.01; (b) a harassment restraining order under section 609.748; (c) section 609.79, subdivision 1; or (d) section 609.713, subdivision 1.</p>	<p>Minn. Stat. Ann. § 609.2244.</p>



<p>Subd. 2. Report.</p> <p>(a) The Department of Corrections shall establish minimum standards for the report, including the circumstances of the offense, impact on the victim, the defendant's prior record, characteristics and history of alcohol and chemical use problems, and amenability to domestic abuse programs. The report is classified as private data on individuals as defined in section 13.02, subdivision 12. Victim impact statements are confidential.</p> <p>(b) The report must include:</p> <ol style="list-style-type: none"> (1) a recommendation on any limitations on contact with the victim and other measures to ensure the victim's safety; (2) a recommendation for the defendant to enter and successfully complete domestic abuse programming and any aftercare found necessary by the investigation, including a specific recommendation for the defendant to complete a domestic abuse counseling program or domestic abuse educational program under section 518B.02; (3) a recommendation for chemical dependency evaluation and treatment as determined by the evaluation whenever alcohol or drugs were found to be a contributing factor to the offense; (4) recommendations for other appropriate remedial action or care or a specific explanation why no level of care or action is recommended; and (5) consequences for failure to abide by conditions set up by the court. <p>Subd. 3. Corrections agents standards; rules; investigation time limits. A domestic abuse investigation required by this section must be conducted by the local Corrections Department or the commissioner of corrections. The corrections agent shall have access to any police reports or other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation. A corrections agent conducting an investigation under this section may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. A n appointment for the defendant to undergo the investigation must be made by the court, a court services probation officer, or court administrator as soon as possible.</p>	
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<p>Parents or Guardians' Right to Seek Prostitution Protective Orders for Child Victim; Content of Petition; Hearing; Relief; Violations.</p> <p>Subd. 1. Order for protection. Any parent or guardian who knows or has reason to believe that a person, while acting as other than a prostitute or patron, is inducing, coercing, soliciting, or promoting the prostitution of the parent or guardian's minor child, or is offering or providing food, shelter, or other subsistence for the purpose of enabling the parent or guardian's minor child to engage in prostitution, may seek an order for protection in the manner provided in this section.</p> <p>Subd. 2. Court jurisdiction. An application for relief under this section shall be filed in the juvenile court. Actions under this section shall be given docket priority by the court.</p> <p>Subd. 3. Contents of petition. A petition for relief shall allege the existence of a circumstance or circumstances described in subdivision 1, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.</p> <p>Subd. 4. Hearing on application; notice. (a) Upon receipt of the petition, the court shall order a hearing which shall be held no later than 14 days from the date of the order. Personal service shall be made upon the respondent not less than five days before the hearing. In the event that personal service cannot be completed in time to give the respondent the minimum notice required under this paragraph, the court may set a new hearing date.</p> <p>(b) Notwithstanding the provisions of paragraph (a), service may be made by one week published notice, as provided under section 645.11, provided the petitioner files with the court an affidavit stating that an attempt at personal service made by a sheriff was unsuccessful because the respondent is avoiding service by concealment or otherwise, and that a copy of the petition and notice of hearing has been mailed to the respondent at the respondent's residence or that the residence is not known to the petitioner. Service under this paragraph is complete seven days after publication. The court shall set a new hearing date if</p>	<p>Minn. Stat. Ann. § 609.3232.</p>
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<p>necessary to allow the respondent the five-day minimum notice required under paragraph (a).</p> <p>Subd. 5. Relief by the court. Upon notice and hearing, the court may order the respondent to return the minor child to the residence of the child’s parents or guardian, and may order that the respondent cease and desist from committing further acts described in subdivision 1 and cease to have further contact with the minor child. Any relief granted by the court in the order for protection shall be for a fixed period of time determined by the court.</p> <p>Subd. 6. Service of order. Any order issued under this section shall be served personally on the respondent. Upon the request of the petitioner, the court shall order the sheriff to assist in the execution or service of the order for protection.</p> <p>Subd. 7. Violation of order for protection. (a) A violation of an order for protection shall constitute contempt of court and be subject to the penalties provided under chapter 588. (b) Any person who willfully fails to return a minor child as required by an order for protection issued under this section commits an act which manifests an intent substantially to deprive the parent or guardian of custodial rights within the meaning of section 609.26, clause (3).</p>	
<p>Sex Crime Victim’s Right to Initiate Law Enforcement Investigation by Contacting Any Law Enforcement Agency, Regardless of Where Crime Occurred.</p> <p>(a) A victim of any violation of sections 609.342 to 609.3453 may initiate a law enforcement investigation by contacting any law enforcement agency, regardless of where the crime may have occurred. The agency must prepare a summary of the allegation and provide the person with a copy of it. The agency must begin an investigation of the facts, or, if the suspected crime was committed in a different jurisdiction, refer the matter along with the summary to the law enforcement agency where the suspected crime was committed for an investigation of the facts.</p>	<p>Minn. Stat. Ann. § 609.3459.</p>

<p>(b) If a law enforcement agency refers the matter to the law enforcement agency where the crime was committed, it need not include the allegation as a crime committed in its jurisdiction for purposes of information that the agency is required to provide to the commissioner of public safety pursuant to section 299C.06, but must confirm that the other law enforcement agency has received the referral.</p>	
<p>Minor Sex Crime Victims' Right to Nondisclosure of Identity.</p> <p>Notwithstanding any provision of law to the contrary, no data contained in records or reports relating to petitions, complaints, or indictments issued pursuant to section 609.322, 609.342, 609.343, 609.344, 609.345, or 609.3453, which specifically identifies a victim who is a minor shall be accessible to the public, except by order of the court. Nothing in this section authorizes denial of access to any other data contained in the records or reports, including the identity of the defendant.</p>	<p>Minn. Stat. Ann. § 609.3471.</p>
<p>Sex Crime Victims' Right to No-Cost Medical Examination.</p> <p>(a) Costs incurred by a county, city, or private hospital or other emergency medical facility or by a private physician for the examination of a victim of criminal sexual conduct when the examination is performed for the purpose of gathering evidence shall be paid by the county in which the criminal sexual conduct occurred. These costs include, but are not limited to, full cost of the rape kit examination, associated tests relating to the complainant's sexually transmitted disease status, and pregnancy status.</p> <p>(b) Nothing in this section shall be construed to limit the duties, responsibilities, or liabilities of any insurer, whether public or private. However, a county may seek insurance reimbursement from the victim's insurer only if authorized by the victim. This authorization may only be sought after the examination is performed. When seeking this authorization, the county shall inform the victim that if the victim does not authorize this, the county is required by law to pay for the examination and that the victim is in no way liable for these costs or obligated to authorize the reimbursement.</p>	<p>Minn. Stat. Ann. § 609.35.</p>

<p>(c) The applicability of this section does not depend upon whether the victim reports the offense to law enforcement or the existence or status of any investigation or prosecution.</p> <p> A promising practice is to inform sexual crime victims, as soon as possible, that they are not required report the offense committed against them to receive a no-cost examination.</p>	
<p>Identity Theft Victims' Rights to Restitution; to Copies of Complaint, Judgment and Order; and to Initiate Law Enforcement Investigation in Jurisdiction Where Victims Reside.</p> <p>Subd. 4. Restitution; items provided to victim.</p> <p>(a) A direct or indirect victim of an identity theft crime shall be considered a victim for all purposes, including any rights that accrue under chapter 611A and rights to court-ordered restitution.</p> <p>(b) The court shall order a person convicted of violating subdivision 2 to pay restitution of not less than \$1,000 to each direct victim of the offense.</p> <p>(c) Upon the written request of a direct victim or the prosecutor setting forth with specificity the facts and circumstances of the offense in a proposed order, the court shall provide to the victim, without cost, a certified copy of the complaint filed in the matter, the judgment of conviction, and an order setting forth the facts and circumstances of the offense.</p> <p>Subd. 5. Reporting.</p> <p>(a) A person who has learned or reasonably suspects that a person is a direct victim of a crime under subdivision 2 may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction where the person resides, regardless of where the crime may have occurred. The agency must prepare a police report of the matter, provide the complainant with a copy of that report, and may begin an investigation of the facts, or, if the suspected crime was committed in a different jurisdiction, refer the matter to the law enforcement agency where the suspected crime was committed for an investigation of the facts.</p>	<p>Minn. Stat. Ann. § 609.527, subds. 4–5.</p>

<p>(b) If a law enforcement agency refers a report to the law enforcement agency where the crime was committed, it need not include the report as a crime committed in its jurisdiction for purposes of information that the agency is required to provide to the commissioner of public safety pursuant to section 299C.06.</p> <p> Minn. Rev. Stat. Ann. § 609.527, subd. 1 defines the terms used in this statutory provision. These definitions are included below in the section “State 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>Victims’ Rights to Seek Harassment Restraining Orders at No Cost; Courts Duty to Provide Victims with Certain Information Regarding the Procedures and Rights Related to a Harassment Restraining Order; Contents of Petition; Hearings; Relief.</p> <p>Subd. 2. Restraining order; court jurisdiction. A person who is a victim of harassment or the victim’s guardian or conservator may seek a restraining order from the district court in the manner provided in this section. The parent, guardian or conservator, or stepparent of a minor who is a victim of harassment may seek a restraining order from the district court on behalf of the minor. An application for relief under this section may be filed in the county of residence of either party or in the county in which the alleged harassment occurred. There are no residency requirements that apply to a petition for a harassment restraining order.</p> <p>Subd. 3. Contents of petition; hearing; notice. (a) A petition for relief must allege facts sufficient to show the following:</p> <ol style="list-style-type: none"> (1) the name of the alleged harassment victim; (2) the name of the respondent; and (3) that the respondent has engaged in harassment. 	<p>Minn. Stat. Ann. § 609.748, subds. 2–10.</p>

A petition for relief must state whether the petitioner has had a previous restraining order in effect against the respondent. The petition shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section and shall advise the petitioner of the right to sue in forma pauperis under section 563.01. The court shall advise the petitioner of the right to request a hearing. If the petitioner does not request a hearing, the court shall advise the petitioner that the respondent may request a hearing and that notice of the hearing date and time will be provided to the petitioner by mail at least five days before the hearing. Upon receipt of the petition and a request for a hearing by the petitioner, the court shall order a hearing. Personal service must be made upon the respondent not less than five days before the hearing. If personal service cannot be completed in time to give the respondent the minimum notice required under this paragraph, the court may set a new hearing date. Nothing in this section shall be construed as requiring a hearing on a matter that has no merit.

(b) Notwithstanding paragraph (a), the order for a hearing and a temporary order issued under subdivision 4 may be served on the respondent by means of a one-week published notice under section 645.11, if:

(1) the petitioner files an affidavit with the court stating that an attempt at personal service made by a peace officer was unsuccessful because the respondent is avoiding service by concealment or otherwise; and

(2) a copy of the petition and order for hearing and any temporary restraining order has been mailed to the respondent at the respondent's residence or place of business, if the respondent is an organization, or the respondent's residence or place of business is not known to the petitioner.

(c) Regardless of the method of service, if the respondent is a juvenile, whenever possible, the court also shall have notice of the pendency of the case and of the time and place of the hearing served by mail at the last known address upon any parent or guardian of the juvenile respondent who is not the petitioner.

(d) A request for a hearing under this subdivision must be made within 20 days of service of the petition.

Subd. 3a. Filing fee; cost of service. The filing fees for a restraining order under this section are waived for the petitioner and the respondent if the petition alleges acts that would

constitute a violation of section 609.749, subdivision 2, 3, 4, or 5, or sections 609.342 to 609.3451. The court administrator and any peace officer in this state shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when a peace officer is unavailable or if service is made by publication.

Subd. 4. Temporary restraining order; relief by court. (a) The court may issue a temporary restraining order that provides any or all of the following:

- (1) orders the respondent to cease or avoid the harassment of another person; or
- (2) orders the respondent to have no contact with another person.

(b) The court may issue an order under paragraph (a) if the petitioner files a petition in compliance with subdivision 3 and if the court finds reasonable grounds to believe that the respondent has engaged in harassment. When a petition alleges harassment as defined by subdivision 1, paragraph (a), clause (1), the petition must further allege an immediate and present danger of harassment before the court may issue a temporary restraining order under this section. When signed by a referee, the temporary order becomes effective upon the referee's signature.

(c) Notice need not be given to the respondent before the court issues a temporary restraining order under this subdivision. A copy of the restraining order must be served on the respondent along with the order for hearing and petition, as provided in subdivision 3. If the respondent is a juvenile, whenever possible, a copy of the restraining order, along with notice of the pendency of the case and the time and place of the hearing, shall also be served by mail at the last known address upon any parent or guardian of the juvenile respondent who is not the petitioner. A temporary restraining order may be entered only against the respondent named in the petition.

(d) The temporary restraining order is in effect until a hearing is held on the issuance of a restraining order under subdivision 5. The court shall hold the hearing on the issuance of a restraining order if the petitioner requests a hearing. The hearing may be continued by the court upon a showing that the respondent has not been served with a copy of the temporary restraining order despite the exercise of due diligence or if service is made by published notice under subdivision 3 and the petitioner files the affidavit required under that subdivision.

- (e) If the temporary restraining order has been issued and the respondent requests a hearing, the hearing shall be scheduled by the court upon receipt of the respondent's request. Service of the notice of hearing must be made upon the petitioner not less than five days prior to the hearing. The court shall serve the notice of the hearing upon the petitioner by mail in the manner provided in the Rules of Civil Procedure for pleadings subsequent to a complaint and motions and shall also mail notice of the date and time of the hearing to the respondent. In the event that service cannot be completed in time to give the respondent or petitioner the minimum notice required under this subdivision, the court may set a new hearing date.
- (f) A request for a hearing under this subdivision must be made within 20 days of the date of completed service of the petition.

Subd. 5. Restraining order. (a) The court may issue a restraining order that provides any or all of the following:

- (1) orders the respondent to cease or avoid the harassment of another person; or
 - (2) orders the respondent to have no contact with another person.
- (b) The court may issue an order under paragraph (a) if all of the following occur:
- (1) the petitioner has filed a petition under subdivision 3;
 - (2) a peace officer has served respondent with a copy of the temporary restraining order obtained under subdivision 4, and with notice of the right to request a hearing, or service has been made by publication under subdivision 3, paragraph (b); and
 - (3) the court finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment.

A restraining order may be issued only against the respondent named in the petition; except that if the respondent is an organization, the order may be issued against and apply to all of the members of the organization. If the court finds that the petitioner has had two or more previous restraining orders in effect against the same respondent or the respondent has violated a prior or existing restraining order on two or more occasions, relief granted by the restraining order may be for a period of up to 50 years. In all other cases, relief granted by the restraining order must be for a fixed period of not more than two years. When a referee presides at the hearing on the petition, the restraining order becomes effective upon the referee's signature.

- (c) An order issued under this subdivision must be personally served upon the respondent.

(d) If the court orders relief for a period of up to 50 years under paragraph (a), the respondent named in the restraining order may request to have the restraining order vacated or modified if the order has been in effect for at least five years and the respondent has not violated the order. Application for relief under this paragraph must be made in the county in which the restraining order was issued. Upon receipt of the request, the court shall set a hearing date. Personal service must be made upon the petitioner named in the restraining order not less than 30 days before the date of the hearing. At the hearing, the respondent named in the restraining order has the burden of proving by a preponderance of the evidence that there has been a material change in circumstances and that the reasons upon which the court relied in granting the restraining order no longer apply and are unlikely to occur. If the court finds that the respondent named in the restraining order has met the burden of proof, the court may vacate or modify the order. If the court finds that the respondent named in the restraining order has not met the burden of proof, the court shall deny the request and no request may be made to vacate or modify the restraining order until five years have elapsed from the date of denial. An order vacated or modified under this paragraph must be personally served on the petitioner named in the restraining order.

<Text of subd. 5a is effective 30 days following publication of a notice on the Bureau of Criminal Apprehension's website that a computer system is available to send harassment restraining order data from the Minnesota judicial branch to law enforcement.>

Subd. 5a. Short-form notification. (a) In lieu of personal service of a harassment restraining order, a peace officer may serve a person with a short-form notification. The short-form notification must include the following clauses: the respondent's name; the respondent's date of birth, if known; the petitioner's name; the names of other protected parties; the date and county in which the temporary restraining order or restraining order was filed; the court file number; the hearing date and time, if known; the conditions that apply to the respondent, either in checklist form or handwritten; and the name of the judge who signed the order.


The short-form notification must be in bold print in the following form:

"The restraining order is now enforceable. You must report to your nearest sheriff's office or county court to obtain a copy of the restraining order. You are subject to arrest and may be charged with a misdemeanor, gross misdemeanor, or felony if you violate any of the terms of the restraining order or this short-form notification."




<p>(b) Upon verification of the identity of the respondent and the existence of an unserved harassment restraining order against the respondent, a law enforcement officer may detain the respondent for a reasonable time necessary to complete and serve the short-form notification.</p> <p>(c) When service is made by short-form notification, it may be proved by the affidavit of the law enforcement officer making the service.</p> <p>(d) For service under this section only, service upon an individual may occur at any time, including Sundays and legal holidays.</p> <p>(e) The superintendent of the Bureau of Criminal Apprehension shall provide the short form to law enforcement agencies.</p> <p>Subd. 5b. Service by others. In addition to peace officers, corrections officers, including but not limited to probation officers, court services officers, parole officers, and employees of jails or correctional facilities, may serve a temporary restraining order or restraining order.</p> <p>Subd. 6. Violation of restraining order. (a) A person who violates a restraining order issued under this section is subject to the penalties provided in paragraphs (b) to (d).</p> <p>(b) Except as otherwise provided in paragraphs (c) and (d), when a temporary restraining order or a restraining order is granted under this section and the respondent knows of the order, violation of the order is a misdemeanor.</p> <p>(c) A person is guilty of a gross misdemeanor who violates the order within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency.</p> <p>(d) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person violates the order:</p> <ol style="list-style-type: none"> (1) within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency; (2) because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin; (3) by falsely impersonating another; (4) while possessing a dangerous weapon; 	
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<p>(5) with an intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or</p> <p>(6) against a victim under the age of 18, if the respondent is more than 36 months older than the victim.</p> <p>(e) A person who commits violations in two or more counties may be prosecuted in any county in which one of the acts was committed for all acts in violation of this section.</p> <p>(f) A person may be prosecuted at the place where any call is made or received or, in the case of wireless or electronic communication or any communication made through any available technologies, where the actor or victim resides, or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established under chapter 5B.</p> <p>(g) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under subdivision 4 or 5 if the existence of the order can be verified by the officer.</p> <p>(h) A violation of a temporary restraining order or restraining order shall also constitute contempt of court.</p> <p>(i) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated an order issued under subdivision 4 or 5, the court may issue an order to the respondent requiring the respondent to appear within 14 days and show cause why the respondent should not be held in contempt of court. The court also shall refer the violation of the order to the appropriate prosecuting authority for possible prosecution under paragraph (b), (c), or (d).</p> <p>Subd. 7. Copy to law enforcement agency. An order granted under this section shall be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the residence of the applicant. Each appropriate law enforcement agency shall make available to other law enforcement officers through a system for verification, information as to the existence and status of any order issued under this section.</p> <p>Subd. 8. Notice. (a) An order granted under this section must contain a conspicuous notice to the respondent:</p>	
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<p>(1) of the specific conduct that will constitute a violation of the order;</p> <p>(2) that violation of an order is either (i) a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$1,000, or both, (ii) a gross misdemeanor punishable by imprisonment for up to one year or a fine of up to \$3,000, or both, or (iii) a felony punishable by imprisonment for up to five years or a fine of up to \$10,000, or both; and</p> <p>(3) that a peace officer must arrest without warrant and take into custody a person if the peace officer has probable cause to believe the person has violated a restraining order.</p> <p>(b) If the court grants relief for a period of up to 50 years under subdivision 5, the order must also contain a conspicuous notice to the respondent that the respondent must wait five years to seek a modification of the order.</p> <p>Subd. 9. Effect on local ordinances. Nothing in this section shall supersede or preclude the continuation or adoption of any local ordinance which applies to a broader scope of targeted residential picketing conduct than that described in Subd. 1.</p> <p>Subd. 10. Prohibition against employer retaliation. (a) An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to obtain or attempt to obtain relief under this section. Except in cases of imminent danger to the health or safety of the employee or the employee's child, or unless impracticable, an employee who is absent from the workplace shall give 48 hours' advance notice to the employer. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.</p> <p>(b) An employer who violates paragraph (a) is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to pay back wages and offer job reinstatement to any employee discharged from employment in violation of paragraph (a).</p> <p>(c) In addition to any remedies otherwise provided by law, an employee injured by a violation of paragraph (a) may bring a civil action for recovery of damages, together with costs and disbursements, including reasonable attorneys fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court.</p>	
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 Minn. Stat. Ann. § 609.748, subd. 1 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”	
<p>Victims’ Rights Regarding Petition for Expungement: to Notice and to Submit a Statement.</p> <p>Subd. 3. Service of petition and proposed order. (a) The petitioner shall serve by mail the petition for expungement and a proposed expungement order on the prosecutorial office that had jurisdiction over the offense for which expungement is sought and all other state and local government agencies and jurisdictions whose records would be affected by the proposed order. The petitioner shall also serve by mail the attorney for each agency and jurisdiction.</p> <p>(b) The prosecutorial office that had jurisdiction over the offense for which expungement is sought shall serve by mail the petition for expungement and a proposed expungement order on any victims of the offense for which expungement is sought who have requested notice of expungement pursuant to section 611A.06. Service under this paragraph does not constitute a violation of an existing order for protection, restraining order, or other no contact order.</p> <p>(c) The prosecutorial office’s notice to victims of the offense under this subdivision must specifically inform the victims of the victims’ right to be present and to submit an oral or written statement at the expungement hearing described in subdivision 4.</p> <p>(d) An agency or jurisdiction that is served with a petition under this subdivision may submit to the court private or confidential data on the petitioner that the agency or jurisdiction determines is necessary to respond to the petition. As part of the submission, the agency or jurisdiction shall inform the court and the petitioner that the submission contains private or confidential data that may become accessible to the public as part of the expungement proceeding. The petitioner may, at the time of filing the petition or after that time, file a request with the court to seal the private or confidential data that are submitted by the agency or jurisdiction.</p>	<p>Minn. Stat. Ann. § 609A.03, subds. 3–4.</p>

<p>Subd. 4. Hearing. A hearing on the petition shall be held no sooner than 60 days after service of the petition. A victim of the offense for which expungement is sought has a right to submit an oral or written statement to the court at the time of the hearing describing the harm suffered by the victim as a result of the crime and the victim's recommendation on whether expungement should be granted or denied. The judge shall consider the victim's statement when making a decision.</p>	
<p>Domestic Violence Victims' Rights to Notice of Rights and to Access to Written Police Report.</p> <p>Subd. 3. Notice of Rights. The peace officer shall tell the victim whether a shelter or other services are available in the community and give the victim immediate notice of the legal rights and remedies available. The notice must include furnishing the victim a copy of the following statement: "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an order for protection from domestic abuse. The order could include the following: (1) an order restraining the abuser from further acts of abuse; (2) an order directing the abuser to leave your household; (3) an order preventing the abuser from entering your residence, school, business, or place of employment; (4) an order awarding you or the other parent custody of or parenting time with your minor child or children; or (5) an order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so." The notice must include the resource listing, including telephone number, for the area battered women's shelter, to be designated by the Department of Corrections.</p> <p>Subd. 4. Report required. Whenever a peace officer investigates an allegation that an incident described in subdivision 1 has occurred, whether or not an arrest is made, the officer shall make a written police report of the alleged incident. The report must contain at least</p>	<p>Minn. Stat. Ann. § 629.341.</p>

<p>the following information: the name, address and telephone number of the victim, if provided by the victim, a statement as to whether an arrest occurred, the name of the arrested person, and a brief summary of the incident. Data that identify a victim who has made a request under section 13.82, subdivision 17, paragraph (d), and that are private data under that subdivision, shall be private in the report required by this section. A copy of this report must be provided upon request, at no cost, to the victim of domestic abuse, the victim's attorney, or organizations designated by the Office of Justice Programs in the Department of Public Safety or the commissioner of corrections that are providing services to victims of domestic abuse. The officer shall submit the report to the officer's supervisor or other person to whom the employer's rules or policies require reports of similar allegations of criminal activity to be made.</p> <p> Minn. Stat. Ann. § 622A.02 requires that the state's model notice of rights to crime victims must contain information regarding these rights. This provision is included above.</p> <p> Minn. Stat. Ann. § 13.82, subd. 17(d), which affords victims the right to request the withholding of their identifying information from publicly accessible data, is included below.</p> <p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time after initial contact with law enforcement. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p>Domestic Violence Victims' Right to Assistance When No Arrest; Law Enforcement's Duties to Provide Assistance in Obtaining Necessary Medical Treatment and Notice of Victims' Rights.</p> <p>If a law enforcement officer does not make an arrest when the officer has probable cause to believe that a person is committing or has committed domestic abuse or violated an order</p>	<p>Minn. Stat. Ann. § 629.342, subd 3.</p>

<p>for protection, the officer shall provide immediate assistance to the victim. Assistance includes:</p> <p>(1) assisting the victim in obtaining necessary medical treatment; and</p> <p>(2) providing the victim with the notice of rights under section 629.341, subdivision 3.</p> <p> Under Minn. Stat. Ann. § 629.341 have the right to notice of certain rights. This statutory provision is included above.</p> <p> Under Minn. Stat. Ann. § 629.342, subd. 1, for the purposes of this section, “domestic abuse” has the meaning given in Minn. Stat. Ann. § 518B.01, which is included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Certain Victims’ Rights to Notice of an Arrested Person’s Release and Bail Hearing.</p> <p>Subd. 6. Notice; release of arrested person. (a) Immediately after issuance of a citation in lieu of continued detention under subdivision 1, or the entry of an order for release under subdivision 2, but before the arrested person is released, the agency having custody of the arrested person or its designee must make a reasonable and good faith effort to inform orally the alleged victim, local law enforcement agencies known to be involved in the case, if different from the agency having custody, and, at the victim’s request any local battered women’s and domestic abuse programs established under section 611A.32 or sexual assault programs of:</p> <p>(1) the conditions of release, if any;</p> <p>(2) the time of release;</p> <p>(3) the time, date, and place of the next scheduled court appearance of the arrested person and the victim’s right to be present at the court appearance; and</p> <p>(4) if the arrested person is charged with domestic abuse, the location and telephone number of the area battered women’s shelter as designated by the Office of Justice Programs in the Department of Public Safety.</p>	<p>Minn. Stat. Ann. § 629.72, subsd. 6–7.</p>

(b) As soon as practicable after an order for conditional release is entered, the agency having custody of the arrested person or its designee must personally deliver or mail to the alleged victim a copy of the written order and written notice of the information in paragraph (a), clauses (2) and (3).

(c) Data on the victim and the notice provided by the custodial authority are private data on individuals as defined in section 13.02, subdivision 12, and are accessible only to the victim.

Subd. 7. Notice to victim regarding bail hearing. (a) When a person arrested for or a juvenile detained for domestic assault or harassing or stalking is scheduled to be reviewed under subdivision 2 for release from pretrial detention, the court shall make a reasonable good faith effort to notify:

- (1) the victim of the alleged crime;
- (2) if the victim is incapacitated or deceased, the victim's family; and
- (3) if the victim is a minor, the victim's parent or guardian.

(b) The notification must include:


- (1) the date and approximate time of the review;
- (2) the location where the review will occur;
- (3) the name and telephone number of a person that can be contacted for additional information; and
- (4) a statement that the victim and the victim's family may attend the review.





Minn. Stat. Ann. § 629.72, subd. 1 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."



A promising practice is to have a policy in place to establish what constitutes a "reasonable good faith effort" to provide victims with this information.

<p>Victims' Right to Notice of Release from Pretrial Detention.</p> <p>Subd. 1. Oral notice. When a person arrested or a juvenile detained for a crime of violence or an attempted crime of violence is about to be released from pretrial detention, the agency having custody of the arrested or detained person or its designee shall make a reasonable and good faith effort before release to inform orally the victim or, if the victim is incapacitated, the same or next of kin, or if the victim is a minor, the victim's parent or guardian of the following matters:</p> <ol style="list-style-type: none"> (1) the conditions of release, if any; (2) the time of release; (3) the time, date, and place of the next scheduled court appearance of the arrested or detained person and, where applicable, the victim's right to be present at the court appearance; and (4) the location and telephone number of at least one area crime victim service provider as designated by the Office of Justice Programs in the Department of Public Safety. <p>Subd. 2. Written notice. As soon as practicable after the arrested or detained person is released, the agency having custody of the arrested or detained person or its designee must personally deliver or mail to the alleged victim written notice of the information contained in subdivision 1, clauses (2) and (3).</p> <p>Subd. 3. Data. Data on the victim and the notice provided by the custodial authority are private data on individuals as defined in section 13.02, subdivision 12, and are accessible only to the victim.</p> <p> A promising practice is to have a policy in place to establish what constitutes a "reasonable and good faith effort" to provide victims with this information.</p>	<p>Minn. Stat. Ann. § 629.73.</p>
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<p>Victims' Right to Be Heard Regarding an Application for a Pardon or a Commutation of Sentence; Board of Pardons' Duty to Consider Statement.</p> <p>The Board of Pardons shall hold meetings at least twice each year and shall hold a meeting whenever it takes formal action on an application for a pardon or commutation of sentence. All board meetings shall be open to the public as provided in chapter 13D.</p> <p>The victim of an applicant's crime has a right to submit an oral or written statement at the meeting. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the application for a pardon or commutation should be granted or denied. In addition, any law enforcement agency may submit an oral or written statement at the meeting, giving its recommendation on whether the application should be granted or denied. The board must consider the victim's and the law enforcement agency's statement when making its decision on the application.</p>	<p>Minn. Stat. Ann. § 638.04.</p>
<p>Address Confidentiality Program: Findings; Purpose.</p> <p>The legislature finds that individuals attempting to escape from actual or threatened domestic violence, sexual assault, or harassment or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for data without disclosing the location of a victim of domestic violence, sexual assault, or harassment or stalking; to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, or harassment or stalking; and to enable program participants to use an address designated by the secretary of state as a substitute mailing address for all purposes.</p> <p> Minn. Rev. Stat. Ann. § 5B.02 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p>	<p>Minn. Stat. Ann. § 5B.01.</p>

<p> For additional information regarding Minnesota’s Address Confidentiality program, <i>see</i> Minn. Rev. Stat. Ann. § 5B.02 (findings; purpose); § 5B.03 (application and eligibility); <i>id.</i> at § 5B.04 (certification cancellation); <i>id.</i> at § 5B.05 (use of designated address); <i>id.</i> at § 5B.06 (voting by absentee ballot); <i>id.</i> at § 5B.10 (display and release of name prohibited); <i>id.</i> at § 5B.11 (legal proceedings; protective order).</p>	
<p>Address Confidentiality Program: Application and Eligibility.</p> <p>Subd. 1. Application. The secretary of state shall certify an eligible person as a program participant when the secretary receives an application that must contain:</p> <ol style="list-style-type: none"> (1) the full legal name and date of birth of the eligible person; (2) a statement by the applicant that the applicant has good reason to believe (i) that the eligible person listed on the application is a victim of domestic violence, sexual assault, or harassment or stalking, or (ii) that the eligible person fears for the person’s safety, the safety of another person who resides in the same household, or the safety of persons on whose behalf the application is made, and (iii) that the eligible person is not applying for certification as a program participant in order to avoid prosecution for a crime; (3) a designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail; (4) the phone number or numbers where the applicant or eligible person can be called by the secretary of state; (5) the physical residential address of the eligible person, disclosure of which will increase the risk of domestic violence, sexual assault, or harassment or stalking; (6) if mail cannot be delivered to the residential address of the eligible person, the address to which mail should be sent; (7) a statement whether the eligible person would like information on becoming an ongoing absentee ballot recipient pursuant to section 5B.06; (8) a statement from the eligible person that gives the secretary of state consent to confirm the eligible person’s participation in Safe at Home to a third party who provides the program participant’s first and last name and date of birth or Safe at Home lot number listed on the program participant’s card; 	<p>Minn. Stat. Ann. § 5B.03.</p>

- (9) the signature of the applicant, an indicator of the applicant's authority to act on behalf of the eligible person, if appropriate, the name and signature of any individual or representative of any person who assisted in the preparation of the application, and the date on which the application was signed; and
- (10) any other information as required by the secretary of state.

Subd. 2. Filing. Applications must be filed with the secretary of state and are subject to the provisions of section 5.15.

Subd. 3. Certification. (a) Upon filing a completed application, the secretary of state shall certify the eligible person as a program participant. Program participants shall be certified for four years following the date of filing unless the certification is canceled, withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

(b) Certification under this subdivision is for the purpose of participation in the confidentiality program established under this chapter only. Certification must not be used as evidence or be considered for any purpose in any civil, criminal, or administrative proceeding related to the behavior or actions giving rise to the application under Subd. 1.


Subd. 4. Changes in information. Program participants or applicants must inform the secretary of state of a change of legal name, address, or telephone number.




Subd. 5. Designated address. The secretary of state must designate a mailing address to which all mail for program participants is to be sent. Each program participant may have only one designated address.

Subd. 6. Attaining age of majority. An individual who became a program participant as a minor assumes responsibility for changes in information and renewal when the individual reaches age 18.






Minn. Rev. Stat. Ann. § 5B.02 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."

 For additional information regarding Minnesota’s Address Confidentiality program, <i>see</i> Minn. Rev. Stat. Ann. § 5B.02 (findings; purpose); <i>id.</i> at § 5B.04 (certification cancellation); <i>id.</i> at § 5B.05 (use of designated address); <i>id.</i> at § 5B.06 (voting by absentee ballot); <i>id.</i> at § 5B.10 (display and release of name prohibited); <i>id.</i> at 5B.11 (legal proceedings; protective order).	
<p>Address Confidentiality Program: Legal Proceedings; Protective Order.</p> <p>If a program participant’s address is protected under section 5B.05, no person or entity shall be compelled to disclose the participant’s actual address during the discovery phase of or during a proceeding before a court or other tribunal unless the court or tribunal finds that:</p> <ol style="list-style-type: none"> (1) there is a reasonable belief that the address is needed to obtain information or evidence without which the investigation, prosecution, or litigation cannot proceed; and (2) there is no other practicable way of obtaining the information or evidence. <p>The court must provide the program participant with notice that address disclosure is sought and an opportunity to present evidence regarding the potential harm to the safety of the program participant if the address is disclosed. In determining whether to compel disclosure, the court must consider whether the potential harm to the safety of the participant is outweighed by the interest in disclosure. In a criminal proceeding, the court must order disclosure of a program participant’s address if protecting the address would violate a defendant’s constitutional right to confront a witness.</p> <p>Disclosure of a participant’s actual address under this section shall be limited under the terms of the order to ensure that the disclosure and dissemination of the actual address will be no wider than necessary for the purposes of the investigation, prosecution, or litigation.</p> <p>Nothing in this section prevents the court or other tribunal from issuing a protective order to prevent disclosure of information other than the participant’s actual address that could reasonably lead to the discovery of the program participant’s location.</p>	<p>Minn. Rev. Stat. Ann. § 5B.11.</p>

<p> Minn. Rev. Stat. Ann. § 5B.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> For additional information regarding Minnesota’s Address Confidentiality program, <i>see</i> Minn. Rev. Stat. Ann. § 5B.02 (findings; purpose); § 5B.03 (application and eligibility); <i>id.</i> at § 5B.04 (certification cancellation); <i>id.</i> at § 5B.05 (use of designated address); <i>id.</i> at § 5B.06 (voting by absentee ballot); <i>id.</i> at § 5B.10 (display and release of name prohibited).</p>	
<p>Confidentiality of Domestic Abuse Data Collected, Created, Received or Maintained by Law Enforcement.</p> <p>All government data on individuals which is collected, created, received or maintained by police departments, sheriffs’ offices or clerks of court pursuant to the Domestic Abuse Act, section 518B.01, are classified as confidential data, pursuant to section 13.02, subdivision 3, until a temporary court order made pursuant to subdivision 5 or 7 of section 518B.01 is executed or served upon the data subject who is the respondent to the action.</p> <p> The Domestic Abuse Act, Minn. Stat. Ann. § 518B, governs the issuance of protective orders in domestic abuse cases. This statutory provision is included above.</p>	<p>Minn. Stat. Ann. § 13.80.</p>
<p>Domestic Abuse Victims’ Right to Access Written Police Report.</p> <p>The written police report required by section 629.341, subdivision 4, of an alleged incident described in section 629.341, subdivision 1, and arrest data, request for service data, and response or incident data described in subdivision 2, 3, or 6 that arise out of this type of incident or out of an alleged violation of an order for protection must be released upon request at no cost to the victim of domestic abuse, the victim’s attorney, or an organization designated by the Office of Justice Programs in the Department of Public Safety as providing</p>	<p>Minn. Stat. Ann. § 13.82, subd. 5.</p>

<p>services to victims of domestic abuse. The executive director or the commissioner of the appropriate state agency shall develop written criteria for this designation.</p>	
<p>Victims' Right to Access Investigative Data.</p> <p>On receipt of a written request, the prosecuting authority shall release investigative data collected by a law enforcement agency to the victim of a criminal act or alleged criminal act or to the victim's legal representative unless the release to the individual subject of the data would be prohibited under section 13.821 or the prosecuting authority reasonably believes:</p> <ul style="list-style-type: none"> (a) that the release of that data will interfere with the investigation; or (b) that the request is prompted by a desire on the part of the requester to engage in unlawful activities. 	<p>Minn. Stat. Ann. § 13.82, subd. 13.</p>
<p>Law Enforcement's Obligation to Withhold Public Access to Data that Would Reveal the Identity of Certain Sex Crime Victims.</p> <p>A law enforcement agency or a law enforcement dispatching agency working under direction of a law enforcement agency shall withhold public access to data on individuals to protect the identity of individuals . . . when access to the data would reveal the identity of a victim or alleged victim of criminal sexual conduct or sex trafficking under section 609.322, 609.341 to 609.3451, or 617.246, subdivision 2[.]</p>	<p>Minn. Stat. Ann. § 13.82, subd. 17(b).</p>
<p>Law Enforcement's Obligation, Upon Request, to Withhold Public Access to Data that Would Reveal the Victim's Identity.</p> <p>A law enforcement agency or a law enforcement dispatching agency working under direction of a law enforcement agency shall withhold public access to data on individuals to protect the identity of individuals . . . when access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified</p>	<p>Minn. Stat. Ann. § 13.82, subd. 17(d).</p>

<p>publicly, unless the agency reasonably determines that revealing the identity of the victim or witness would not threaten the personal safety or property of the individual.</p> <p> Minn. Stat. Ann. § 622A.02, subd. 2 requires that the state’s model notice of rights to crime victims must contain information regarding victims’ right to request the nondisclosure of their identity. This provision is included above.</p> <p> Minn. Stat. Ann. § 622A.021 provides that victims have the right, under this statutory provision, to request that law enforcement withhold public access to data revealing the victims’ identity.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights.</p>	
<p>Victims’ Right to Access Court Services Data to Assert Rights to Restitution and to Notice.</p> <p>(a) The responsible authority or its designee of a parole or probation authority or correctional agency may release private or confidential court services data related to:</p> <p>(1) criminal acts to any law enforcement agency, if necessary for law enforcement purposes; and</p> <p>(2) criminal acts or delinquent acts to the victims of criminal or delinquent acts to the extent that the data are necessary for the victim to assert the victim’s legal right to restitution.</p> <p>(b) A parole or probation authority, a correctional agency, or agencies that provide correctional services under contract to a correctional agency may release to a law enforcement agency the following data on defendants, parolees, or probationers: current address, dates of entrance to and departure from agency programs, and dates and times of any absences, both authorized and unauthorized, from a correctional program.</p>	<p>Minn. Stat. Ann. § 13.84, subd. 6.</p>

(c) The responsible authority or its designee of a juvenile correctional agency may release private or confidential court services data to a victim of a delinquent act to the extent the data are necessary to enable the victim to assert the victim's right to request notice of release under section 611A.06. The data that may be released include only the name, home address, and placement site of a juvenile who has been placed in a juvenile correctional facility as a result of a delinquent act.

(d) Upon the victim's written or electronic request and, if the victim and offender have been household or family members as defined in section 518B.01, subdivision 2, paragraph (b), the commissioner of corrections or the commissioner's designee may disclose to the victim of an offender convicted of a qualified domestic violence-related offense as defined in section 609.02, subdivision 16, notification of the city and five-digit zip code of the offender's residency upon or after release from a Department of Corrections facility, unless:

- (1) the offender is not under correctional supervision at the time of the victim's request;
- (2) the commissioner or the commissioner's designee does not have the city or zip code; or
- (3) the commissioner or the commissioner's designee reasonably believes that disclosure of the city or zip code of the offender's residency creates a risk to the victim, offender, or public safety.

(e) Paragraph (d) applies only where the offender is serving a prison term for a qualified domestic violence-related offense committed against the victim seeking notification.



Minn. Stat. Ann. § 13.84, subd. 1 defines the term "court services data" for the purposes of this statutory provision. This definition is included above in the section "State Victims' Rights: Select Definitions.





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


Victims' Right to Access Corrections and Detention Data to Assert Right to Restitution.



Minn. Stat. Ann. § 13.85.

The responsible authority or its designee of any agency that maintains corrections and detention data may release private or confidential corrections and detention data to any law enforcement agency, if necessary for law enforcement purposes, or to the victim of a criminal act where the data are necessary for the victim to assert the victim's legal right to restitution.

STATE VICTIMS' RIGHTS: SELECT DEFINITIONS	Minnesota Statutes
<p>Crime Victims' Rights Definitions.</p> <p>For the purposes of sections 611A.01 to 611A.06:</p> <p>(a) "Crime" means conduct that is prohibited by local ordinance and results in bodily harm to an individual; or conduct that is included within the definition of "crime" in section 609.02, subdivision 1, or would be included within that definition but for the fact that (1) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state, or (2) the act was alleged or found to have been committed by a juvenile.</p> <p>(b) "Victim" means a natural person who incurs loss or harm as a result of a crime, including a good faith effort to prevent a crime, and for purposes of sections 611A.04 and 611A.045, also includes (1) a corporation that incurs loss or harm as a result of a crime, (2) a government entity that incurs loss or harm as a result of a crime, and (3) any other entity authorized to receive restitution under section 609.10 or 609.125. The term "victim" includes the family members, guardian, conservator, or custodian of a minor, incompetent, incapacitated, or deceased person. In a case where the prosecutor finds that the number of family members makes it impracticable to accord all of the family members the rights described in sections 611A.02 to 611A.0395, the prosecutor shall establish a reasonable procedure to give effect to those rights. The procedure may not limit the number of victim impact statements submitted to the court under section 611A.038. The term "victim" does not include the person charged with or alleged to have committed the crime.</p> <p>(c) "Juvenile" has the same meaning as given to the term "child" in section 260B.007, subdivision 3.</p> <p> These definitions apply to Minnesota's victims' rights laws, Minn. Stat. Ann. §§ 611A.01 through 611A.06, which are included above in the section "Select State Crime</p>	<p>Minn. Stat. Ann. § 611A.01.</p>

<p>Victims' Rights.”</p>	
<p>Domestic Abuse Prosecutions Plan and Procedures Definitions.</p> <p>(a) “Domestic abuse” has the meaning given in section 518B.01, subdivision 2.</p> <p>(b) “Domestic abuse case” means a prosecution for:</p> <ol style="list-style-type: none"> (1) a crime that involves domestic abuse; (2) violation of a condition of release following an arrest for a crime that involves domestic abuse; or (3) violation of a domestic abuse order for protection. <p> These definitions apply to Minn. Stat. Ann. § 611A.0311, subd. 2. This provision is included above in the section “Select State Crime Victims’ Rights.”</p>	<p>Minn. Stat. Ann. § 611A.0311, subd. 1.</p>
<p>Certain Victims’ Rights to Notice of Decision to Not Prosecute Definitions.</p> <p>For the purposes of this section, the following terms have the meanings given them.</p> <p>(a) “Assault” has the meaning given it in section 609.02, subdivision 10.</p> <p>(b) “Domestic assault” means an assault committed by the actor against a family or household member.</p> <p>(c) “Family or household member” has the meaning given it in section 518B.01, subdivision 2.</p> <p>(d) “Harassment” or “stalking” means a violation of section 609.749.</p> <p>(e) “Criminal sexual conduct offense” means a violation of sections 609.342 to 609.3453.</p>	<p>Minn. Stat. Ann. § 611A.0315, subd. 2.</p>


 <p>These definitions apply to Minn. Stat. Ann. § 611A.0315, subd. 1. This provision is included above in the section “Select State Crime Victims’ Rights.”</p>	
<p>Victims’ Employment-Related Rights Definitions.</p> <p>As used in this section, “violent crime” means a violation or attempt to violate any of the following: section 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.2241 (knowing transfer of communicable disease); 609.2242 (domestic assault); 609.2245 (female genital mutilation); 609.2247 (domestic assault by strangulation); 609.228 (great bodily harm caused by distribution of drugs); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse); 609.233 (criminal neglect); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.265 (abduction); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.2672 (assault of an unborn child in the third degree); 609.268 (injury or death of an unborn child in commission of a crime); 609.282 (labor trafficking); 609.322 (solicitation, inducement, and promotion of prostitution; sex trafficking); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct); 609.352 (solicitation of children to engage in sexual conduct); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.561, subdivision 1 (arson in the first degree; dwelling); 609.582, subdivision 1, paragraph (a) or (c) (burglary in the first degree; occupied dwelling or involving an</p>	<p>Minn. Stat. Ann. § 611A.036, subds. 7.</p>

<p>assault); 609.66, subdivision 1e, paragraph (b) (drive-by shooting; firing at or toward a person, or an occupied building or motor vehicle); or 609.749, subdivision 2 (harassment); or Minnesota Statutes 2012, section 609.21.</p> <p> These definitions apply to Minn. Stat. Ann. § 611A.036. This provision is included above in the section “Select State Crime Victims’ Rights.”</p>	
<p>Sexual Conduct and Sex Trafficking Victims’ Rights Regarding Polygraphs Definitions.</p> <p>For the purposes of this section, the following terms have the meanings given.</p> <p>(a) “Criminal sexual conduct” means a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3451.</p> <p>(b) “Sex trafficking” means a violation of section 609.322.</p> <p>(c) “Complainant” means a person reporting to have been subjected to criminal sexual conduct or sex trafficking.</p> <p>(d) “Polygraph examination” means any mechanical or electrical instrument or device of any type used or allegedly used to examine, test, or question individuals for the purpose of determining truthfulness.</p> <p> These definitions apply to Minn. Stat. Ann. § 611A.26. This provision is included above in the section “Select State Crime Victims’ Rights.”</p>	<p>Minn. Stat. Ann. § 611A.26, subd. 6.</p>

<p>Crime Victims' Reparations Definitions.</p> <p>Subd. 1. Terms. For the purposes of sections 611A.51 to 611A.68, the following terms shall have the meanings given them.</p> <p>Subd. 2. Accomplice. "Accomplice" means any person who would be held criminally liable for the crime of another pursuant to section 609.05.</p> <p>Subd. 3. Board. "Board" means the crime victims reparations board established by section 611A.55.</p> <p>Subd. 4. Claimant. "Claimant" means a person entitled to apply for reparations pursuant to sections 611A.51 to 611A.68.</p> <p>Subd. 5. Collateral source. "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable under sections 611A.51 to 611A.68 which the victim or claimant has received, or which is readily available to the victim, from:</p> <ol style="list-style-type: none"> (1) the offender; (2) the government of the United States or any agency thereof, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under sections 611A.51 to 611A.68; (3) Social Security, Medicare, and Medicaid; (4) state required temporary nonoccupational disability insurance; (5) workers' compensation; (6) wage continuation programs of any employer; (7) proceeds of a contract of insurance payable to the victim for economic loss sustained because of the crime; (8) a contract providing prepaid hospital and other health care services, or benefits for disability; (9) any private source as a voluntary donation or gift; or (10) proceeds of a lawsuit brought as a result of the crime. 	<p>Minn. Stat. Ann. § 611A.52.</p>
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<p>The term does not include a life insurance contract.</p> <p>Subd. 6. Crime.</p> <p>(a) “Crime” means conduct that:</p> <ol style="list-style-type: none"> (1) occurs or is attempted anywhere within the geographical boundaries of this state, including Indian reservations and other trust lands; (2) poses a substantial threat of personal injury or death; and (3) is included within the definition of “crime” in section 609.02, subdivision 1, or would be included within that definition but for the fact that (i) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state; or (ii) the act was alleged or found to have been committed by a juvenile. <p>(b) A crime occurs whether or not any person is prosecuted or convicted but the conviction of a person whose acts give rise to the claim is conclusive evidence that a crime was committed unless an application for rehearing, appeal, or petition for certiorari is pending or a new trial or rehearing has been ordered.</p> <p>(c) “Crime” does not include an act involving the operation of a motor vehicle, aircraft, or watercraft that results in injury or death, except that a crime includes any of the following:</p> <ol style="list-style-type: none"> (1) injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or watercraft; (2) injury or death caused by a driver in violation of section 169.09, subdivision 1; 169A.20; 609.2112; 609.2113; or 609.2114; or Minnesota Statutes 2012, section 609.21; and (3) injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which the driver knowingly and willingly participated. <p>(d) Notwithstanding paragraph (a), “crime” includes an act of international terrorism as defined in United States Code, title 18, section 2331, committed outside of the United States against a resident of this state.</p> <p>Subd. 7. Dependent. “Dependent” means any person who was dependent upon a deceased victim for support at the time of the crime.</p> <p>Subd. 8. Economic loss.</p> <p>(a) “Economic loss” means actual economic detriment incurred as a direct result of injury or death.</p>	
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<p>(b) In the case of injury the term is limited to:</p> <p>(1) reasonable expenses incurred for necessary medical, chiropractic, hospital, rehabilitative, and dental products, services, or accommodations, including ambulance services, drugs, appliances, and prosthetic devices;</p> <p>(2) reasonable expenses associated with recreational therapy where a claimant has suffered amputation of a limb;</p> <p>(3) reasonable expenses incurred for psychological or psychiatric products, services, or accommodations, not to exceed an amount to be set by the board, where the nature of the injury or the circumstances of the crime are such that the treatment is necessary to the rehabilitation of the victim;</p> <p>(4) loss of income that the victim would have earned had the victim not been injured;</p> <p>(5) reasonable expenses incurred for substitute child care or household services to replace those the victim or claimant would have performed had the victim or the claimant's child not been injured. As used in this clause, "child care services" means services provided by facilities licensed under and in compliance with either Minnesota Rules, parts 9502.0315 to 9502.0445, or 9503.0005 to 9503.0170, or exempted from licensing requirements pursuant to section 245A.03. Licensed facilities must be paid at a rate not to exceed their standard rate of payment. Facilities exempted from licensing requirements must be paid at a rate not to exceed \$3 an hour per child for daytime child care or \$4 an hour per child for evening child care;</p> <p>(6) reasonable expenses actually incurred to return a child who was a victim of a crime under section 609.25 or 609.26 to the child's parents or lawful custodian. These expenses are limited to transportation costs, meals, and lodging from the time the child was located until the child was returned home; and</p> <p>(7) the claimant's moving expenses, storage fees, and phone and utility installation fees, up to a maximum of \$1,000 per claim, if the move is necessary due to a reasonable fear of danger related to the crime for which the claim was filed.</p> <p>(c) In the case of death the term is limited to:</p> <p>(1) reasonable expenses actually incurred for funeral, burial, or cremation, not to exceed an amount to be determined by the board on the first day of each fiscal year;</p> <p>(2) reasonable expenses for medical, chiropractic, hospital, rehabilitative, psychological and psychiatric services, products or accommodations which were incurred prior to the victim's death and for which the victim's survivors or estate are liable;</p>	
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<p>(3) loss of support, including contributions of money, products or goods, but excluding services which the victim would have supplied to dependents if the victim had lived; and</p> <p>(4) reasonable expenses incurred for substitute child care and household services to replace those which the victim or claimant would have performed for the benefit of dependents if the victim or the claimant's child had lived.</p> <p>Claims for loss of support for minor children made under clause (3) must be paid for three years or until the child reaches 18 years old, whichever is the shorter period. After three years, if the child is younger than 18 years old a claim for loss of support may be resubmitted to the board, and the board staff shall evaluate the claim giving consideration to the child's financial need and to the availability of funds to the board. Claims for loss of support for a spouse made under clause (3) shall also be reviewed at least once every three years. The board staff shall evaluate the claim giving consideration to the spouse's financial need and to the availability of funds to the board.</p> <p>Claims for substitute child care services made under clause (4) must be limited to the actual care that the deceased victim would have provided to enable surviving family members to pursue economic, educational, and other activities other than recreational activities.</p> <p>Subd. 9. Injury. "Injury" means actual bodily harm including pregnancy and emotional trauma.</p> <p>Subd. 10. Victim. "Victim" means a person who suffers personal injury or death as a direct result of:</p> <ul style="list-style-type: none"> (1) a crime; (2) the good faith effort of any person to prevent a crime; or (3) the good faith effort of any person to apprehend a person suspected of engaging in a crime. <p> These definitions apply to the Minnesota Crime Victims Reparations Act, Minn. Stat. Ann. §§ 611A.51 through 611A.68. Some of these provisions are included above in the section "Select State Crime Victims' Rights."</p>	
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Crime Victim Oversight Act Definitions.

Subd. 1. Definitions. The definitions in this section apply to this section and section 611A.74.

Subd. 2. Appropriate authority. “Appropriate authority” includes anyone who is the subject of a complaint under sections 611A.72 to 611A.74 to the commissioner or anyone within the agency who is in a supervisory position with regard to one who is the subject of a complaint under sections 611A.72 to 611A.74.

Subd. 3. Elements of the criminal justice system. “Elements of the criminal justice system” refers to prosecuting attorneys and members of their staff; peace officers; probation and corrections officers; city, state, and county officials involved in the criminal justice system; and does not include the judiciary.

Subd. 4. Victim. “Victim” refers to anyone or the next of kin of anyone who has been or purports to have been subjected to a criminal act, whether a felony, a gross misdemeanor, or misdemeanor.


Subd. 5. Victim assistance program. “Victim assistance program” refers to any entity which provides or claims to provide services and assistance to victims on a regular, ongoing basis.


Subd. 6. Commissioner. “Commissioner” means the commissioner of public safety.



These definitions apply to Minn. Stat. Ann. § 611A.74. This provision is included above in the section “Select State Crime Victims’ Rights.”

Minn. Stat. Ann. § 611A.73.

<p>Child Abuse Victims' Right to Nondisclosure of Videotape in Which They Detail Their Abuse Definitions.</p> <p>For purposes of this section, “physical abuse” and “sexual abuse” have the meanings given in section 260E.03, except that abuse is not limited to acts by a person responsible for the child’s care or in a significant relationship with the child or position of authority.</p> <p> These definitions apply to Minn. Stat. Ann. § 611A.90. This provision is included above in the section “Select State Crime Victims’ Rights.”</p>	<p>Minn. Stat. Ann. § 611A.90, subd. 1.</p>
<p>Domestic Abuse Act Definitions.</p> <p>As used in this section, the following terms shall have the meanings given them:</p> <p>(a) “Domestic abuse” means the following, if committed against a family or household member by a family or household member:</p> <ol style="list-style-type: none"> (1) physical harm, bodily injury, or assault; (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or (3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2. <p>(b) “Family or household members” means:</p> <ol style="list-style-type: none"> (1) spouses and former spouses; (2) parents and children; (3) persons related by blood; (4) persons who are presently residing together or who have resided together in the past; (5) persons who have a child in common regardless of whether they have been married or have lived together at any time; (6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and 	<p>Minn. Rev. Stat. Ann. § 518B.01, subd. 2.</p>

<p>(7) persons involved in a significant romantic or sexual relationship. Issuance of an order for protection on the ground in clause (6) does not affect a determination of paternity under sections 257.51 to 257.74. In determining whether persons are or have been involved in a significant romantic or sexual relationship under clause (7), the court shall consider the length of time of the relationship; type of relationship; frequency of interaction between the parties; and, if the relationship has terminated, length of time since the termination.</p> <p>(c) “Qualified domestic violence-related offense” has the meaning given in section 609.02, subdivision 16.</p> <p> These definitions apply to Minnesota’s Domestic Abuse Act, Minn. Stat. Ann. §§ 518B.01. Additionally, numerous provisions establishing rights for victims of domestic abuse rely on these definitions. <i>See, e.g.</i>, Minn. Stat. Ann. § 5B.02 (address confidentiality program); <i>id.</i> At § 629.342 (domestic violence victims’ right to assistance when no arrest). Many of these provisions are included above in the section “Select State Crime Victims’ Rights.”</p>	
<p>Right of Victims of Violence to Terminate Lease Definitions.</p> <p>For purposes of this section, the following terms have the meanings given:</p> <p>(1) “court official” means a judge, referee, court administrator, prosecutor, probation officer, or victim’s advocate, whether employed by or under contract with the court, who is authorized to act on behalf of the court;</p> <p>(2) “qualified third party” means a person, acting in an official capacity, who has had in-person contact with the tenant and is:</p> <p>(i) a licensed health care professional operating within the scope of the license;</p> <p>(ii) a domestic abuse advocate, as that term is defined in section 595.02, subdivision 1, paragraph (1); or</p>	<p>Minn. Stat. Ann. § 504B.206, subd. 6.</p>

(iii) a sexual assault counselor, as that term is defined in section 595.02, subdivision 1, paragraph (k);

(3) "qualifying document" means:

- (i) a valid order for protection issued under chapter 518B;
- (ii) a no contact order currently in effect, issued under section 629.75 or chapter 609;
- (iii) a writing produced and signed by a court official, acting in an official capacity, documenting that the tenant or authorized occupant is a victim of domestic abuse, as that term is defined under section 518B.01, subdivision 2, criminal sexual conduct, under sections 609.342 to 609.3451, or harassment, as that term is defined under section 609.749, subdivision 1, and naming the perpetrator, if known;
- (iv) a writing produced and signed by a city, county, state, or tribal law enforcement official, acting in an official capacity, documenting that the tenant or authorized occupant is a victim of domestic abuse, as that term is defined under section 518B.01, subdivision 2, criminal sexual conduct, under sections 609.342 to 609.3451, or harassment, as that term is defined under section 609.749, subdivision 1, and naming the perpetrator, if known; or
- (v) a statement by a qualified third party, in the following form:

STATEMENT BY QUALIFIED THIRD PARTY

I, (name of qualified third party), do hereby verify as follows:




- 1. I am a licensed health care professional, domestic abuse advocate, as that term is defined in section 595.02, subdivision 1, paragraph (l), or sexual assault counselor, as that term is defined in section 595.02, subdivision 1, paragraph (k), who has had in-person contact with (name of victim(s)).
- 2. I have a reasonable basis to believe (name of victim(s)) is a victim/are victims of domestic abuse, criminal sexual conduct, or harassment and fear(s) imminent violence against the individual or authorized occupant if the individual remains (the individuals remain) in the leased premises.
- 3. I understand that the person(s) listed above may use this document as a basis for gaining a release from the lease.

I attest that the foregoing is true and correct.


(Printed name of qualified third party)


(Signature of qualified third party)


(Business address and business telephone)


<p>(Date)</p> <p> These definitions apply to Minn. Stat. Ann. § 504B.206. This provision is included above in the section “Select State Crime Victims’ Rights.”</p>	
<p>Sexual Assault Counselor-Victim Privilege Definition.</p> <p>“Sexual assault counselor” for the purpose of this section means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or assistance to victims of sexual assault.</p> <p> This definition applies to Minn. Stat. Ann. § 595.02, subd. 1(k). This statutory provision is included above in the section “Select State Crime Victims’ Rights.”</p>	<p>Minn. Stat. Ann. § 595.02, subd. 1(k).</p>
<p>Domestic Abuse Advocate-Victim Privilege Definition.</p> <p>For the purposes of this section, “domestic abuse advocate” means an employee or supervised volunteer from a community-based battered women’s shelter and domestic abuse program eligible to receive grants under section 611A.32; that provides information, advocacy, crisis intervention, emergency shelter, or support to victims of domestic abuse and who is not employed by or under the direct supervision of a law enforcement agency, a prosecutor’s office, or by a city, county, or state agency.</p> <p> This definition applies to Minn. Stat. Ann. § 595.02, subd. 1(l). This statutory provision is included above in the section “Select State Crime Victims’ Rights.”</p>	<p>Minn. Stat. Ann. § 595.02, subd. 1(l).</p>



<p>Identity Theft Victims' Rights Definitions.</p> <p>(a) As used in this section, the following terms have the meanings given them in this subdivision.</p> <p>(b) "Direct victim" means any person or entity described in section 611A.01, paragraph (b), whose identity has been transferred, used, or possessed in violation of this section.</p> <p>(c) "False pretense" means any false, fictitious, misleading, or fraudulent information or pretense or pretext depicting or including or deceptively similar to the name, logo, website address, e-mail address, postal address, telephone number, or any other identifying information of a for-profit or not-for-profit business or organization or of a government agency, to which the user has no legitimate claim of right.</p> <p>(d) "Identity" means any name, number, or data transmission that may be used, alone or in conjunction with any other information, to identify a specific individual or entity, including any of the following:</p> <ol style="list-style-type: none"> (1) a name, Social Security number, date of birth, official government-issued driver's license or identification number, government passport number, or employer or taxpayer identification number; (2) unique electronic identification number, address, account number, or routing code; or (3) telecommunication identification information or access device. <p>(e) "Indirect victim" means any person or entity described in section 611A.01, paragraph (b), other than a direct victim.</p> <p>(f) "Loss" means value obtained, as defined in section 609.52, subdivision 1, clause (3), and expenses incurred by a direct or indirect victim as a result of a violation of this section.</p> <p>(g) "Unlawful activity" means:</p> <ol style="list-style-type: none"> (1) any felony violation of the laws of this state or any felony violation of a similar law of another state or the United States; and 	<p>Minn. Stat. Ann. § 609.527, subd. 1.</p>
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<p>(2) any nonfelony violation of the laws of this state involving theft, theft by swindle, forgery, fraud, or giving false information to a public official, or any nonfelony violation of a similar law of another state or the United States.</p> <p>(h) “Scanning device” means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on a computer chip or magnetic strip or stripe of a payment card, driver’s license, or state-issued identification card.</p> <p>(i) “Reencoder” means an electronic device that places encoded information from the computer chip or magnetic strip or stripe of a payment card, driver’s license, or state-issued identification card, onto the computer chip or magnetic strip or stripe of a different payment card, driver’s license, or state-issued identification card, or any electronic medium that allows an authorized transaction to occur.</p> <p>(j) “Payment card” means a credit card, charge card, debit card, or any other card that:</p> <ol style="list-style-type: none"> (1) is issued to an authorized card user; and (2) allows the user to obtain, purchase, or receive credit, money, a good, a service, or anything of value. <p> These definitions apply to Minn. Stat. Ann. § 609.527. This provision is included above in the section “Select State Crime Victims’ Rights.”</p>	
<p>Harassment Restraining Order Definitions.</p> <p>For the purposes of this section, the following terms have the meanings given them in this subdivision.</p> <p>(a) “Harassment” includes:</p> <ol style="list-style-type: none"> (1) a single incident of physical or sexual assault, a single incident of harassment under section 609.749, subdivision 2, clause (8), a single incident of nonconsensual dissemination of private sexual images under section 617.261, or repeated incidents of intrusive or 	<p>Minn. Stat. Ann. § 609.748, subd. 1.</p>

<p>unwanted acts, words, or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target;</p> <p>(2) targeted residential picketing; and</p> <p>(3) a pattern of attending public events after being notified that the actor's presence at the event is harassing to another.</p> <p>(b) "Respondent" includes any adults or juveniles alleged to have engaged in harassment or organizations alleged to have sponsored or promoted harassment.</p> <p>(c) "Targeted residential picketing" includes the following acts when committed on more than one occasion:</p> <p>(1) marching, standing, or patrolling by one or more persons directed solely at a particular residential building in a manner that adversely affects the safety, security, or privacy of an occupant of the building; or</p> <p>(2) marching, standing, or patrolling by one or more persons which prevents an occupant of a residential building from gaining access to or exiting from the property on which the residential building is located.</p> <p> These definitions apply to Minn. Stat. § 609.748. This statutory provision is included above in the section "Select Crime Victims' Rights"</p>	
<p>Certain Victims' Rights to Notice of an Arrested Person's Release and Bail Hearing Definitions.</p> <p>(a) For purposes of this section, the following terms have the meanings given them.</p> <p>(b) "Domestic abuse" has the meaning given in section 518B.01, subdivision 2.</p> <p>(c) "Harass" and "stalking" have the meanings given in section 609.749.</p>	<p>Minn. Stat. Ann. § 629.72, subd. 1.</p>

<p>(d) "Violation of a domestic abuse no contact order" has the meaning given in section 629.75.</p> <p>(e) "Violation of an order for protection" has the meaning given in section 518B.01, subdivision 14.</p> <p> These definitions apply to Minn. Stat. § 629.72. This statutory provision is included above in the section "Select Crime Victims' Rights"</p>	
<p>Address Confidentiality Program Definitions.</p> <p>(a) For purposes of this chapter and unless the context clearly requires otherwise, the definitions in this section have the meanings given them.</p> <p>(b) "Address" means an individual's work address, school address, or residential street address, as specified on the individual's application to be a program participant under this chapter.</p> <p>(c) "Applicant" means an adult, a parent or guardian acting on behalf of an eligible minor, or a guardian acting on behalf of an incapacitated person, as defined in section 524.5-102.</p> <p>(d) "Domestic violence" means an act as defined in section 518B.01, subdivision 2, paragraph (a), and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.</p> <p>(e) "Eligible person" means an adult, a minor, or an incapacitated person, as defined in section 524.5-102 for whom there is good reason to believe (1) that the eligible person is a victim of domestic violence, sexual assault, or harassment or stalking, or (2) that the eligible person fears for the person's safety, the safety of another person who resides in the same household, or the safety of persons on whose behalf the application is made. An individual must reside in Minnesota in order to be an eligible person. A person registered or required</p>	<p>Minn. Rev. Stat. Ann. § 5B.02.</p>

<p>to register as a predatory offender under section 243.166 or 243.167, or the law of another jurisdiction, is not an eligible person.</p> <p>(f) “Mail” means first class letters and flats delivered via the United States Postal Service, including priority, express, and certified mail, and excluding packages, parcels, periodicals, and catalogues, unless they are clearly identifiable as pharmaceuticals or clearly indicate that they are sent by a state or county government agency.</p> <p>(g) “Program participant” means an individual certified as a program participant under section 5B.03.</p> <p>(h) “Harassment” or “stalking” means acts criminalized under section 609.749 and includes a threat of such acts committed against an individual, regardless of whether these acts or threats have been reported to law enforcement officers.</p> <p> These definitions apply to Minnesota’s Address Confidentiality Program, Minn. Stat. Ann. §§ 5B.01 through 5B.13. Many of these provisions are included above in the section “Select State Crime Victims’ Rights.”</p>	
<p>Sexual Assault Counselor-Victim Confidentiality Definitions.</p> <p>(a) “Community-based program” means any office, institution, or center offering assistance to victims of sexual assault and their families through crisis intervention, medical, and legal accompaniment and subsequent counseling.</p> <p>(b) “Sexual assault counselor” means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault.</p>	<p>Minn. Stat. Ann. § 13.822, subd. 1.</p>

<p>(c) “Victim” means a person who consults a sexual assault counselor for the purpose of securing advice, counseling, or assistance concerning a mental, physical, or emotional condition caused by a sexual assault.</p> <p>(d) “Sexual assault communication data” means all information transmitted in confidence between a victim of sexual assault and a sexual assault counselor and all other information received by the sexual assault counselor in the course of providing assistance to the victim. The victim shall be deemed the subject of sexual assault communication data.</p> <p> These definitions apply to Minn. Stat. Ann. § 13.822, subd. 2. This statutory provision is included above in the section “Select State Crime Victims’ Rights.”</p>	
<p>Non-Governmental Domestic Abuse or Sexual Assault Programs Exempt from Data Practices Act Definitions.</p> <p>For purposes of this section:</p> <p>(1) “domestic abuse” has the meaning given in section 518B.01, subdivision 2; and</p> <p>(2) “sexual assault” has the meaning given in section 611A.211, subdivision 4.</p> <p> These definitions apply to Minn. Stat. Ann. § 13.823, subd. 2. This statutory provision is included above in the section “Select State Crime Victims’ Rights.”</p>	<p>Minn. Stat. Ann. § 13.823, subd. 1.</p>
<p>Victims’ Right to Access Court Services Data to Assert Rights to Restitution and to Notice Definition.</p> <p>As used in this section “court services data” means data that are created, collected, used or maintained by a court services department, parole or probation authority, correctional agency, or by an agent designated by the court to perform studies or other duties and that are</p>	<p>Minn. Stat. Ann. § 13.84, subd. 6.</p>

on individuals who are or were defendants, parolees or probationers of a district court, participants in diversion programs, petitioners or respondents to a family court, or juveniles adjudicated delinquent and committed, detained prior to a court hearing or hearings, or found to be dependent or neglected and placed under the supervision of the court.



This definition applies to Minn. Stat. Ann. § 13.824. Subdivision 6 of this statutory provision is included above in the section “Select State Crime Victims’ Rights.”

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