



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

### INTRODUCTION

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

### LIMITED SCOPE OF RESOURCE: 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 Nebraska'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.

---

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

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

---

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

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

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

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

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

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

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

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

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

### USING THIS RESOURCE

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

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

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

---

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

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

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

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

information about the federal and state laws that govern victim privacy, confidentiality and privilege in Nebraska is available in the companion resource, *Tribal Law Enforcement-Based Victim Services in Nebraska: 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.

This resource was developed by the National Crime Victim Law Institute (NCVLI), under 2018-V3-GX-K049, awarded to the International Association of Chiefs of Police (IACP) by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this resource are those of the contributors and do not necessarily represent the official position of the U.S. Department of Justice.

**TABLE OF CONTENTS AND INDEX OF RIGHTS<sup>13</sup>**

**Introduction**..... 1

**Limited Scope of Resource: Jurisdiction** ..... 1

**Using This Resource** ..... 3

**Select Federal and State Victims’ Rights Laws**..... 8

1. Federal Victims’ Rights ..... 8

    Select Federal Crime Victims’ Rights ..... 8

        Right to Assert and Enforce Rights ..... 13, 16, 17, 18, 28, 81–82, 84

        Right to Confer ..... 10

        Right to Counsel ..... 37

        Right to Courtroom Accommodations..... 29–32, 32–33, 35, 38, 39, 73

        Right to Due Process, Fairness, Dignity and Respect..... 11

        Right to be Heard..... 9–10, 24, 35–36, 41, 73–77, 80–81

        Right to Information About Victims’ Rights ..... 12, 61–62, 62–63, 67

        Right to Notice..... 8, 12, 15, 18–19, 41–42, 54, 55–56, 56–59, 63–64, 65, 77–78

        Right to be Present..... 9, 13, 41, 80–81

        Right to Privacy ..... 29–32, 33–35, 40, 64–65, 66–67, 67–69, 69–72, 78–80

---

<sup>13</sup> This table of contents and index of rights provides specific page references for many of the victims’ rights laws contained within this resource. The referenced laws are often narrower in scope than the broader rights identified in the index and may contain components of multiple core rights. Not all of the laws contained within this resource are referenced in the table of contents and index; therefore, it is recommended that this document be reviewed in full.

Right to Protection .....8, 18–19, 19–20, 24, 26–27,  
 33–35, 40, 59–61, 63, 64–65,  
 66–67, 67–69, 69–72, 72–73, 78–80

Right to Restitution .....10–11, 21–24, 25, 27–28, 42–45,  
 45–47, 47–52, 53–54, 54–55, 55–56,  
 56, 56–59, 59, 73–77, 77–78, 82–84

Right to Return of Property.....65–66

Right to Speedy Disposition .....11, 38–39

Right to Support Person Presence.....32–33, 38

Select Federal Definitions.....85

2. State Victims’ Rights .....98

    Select State Crime Victims’ Rights .....98

        Right to Access Information and Reports .....104, 139–40

        Right to Accommodations ..... 123–25

        Right to Assert and Enforce Rights ..... 131, 154

        Right to Compensation .....159, 159–60, 160–61, 161, 161–62

        Right to Confer .....120

        Right to Counsel .....137–39

        Right to Due Process, Fairness, Dignity and Respect.....111

        Right to Employment-Related Rights.....

        Right to be Heard.....99, 107–08, 108, 126–28

        Right to Information About Victims’ Rights .....101–02, 109, 110, 141

Right to Notice.....98, 99, 104–05, 105–07, 107, 107–08,  
108, 109, 112, 113, 114, 115–19

Right to be Present.....98, 99, 105

Right to Privacy .....109, 110, 115–19, 120, 123–25, 132–33,  
133–34, 134–35, 136, 136–37, 149, 153–54,  
155–56, 156, 157, 158, 161–62, 162–64

Right to Protection .....99, 107–08, 108, 110, 112, 114, 131–32, 135,  
136–37, 148–50, 150, 150–51, 151–53, 153–54,  
154, 155–56, 156, 157, 158, 159–60, 162–64

Right to Restitution.....129, 129–30, 130, 131

Right to Return of Property.....111

Right to Speedy Disposition .....112

Right to Support Person Presence.....121–22, 123–25, 136–37, 137–39

Right to Support Services .....1146, 146–47

Select State Definitions.....165

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

**1. Federal Victims' Rights**

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

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

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

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

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

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

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

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

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

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

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



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



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



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



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

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

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

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

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

(C) administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, Federal, public or private school,  
 (D) child day care worker, headstart teacher, public assistance worker, worker in a group home or residential or day care facility, or social worker,  
 (E) psychiatrist, psychologist, or psychological assistant,  
 (F) licensed or unlicensed marriage, family, or child counselor,  
 (G) person employed in the mental health profession, or  
 (H) law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders;  
 (2) knows, or has reasonable suspicion, that--  
 (A) a child was abused in Indian country, or  
 (B) actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse of a child in Indian country; and  
 (3) fails to immediately report such abuse or actions described in paragraph (2) to the local child protective services agency or local law enforcement agency, shall be fined under this title or imprisoned for not more than 6 months or both.

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

...

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

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

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

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

(A) Election to receive defined monetary assistance. --Subject to paragraphs (2) and (3), when a defendant is convicted of trafficking in child pornography, any victim of that trafficking in child pornography may choose to receive defined monetary assistance from the Child Pornography Victims Reserve established under section 1402(d)(6) of the Victims of Crime Act of 1984 (34 U.S.C. 20101(d)).

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

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

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

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

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

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

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

(2) Limitations on defined monetary assistance. --

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

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

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

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

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

18 U.S.C. § 2264(a), (b)(1)–(2), (4).

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

(b) Scope and nature of order. —

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

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

...

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

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

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



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



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

<p><b>Courts' Duty to Accord Full Faith and Credit to Protection Orders Issued by Courts of Other States, Indian Tribes, or Territories; Tribal Court Jurisdiction.</b></p> <p>(a) Full Faith and Credit.--Any protection order issued that is consistent with subsection (b) of this section by the court of one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory<sup>1</sup> as if it were the order of the enforcing State or tribe.</p> <p>(b) Protection order. --A protection order issued by a State, tribal, or territorial court is consistent with this subsection if--</p> <p>(1) such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and</p> <p>(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.</p> <p>(c) Cross or counter petition. --A protection order issued by a State, tribal, or territorial court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if--</p> <p>(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or</p> <p>(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.</p> <p>(d) Notification and registration. --</p> <p>(1) Notification. --A State, Indian tribe, or territory according full faith and credit to an order by a court of another State, Indian tribe, or territory shall not notify or require notification</p>	<p>18 U.S.C. § 2265.</p>
--	--------------------------

<p>of the party against whom a protection order has been issued that the protection order has been registered or filed in that enforcing State, tribal, or territorial jurisdiction unless requested to do so by the party protected under such order.</p> <p>(2) No prior registration or filing as prerequisite for enforcement. --Any protection order that is otherwise consistent with this section shall be accorded full faith and credit, notwithstanding failure to comply with any requirement that the order be registered or filed in the enforcing State, tribal, or territorial jurisdiction.</p> <p>(3) Limits on Internet publication of registration information.--A State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration, filing of a petition for, or issuance of a protection order, restraining order or injunction, restraining order, or injunction<sup>2</sup> in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.</p> <p>(e) Tribal court jurisdiction.--For purposes of this section, a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any person, including the authority to enforce any orders through civil contempt proceedings, to exclude violators from Indian land, and to use other appropriate mechanisms, in matters arising anywhere in the Indian country of the Indian tribe (as defined in section 1151) or otherwise within the authority of the Indian tribe.</p> <p> 18 U.S.C. § 2266 defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	
<p><b>Mandatory Restitution for Victims of Crimes Involving Transportation of Persons for Illegal Sexual Activity and Related Crimes.</b></p> <p>(a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.</p>	<p>18 U.S.C. § 2429(a)–(c).</p>

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

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

(iii) a judicial officer, appointed by the court; and  
 (iv) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.  
 The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, and the voice of the judge.

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

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

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

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

(B) Subparagraph (A) applies to--

- (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.

(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--

- (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.

(3) Protective orders.

(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--

- (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.

(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>to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	
<p><b>Child-Victims’ Rights: Closing the Courtroom.</b></p> <p>When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child’s inability to effectively communicate. Such an order shall be narrowly tailored to serve the Government’s specific compelling interest.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3509(e).</p>
<p><b>Child-Victims’ Rights: Victim Impact Statement.</b></p> <p>In preparing the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, the probation officer shall request information from the multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the Child-Victim and any other children who may have been affected. A guardian ad litem appointed under subsection (h) shall make every effort to obtain and report information that accurately expresses the child’s and the family’s views concerning the child’s victimization. A guardian ad litem shall use forms that permit the child to express the child’s views concerning the personal consequences of the child’s victimization, at a level and in a form of communication commensurate with the child’s age and ability.</p>	<p>18 U.S.C. § 3509(f).</p>

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

<p><b>Child-Victims' Rights: Guardians ad Litem.</b></p> <p>(1) In general. --The court may appoint, and provide reasonable compensation and payment of expenses for, a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.</p> <p>(2) Duties of guardian ad litem. --A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. (The extent of access to grand jury materials is limited to the access routinely provided to victims and their representatives.) A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.</p> <p>(3) Immunities. --A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties described in paragraph (2).</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p>	<p>18 U.S.C. § 3509(h).</p>
---	-----------------------------

<p><b>Child-Victims' Rights: Adult Attendants.</b></p> <p>A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child. The image of the child attendant, for the time the child is testifying or being deposed, shall be recorded on videotape.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p>	<p>18 U.S.C. § 3509(i).</p>
<p><b>Child-Victims' Rights: Speedy Trial.</b></p> <p>In a proceeding in which a child is called to give testimony, on motion by the attorney for the Government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance, the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.</p>	<p>18 U.S.C. § 3509(j).</p>

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

<p><b>Child-Victims' Rights: Prohibition on Reproduction of Child Pornography.</b></p> <p>(1) In any criminal proceeding, any property or material that constitutes child pornography (as defined by section 2256 of this title) shall remain in the care, custody, and control of either the Government or the court.</p> <p>(2)(A) Notwithstanding Rule 16 of the Federal Rules of Criminal Procedure, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography (as defined by section 2256 of this title), so long as the Government makes the property or material reasonably available to the defendant.</p> <p>(B) For the purposes of subparagraph (A), property or material shall be deemed to be reasonably available to the defendant if the Government provides ample opportunity for inspection, viewing, and examination at a Government facility of the property or material by the defendant, his or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.</p> <p>(3) In any criminal proceeding, a victim, as defined under section 2259(c)(4), shall have reasonable access to any property or material that constitutes child pornography, as defined under section 2256(8), depicting the victim, for inspection, viewing, and examination at a Government facility or court, by the victim, his or her attorney, and any individual the victim may seek to qualify to furnish expert testimony, but under no circumstances may such child pornography be copied, photographed, duplicated, or otherwise reproduced. Such property or material may be redacted to protect the privacy of third parties.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p>	<p>18 U.S.C. § 3509(m).</p>
--	-----------------------------

<p><b>Victims' Right to Be Present at Trial; No Exclusion from Trial Because Victim May Present Information or Make Statement at Sentencing.</b></p> <p>(a) Non-capital cases. --Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, make a statement or present any information in relation to the sentence.</p> <p>(b) Capital cases. --Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, testify as to the effect of the offense on the victim and the victim's family or as to any other factor for which notice is required under section 3593(a).</p> <p> 18 U.S.C. § 3510(c) defines the term "victim" for the purposes of this statutory provision. This definition is included below in the section "Federal Victims' Rights: Select Definitions."</p> <p> Victims also have rights under the CVRA to be present and heard at public court proceedings. 18 U.S.C. § 3771(a)(3)–(4), (b)(1). Fed. R. Crim. P. 60(a) also limits victims' exclusion from the courtroom. The CVRA provisions and rule of evidence are included above.</p>	<p>18 U.S.C. § 3510(a)–(b).</p>
<p><b>Court May Order Defendant to Provide Reasonable Notice and Explanation of Conviction to Victims Where Defendant is Found Guilty of Fraud or Other Intentionally Deceptive Practices.</b></p> <p>The court, in imposing a sentence on a defendant who has been found guilty of an offense involving fraud or other intentionally deceptive practices, may order, in addition to the sentence that is imposed pursuant to the provisions of section 3551, that the defendant give</p>	<p>18 U.S.C. § 3555.</p>

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

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

...

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

(b) The order may require that such defendant—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) return of property;

(B) replacement of property; or

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

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

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

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

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

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

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

(A) any Federal civil proceeding; and

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

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

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

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

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

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

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

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

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

(1) such a sentence can subsequently be--

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

(B) appealed and modified under section 3742;

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

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

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

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

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

<p><b>Victims' Right to Restitution: Order of Special Forfeiture When Required by Restitution Order; Defendant to Forfeit Proceeds from Contract Relating to Depiction of Crime.</b></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>
---	--------------------------

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

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

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

<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>	
--	--

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

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

(f) Interest on fines and restitution. –

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

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

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

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

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

(A) waive the requirement for interest;

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

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

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

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

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

(2) Showing required

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

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

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

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

(3) Follow-up testing

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

(4) Termination of testing requirements

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

(5) Confidentiality of test

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

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

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

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

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

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

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

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

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

(b) Disclosing Government Witnesses.

(1) Disclosure.

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

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

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

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

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

(c) Continuing Duty to Disclose.

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

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

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

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

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

- (A) the law enforcement agency or federal intelligence agency involved;
- (B) the agency member on whose behalf the defendant claims to have acted; and
- (C) the time during which the defendant claims to have acted with public authority.

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

(4) Disclosing Witnesses.

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

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

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

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

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

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

(b) Continuing Duty to Disclose.

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

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

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

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

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

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

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



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

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

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

- (A) In General. The probation officer must conduct a presentence investigation and submit a report to the court before it imposes sentence unless:
- (i) 18 U.S.C. § 3593(c) or another statute requires otherwise; or
  - (ii) the court finds that the information in the record enables it to meaningfully exercise its sentencing authority under 18 U.S.C. § 3553, and the court explains its finding on the record.
- (B) Restitution. If the law permits restitution, the probation officer must conduct an investigation and submit a report that contains sufficient information for the court to order restitution.
- (2) Interviewing the Defendant. The probation officer who interviews a defendant as part of a presentence investigation must, on request, give the defendant's attorney notice and a reasonable opportunity to attend the interview.
- (d) Presentence Report.
- (1) Applying the Advisory Sentencing Guidelines. The presentence report must:
- (A) identify all applicable guidelines and policy statements of the Sentencing Commission;
  - (B) calculate the defendant's offense level and criminal history category;
  - (C) state the resulting sentencing range and kinds of sentences available;
  - (D) identify any factor relevant to:
    - (i) the appropriate kind of sentence, or
    - (ii) the appropriate sentence within the applicable sentencing range; and
  - (E) identify any basis for departing from the applicable sentencing range.
- (2) Additional Information. The presentence report must also contain the following:
- (A) the defendant's history and characteristics, including:
    - (i) any prior criminal record;
    - (ii) the defendant's financial condition; and
    - (iii) any circumstances affecting the defendant's behavior that may be helpful in imposing sentence or in correctional treatment;
  - (B) information that assesses any financial, social, psychological, and medical impact on any victim;
  - (C) when appropriate, the nature and extent of nonprison programs and resources available to the defendant;
  - (D) when the law provides for restitution, information sufficient for a restitution order;

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

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

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

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

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

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

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

(e) Disclosing the Report and Recommendation.

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

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

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

(f) Objecting to the Report.

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

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

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

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

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

(i) Sentencing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) when full restitution has been made; or

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

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

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

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

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

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

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

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

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

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

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

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

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



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

<p><b>Interstate Domestic Violence and Stalking Victims' Rights Definitions.</b></p> <p>In this chapter:</p> <p>(1) Bodily injury. --The term "bodily injury" means any act, except one done in self-defense, that results in physical injury or sexual abuse.</p> <p>(2) Course of conduct. --The term "course of conduct" means a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose.</p> <p>(3) Enter or leave Indian country. --The term "enter or leave Indian country" includes leaving the jurisdiction of 1 tribal government and entering the jurisdiction of another tribal government.</p> <p>(4) Indian country. --The term "Indian country" has the meaning stated in section 1151 of this title.</p> <p>(5) Protection order. --The term "protection order" includes--</p> <p>(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and</p> <p>(B) any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking.</p>	<p>18 U.S.C. § 2266.</p>
--	--------------------------

<p>(6) Serious bodily injury. --The term “serious bodily injury” has the meaning stated in section 2119(2).</p> <p>(7) Spouse or intimate partner. --The term “spouse or intimate partner” includes--</p> <p>(A) for purposes of--</p> <p>(i) sections other than 2261A--</p> <p>(I) a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; or</p> <p>(II) a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship; and</p> <p>(ii) section 2261A--</p> <p>(I) a spouse or former spouse of the target of the stalking, a person who shares a child in common with the target of the stalking, and a person who cohabits or has cohabited as a spouse with the target of the stalking; or</p> <p>(II) a person who is or has been in a social relationship of a romantic or intimate nature with the target of the stalking, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.<sup>1</sup></p> <p>(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.</p> <p>(8) State. --The term “State” includes a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States.</p> <p>(9) Travel in interstate or foreign commerce. --The term “travel in interstate or foreign commerce” does not include travel from 1 State to another by an individual who is a member of an Indian tribe and who remains at all times in the territory of the Indian tribe of which the individual is a member.</p>	
--	--

<p>(10) Dating partner. --The term “dating partner” refers to a person who is or has been in a social relationship of a romantic or intimate nature with the abuser. The existence of such a relationship is based on a consideration of--</p> <ul style="list-style-type: none"> <li>(A) the length of the relationship; and</li> <li>(B) the type of relationship; and</li> <li>(C) the frequency of interaction between the persons involved in the relationship.</li> </ul> <p>(11) Pet.--The term “pet” means a domesticated animal, such as a dog, cat, bird, rodent, fish, turtle, or other animal that is kept for pleasure rather than for commercial purposes.</p> <p>(12) Emotional support animal. --The term “emotional support animal” means an animal that is covered by the exclusion specified in section 5.303 of title 24, Code of Federal Regulations (or a successor regulation), and that is not a service animal.</p> <p>(13) Service animal. --The term “service animal” has the meaning given the term in section 36.104 of title 28, Code of Federal Regulations (or a successor regulation).</p> <p><sup>1</sup> So in original. The period probably should be “; and”.</p> <p> These definitions apply to Chapter 110A, 18 U.S.C. §§ 2261 through 2265a, which govern procedures and rights specific to the crimes of interstate domestic violence, stalking and violations of protective orders. Many of these statutory provisions are included above in the section “Select Federal Crime Victims’ Rights.”</p>	
<p><b>Interstate Domestic Violence and Stalking Victims’ Right to Mandatory Restitution Definitions.</b></p> <p>(b)(3) Definition. --For purposes of this subsection, the term “full amount of the victim’s losses” includes any costs incurred by the victim for--</p> <ul style="list-style-type: none"> <li>(A) medical services relating to physical, psychiatric, or psychological care;</li> <li>(B) physical and occupational therapy or rehabilitation;</li> <li>(C) necessary transportation, temporary housing, and child care expenses;</li> </ul>	<p>18 U.S.C. § 2264(b)(3), (c).</p>

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

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

<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--</p> <p>(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;</p> <p>(B) bestiality;</p> <p>(C) masturbation;</p> <p>(D) lascivious exhibition of the genitals or pubic area of a person or animal; or</p> <p>(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>	
---	--

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

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

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

2. State Victims' Rights

SELECT STATE CRIME VICTIMS' RIGHTS	Nebraska Constitutional Provisions and Statutes
<p><b>Victims' Right to be Informed of All Criminal Court Proceedings.</b></p> <p>A victim of a crime, as shall be defined by law, or his or her guardian or representative shall have . . . [t]he right to be informed of all criminal court proceedings[.]</p> <p> Nebraska's statutory victims' rights provisions are to be construed as enabling these constitutional rights. Neb. Rev. Stat. Ann. § 81-1851.</p>	<p>Neb. Const. Art. I, § 28(1).</p>
<p><b>Victims' Right to Be Present at Trial.</b></p> <p>A victim of a crime, as shall be defined by law, or his or her guardian or representative shall have . . . The right to be present at trial unless the trial court finds sequestration necessary for a fair trial for the defendant[.]</p> <p> A victims' constitutional 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> Nebraska's statutory victims' rights provisions are to be construed as enabling these constitutional rights. Neb. Rev. Stat. Ann. § 81-1851.</p>	<p>Neb. Const. Art. I, § 28(1).</p>

<p><b>Victims' Rights to Be Notified, Present and Heard Regarding Sentencing, Parole, Pardon, Commutation, and Conditional Release Proceedings.</b></p> <p>A victim of a crime, as shall be defined by law, or his or her guardian or representative shall have . . . The right to be informed of, be present at, and make an oral or written statement at sentencing, parole, pardon, commutation, and conditional release proceedings.</p> <p> Nebraska's statutory victims' rights provisions are to be construed as enabling these constitutional rights. Neb. Rev. Stat. Ann. § 81-1851.</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> 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>Neb. Const. Art. I, § 28(1).</p>
<p><b>Victims' Constitutional Rights Do Not Impair Victims' Other Rights.</b></p> <p>This enumeration of certain rights for crime victims shall not be construed to impair or deny others provided by law or retained by crime victims.</p>	<p>Neb. Const. Art. I, § 28(1).</p>

<p><b>Remedies for Violations of Victims' Constitutional Rights Must Be Specifically Provided.</b></p> <p>The Legislature shall provide by law for the implementation of the rights granted in this section. There shall be no remedies other than as specifically provided by the Legislature for the enforcement of the rights granted by this section.</p>	<p>Neb. Const. Art. I, § 28(2).</p>
<p><b>Victims' Constitutional Rights Do Not Provide Basis for Error for Defendants, Party Status or Basis to Contest the Disposition of Charges.</b></p> <p>Nothing in this section shall constitute a basis for error in favor of a defendant in any criminal proceeding, a basis for providing standing to participate as a party to any criminal proceeding, or a basis to contest the disposition of any charge.</p>	<p>Neb. Const. Art. I, § 28(3).</p>
<p><b>Victims' Statutory Rights: Legislative Intent.</b></p> <p>It is the intent of the Legislature that sections 81-1843 to 81-1851 shall be construed as enabling the rights set forth in Article I, section 28, of the Constitution of Nebraska.</p>	<p>Neb. Rev. Stat. Ann. § 81-1851.</p>
<p><b>Victims' Statutory Rights: Legislative Findings.</b></p> <p>(1) The Legislature finds and declares:                  (a) That there is a need to develop methods to reduce the trauma and discomfort that victims of a crime and witnesses to a crime may experience because often such victims or witnesses are further victimized by the criminal justice system;                  (b) That when crime strikes, the chief concern of the criminal justice system is apprehending and dealing with the criminal and the victim's needs are frequently forgotten;                  (c) That victims often become isolated and receive little practical advice or necessary care;</p>	<p>Neb. Rev. Stat. Ann. § 81-1843.</p>

<p>(d) That witnesses must make arrangements to appear in court regardless of their own schedules, child care responsibilities, or transportation problems;</p> <p>(e) That witnesses often endure long waits before testifying, are subjected to confusing circumstances while testifying, and receive no information as to the ultimate disposition of the case;</p> <p>(f) That a large number of victims and witnesses are unaware of both their rights and obligations;</p> <p>(g) That unreported crimes occur at a rate that is more than twice the rate of reported crimes and that the reasons people give for not reporting crimes indicate that they are disenchanting with the criminal justice system;</p> <p>(h) That the single most important factor determining whether or not a case will be solved is the information that the victim supplies to the responding police officer; and</p> <p>(i) That although the State of Nebraska has the Crime Victim's Reparations Committee and compensation is available for medical expenses, lost earning power, and reasonable rehabilitation costs, the application process is difficult, complex, and time consuming and few victims are aware that the compensation provisions exist.</p> <p>(2) It is therefor the intent of the Legislature to provide ways of improving the attitudes of victims and witnesses toward the criminal justice system and to provide for faster and more complete recovery by the victim from the effects of the crime through the establishment of pilot project centers for victim and witness assistance.</p>	
<p><b>Victims' Rights Pamphlet: Contents and Distribution.</b></p> <p>(1) The Nebraska Commission on Law Enforcement and Criminal Justice shall create a pamphlet or document that contains the following information:</p> <p>(a) A brief statement of the procedural steps of a criminal case;</p> <p>(b) The rights and procedures under sections 81-1843 to 81-1851;</p> <p>(c) Suggested procedures if the victim or the victim's immediate family is subjected to acts or threats of physical violence or intimidation by the defendant or at the direction of the defendant; and</p>	<p>Neb. Rev. Stat. Ann. § 81-1844.01.</p>

<p>(d) The availability of victim’s compensation awards and the address of the Crime Victim’s Reparations Committee.</p> <p>(2) Not later than seventy-two hours after arraignment of the defendant for the crime, the county attorney shall distribute to the victim, as defined in section 29-119, the pamphlet or document of victim’s rights created by the commission pursuant to this section.</p> <p> Neb. Rev. Stat. Ann. § 29-119 defines the term “victim” for the purposes of this statutory provision. This definition is included below in the section “State 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 such written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p><b>Victims’ Right to Services from Victim and Witness Assistance Centers: Purpose of Centers.</b></p> <p>The centers shall be designed to:</p> <p>(1) Assist criminal justice agencies in giving more consideration and personal attention to victims and witnesses through the delivery of services to victims and witnesses of crimes;</p> <p>(2) Provide a model for other community-based efforts to aid victims and witnesses;</p> <p>(3) Sensitize law enforcement officials, communications technicians, and supervisors to the needs of victims of crime and encourage a concerned approach to such victims;</p> <p>(4) Attempt to decrease the incidence of unreported crimes; and</p>	<p>Neb. Rev. Stat. Ann. § 81-1846.</p>

<p>(5) Assure that victims and witnesses are informed of the progress of the case in which they are involved.</p>	
<p><b>Victims' Right to Services from Victim and Witnesses Assistance Centers: Services to Be Provided.</b></p> <p>Services provided by the [victim and witness assistance] centers shall include, but not be limited to:</p> <ul style="list-style-type: none"> <li>(1) Providing assistance to victims in preparing claims for submission to the Crime Victim's Reparations Committee;</li> <li>(2) Establishing a means for volunteers to work with criminal justice agencies to promote greater sensitivity to the needs of victims and witnesses;</li> <li>(3) Providing followup support services to victims of violent crime and their families to insure that they receive necessary assistance through available community resources;</li> <li>(4) Providing elderly victims of crime with services appropriate to their special needs;</li> <li>(5) Providing liaison and referral systems to special counseling facilities and community service agencies for victims;</li> <li>(6) Providing transportation and household assistance to those victims and witnesses participating in the criminal justice process;</li> <li>(7) Notifying friends, relatives, and the employer of a victim, if requested;</li> <li>(8) Arranging for verification of medical benefits and assistance when applying for compensation from the Crime Victim's Reparations Committee;</li> <li>(9) Notifying witnesses prior to their being subpoenaed in criminal cases; and</li> </ul>	<p>Neb. Rev. Stat. Ann. § 81-1847.</p>

<p>(10) Notifying witnesses of changes in the court calendar to avoid unnecessary trips to the court or spending unnecessary time in court.</p>	
<p><b>Victims' Right to Examine Information in Public Record Collected by Criminal Justice Agencies.</b></p> <p>Victims as defined in section 29-119 shall have the . . . right[ ] [t]o examine information which is a matter of public record and collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of issuance of arrest warrants, arrests, detentions, indictments, charges by information, and other formal criminal charges. Such information shall include any disposition arising from such arrests, charges, sentencing, correctional supervision, and release, but shall not include intelligence or investigative information[.]</p> <p> Neb. Rev. Stat. Ann. § 29-119 defines the term “victim” for the purposes of this statutory provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(1)(a).</p>
<p><b>Victims' Right to Advance Reasonable Notice of Court Proceedings and Any Changes.</b></p> <p>Victims as defined in section 29-119 shall have the . . . right[] [t]o receive from the county attorney advance reasonable notice of any scheduled court proceedings and notice of any changes in that schedule[.]</p> <p> Neb. Rev. Stat. Ann. § 29-119 defines the term “victim” for the purposes of this statutory provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(1)(b).</p>

<p> A promising practice is to have a policy in place to establish what constitutes “advance reasonable notice.”</p>	
<p><b>Victims’ Right to Be Present Throughout Entire Trial.</b></p> <p>Victims as defined in section 29-119 shall have the . . . right[] [t]o be present throughout the entire trial of the defendant, unless the victim is to be called as a witness or the court finds sequestration of the victim necessary for a fair trial. If the victim is to be called as a witness, the court may order the victim to be sequestered[.]</p> <p> Neb. Rev. Stat. Ann. § 29-119 defines the term “victim” for the purposes of this statutory provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> A victim’s constitutional right to be present at trial and statutory right to be present “throughout the entire trial of the defendant” 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>Neb. Rev. Stat. Ann. § 81-1848(1)(c).</p>
<p><b>Victims’ Right to Notice of Certain Events and Rights Within the Criminal Justice Process.</b></p> <p>Victims as defined in section 29-119 shall have the . . . right[] [t]o be notified by the county attorney by any means reasonably calculated to give prompt actual notice of the following:</p> <p>(i) The crimes for which the defendant is charged, the defendant’s bond, and the time and place of any scheduled court proceedings;</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(1)(d).</p>

- (ii) The final disposition of the case;
- (iii) The crimes for which the defendant was convicted;
- (iv) The victim’s right to make a written or oral impact statement to be used in the probation officer’s preparation of a presentence investigation report concerning the defendant;
- (v) The address and telephone number of the probation office which is to prepare the presentence investigation report;
- (vi) That a presentence investigation report and any statement by the victim included in such report will be made available to the defendant unless exempted from disclosure by order of the court; and
- (vii) The victim’s right to submit a written impact statement at the sentencing proceeding or to read his or her impact statement submitted pursuant to subdivision (1)(d)(iv) of this section at the sentencing proceeding[.]

 Neb. Rev. Stat. Ann. § 29-119 defines the term “victim” for the purposes of this statutory provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”

 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> A promising practice is to have a policy in place to establish what constitutes “means reasonably calculated to give prompt actual notice.”</p>	
<p><b>Victims’ Right to Receive Prompt Actual Notice of Time and Place of Subsequent Proceedings if Defendant Acquitted on Grounds of Insanity.</b></p> <p>Victims as defined in section 29-119 shall have the . . . right[] [t]o be notified by the county attorney by any means reasonably calculated to give prompt actual notice of the time and place of any subsequent judicial proceedings if the defendant was acquitted on grounds of insanity[.]</p> <p> Neb. Rev. Stat. Ann. § 29-119 defines the term “victim” for the purposes of this statutory provision. This definition is 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 in place to establish what constitutes “means reasonably calculated to give prompt actual notice.”</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(1)(e).</p>
<p><b>Victims’ Rights to Be Notified of Option to Testify Before the Board of Parole or Submit Written Statement for Consideration and to Receive Notice of Decision.</b></p> <p>Victims as defined in section 29-119 shall have the . . . right[] [t]o be notified as provided in section 81-1850, to testify before the Board of Parole or submit a written statement for consideration by the board, and to be notified of the decision of and any action taken by the board[.]</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(1)(f).</p>

<p> Neb. Rev. Stat. Ann. § 29-119 defines the term “victim” for the purposes of this statutory provision. This definition is 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><b>Victims’ Right to Submit Written Statement at Conditional Release, Parole, Pardon or Commutation Proceedings.</b></p> <p>Victims as defined in section 29-119 shall have the . . . right[] [t]o submit a written statement for consideration at any conditional release proceedings, Board of Parole proceedings, pardon proceedings, or commutation proceedings. Conditional release proceeding means a proceeding convened pursuant to a Department of Correctional Services’ decision to grant a furlough from incarceration for twenty-four hours or longer or a release into community-based programs, including educational release and work release[.]</p> <p> Neb. Rev. Stat. Ann. § 29-119 defines the term “victim” for the purposes of this statutory provision. This definition is 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>Neb. Rev. Stat. Ann. § 81-1848(1)(g).</p>
<p><b>Victims’ Right to No Personal Identifying Information—Other Than Victim’s Name—on Pleadings and Documents Filed in Criminal Actions.</b></p> <p>Victims as defined in section 29-119 shall have the . . . right[] [t]o have any personal identifying information, other than the victim’s name, not be disclosed on pleadings and</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(1)(h).</p>

<p>documents filed in criminal actions that may be available to the public. The Supreme Court shall adopt and promulgate rules to implement this subdivision.</p> <p> Neb. Rev. Stat. Ann. § 29-119 defines the term “victim” for the purposes of this statutory provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Victims’ right to have their personal identifying information remain private and not disclosed on pleadings or other documents filed in criminal actions that may become available to the public is recognized in Neb. Rev. Stat. Ann. § 81-1848(1)(h) and implemented by Neb. Ct. R. § 6-1466(C). The court rule is included below.</p>	
<p><b>Victims’ Right to be Informed About Witness Fees.</b></p> <p>Victims and witnesses of crimes shall have the . . . right[] [t]o be informed on all writs of subpoena or notices to appear that they are entitled to apply for and may receive a witness fee[.]</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(2)(a).</p>
<p><b>Victims’ Right to Notice That Subpoenaed Proceeding Has Been Rescheduled.</b></p> <p>Victims and witnesses of crimes shall have the . . . right[] [t]o be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled in order to save the person an unnecessary trip to court[.]</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(2)(b).</p>

<p><b>Victims' Right to Protection from Harms and Threats of Harm Arising from Participation in Investigation and Prosecution.</b></p> <p>Victims and witnesses of crimes shall have the . . . right[] [t]o receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts and to be provided with information as to the level of protection available[.]</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(2)(c).</p>
<p><b>Victims' Right to Be Informed of Financial Assistance and Social Services Available for Victims and Witnesses of Crime.</b></p> <p>Victims and witnesses of crimes shall have the . . . right[] [t]o be informed of financial assistance and other social services available as a result of being a witness or a victim of a crime, including information on how to apply for the assistance and services[.]</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(2)(d).</p>
<p><b>Victims' Right to Be Informed of Procedures to Apply for and Receive Witness Fees.</b></p> <p>Victims and witnesses of crimes shall have the . . . right[] [t]o be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled[.]</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(2)(e).</p>
<p><b>Victims' Right to Secure Waiting Area During Witness Proceedings.</b></p> <p>Victims and witnesses of crimes shall have the . . . right[] [t]o be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants[.]</p> <p> Although this provision is directed at court proceedings, the same concept can and should be applied to law enforcement interactions with victims, victims' families, and victims' witnesses.</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(2)(f).</p>

<p><b>Victims' Right to Expeditious Return of Property by Law Enforcement.</b></p> <p>Victims and witnesses of crimes shall have the . . . right[] [t]o have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, shall be returned to the person within ten days after being taken[.]</p> <p> A promising practice is to have a policy and procedure in place that clearly defines what “expeditiously” means in the context of the victim’s right to return of property. Instructions should be ready and available to provide to victims, explaining how they may promptly obtain their property, in addition to the name of a person they may contact to check the status of the return.</p> <p> If a defendant 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>Neb. Rev. Stat. Ann. § 81-1848(2)(g).</p>
<p><b>Victims' Right to Employer Intercession Services.</b></p> <p>Victims and witnesses of crimes shall have the . . . right[] [t]o be provided with appropriate employer intercession services to insure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee’s loss of pay and other benefits resulting from court appearances[.]</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, of their employment-related rights and to provide employers with this information.</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(2)(h).</p>

<p><b>Victims' Right to Speedy Disposition of the Case.</b></p> <p>Victims and witnesses of crimes shall have the . . . right[] [t]o be entitled to a speedy disposition of the case in which they are involved as a victim or witness in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter[.]</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(2)(i).</p>
<p><b>Victims' Right to Be Informed by County Attorney of Final Disposition of Felony Case and Notified of Release of Defendant.</b></p> <p>Victims and witnesses of crimes shall have the . . . right[] [t]o be informed by the county attorney of the final disposition of a felony case in which they were involved and to be notified pursuant to section 81-1850 whenever the defendant in such case is released from custody[.]</p> <p> Neb. Rev. Stat. Ann. § 81-1850 governs victim notice regarding certain events within the criminal justice process. This provision is included below.</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>Neb. Rev. Stat. Ann. § 81-1848(2)(j).</p>
<p><b>Family Members of Homicide Victims' Right to Be Afforded All Rights and Services.</b></p> <p>Victims and witnesses of crimes shall have the . . . right[] [t]o have the family members of all homicide victims afforded all of the rights under this subsection and services analogous to those provided under section 81-1847.</p>	<p>Neb. Rev. Stat. Ann. § 81-1848(2)(k).</p>

<p> Neb. Rev. Stat. Ann. § 81-1847 governs the services available at Nebraska’s victim and witness assistance centers. This provision is included below.</p>	
<p><b>Victims’ Rights Regarding Appeal: Notice and Information; Same Rights as During Previous Proceedings.</b></p> <p>(1) Upon the filing of an appeal by the defendant, the county attorney upon whom notice of appeal was served shall notify the Attorney General in writing of the name and last-known address of any victim as defined in section 29-119.</p> <p>(2) The Attorney General shall notify the victim of the following:</p> <ul style="list-style-type: none"> <li>(a) That the defendant has filed an appeal of the conviction;</li> <li>(b) A brief explanation of the appeal process, including possible dispositions;</li> <li>(c) Whether the defendant has been released on bail or other recognizance pending the disposition of the appeal;</li> <li>(d) The time and place of any appellate proceedings and any changes in the time or place of those proceedings;</li> <li>(e) The result of the appeal; and</li> <li>(f) The final disposition of the case within thirty days after the final disposition.</li> </ul> <p>(3) In the event the defendant’s conviction is reversed and the case is remanded to the trial court for further proceedings, the victim has the same rights as he or she had during the previous proceedings which led to the appeal.</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>Neb. Rev. Stat. Ann. § 81-1848.01.</p>

<p><b>Victims' Right to Notice of Offender's Escape; Entities Responsible for Providing Notice.</b></p> <p>(1) As provided in subsections (2) and (3) of this section, the victim, as defined in section 29-119, and the prosecuting attorney shall be immediately notified of an escape by a prisoner confined and accused of, convicted of, or sentenced for committing a crime against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice to the victim and the prosecuting attorney.</p> <p>(2) If the escape occurs before the sentence is executed or before the prisoner is delivered to the custody of the Department of Correctional Services or the county corrections agency, the chief law enforcement officer of the agency in charge of the prisoner's detention shall notify the victim and the prosecuting attorney of the escape.</p> <p>(3) If the prisoner is confined pursuant to a sentence, the chief administrator of the facility where the prisoner was confined shall notify the victim and the prosecuting attorney.</p> <p> Neb. Rev. Stat. Ann. § 29-119 defines the term "victim" for the purposes of this statutory provision. This definition is 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 in place to establish what constitutes "means reasonably calculated to give prompt actual notice."</p>	<p>Neb. Rev. Stat. Ann. § 81-1848.02.</p>
---	---

<p><b>Victims' Waiver of Rights Through Written Consent Filed with the Clerk of Court or Oral Consent Entered on the Record.</b></p> <p>Victim's rights under sections 81-1843 to 81-1851 may be waived by the victim at any time by (1) written consent, in person or by attorney, filed with the clerk of the court or (2) oral consent in open court entered on the record.</p>	<p>Neb. Rev. Stat. Ann. § 81-1848.03.</p>
<p><b>Victims' Duty to Keep County Attorney Informed of Current Address and Phone Number for Notification Purposes.</b></p> <p>To receive the notices provided for in sections 81-1848 to 81-1848.02, a victim shall keep the county attorney informed of his or her current address and telephone number.</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. Consideration should be given to providing victims with a form that they may use to update their address and phone number with the county attorney when needed to ensure they receive the notices they are entitled to under sections 81-1848 to 81-1848.02</p>	<p>Neb. Rev. Stat. Ann. § 81-1849.</p>
<p><b>Victims' Right to Request Notice; Victim Information Exempt from Public Records Laws.</b></p> <p>(1) Upon request of the victim and at the time of conviction of the offender, the county attorney of the jurisdiction in which a person is convicted of a felony shall forward to the Board of Parole, the Department of Correctional Services, the county corrections agency, or the Department of Health and Human Services the name and address of any victim, as defined in section 29-119, of the convicted person. The board, the Department of Correctional Services, the county corrections agency, or the Department of Health and Human Services shall include the name in the file of the convicted person, but the name shall not be part of the public record of any parole hearings of the convicted person. Any victim,</p>	<p>Neb. Rev. Stat. Ann. § 81-1850.</p>

including a victim who has waived his or her right to notification at the time of conviction, may request the notification prescribed in this section, as applicable, by sending a written request to the board, the Department of Correctional Services, the county corrections agency, or the Department of Health and Human Services any time after the convicted person is incarcerated and until the convicted person is no longer under the jurisdiction of the board, the county corrections agency, or the Department of Correctional Services or, if the person is under the jurisdiction of the Department of Health and Human Services, within the three-year period after the convicted person is no longer under the jurisdiction of the board, the county corrections agency, or the Department of Correctional Services.

(2) A victim whose name appears in the file of the convicted person shall be notified by the Board of Parole:

- (a) Within ninety days after conviction of an offender, of the tentative date of release and the earliest parole eligibility date of such offender;
- (b) Of any parole hearings or proceedings;
- (c) Of any decision of the Board of Parole;
- (d) When a convicted person who is on parole is returned to custody because of parole violations; and
- (e) If the convicted person has been adjudged a mentally disordered sex offender or is a convicted sex offender, when such person is released from custody or treatment.

Such notification shall be given in person, by telecommunication, or by mail.

(3) A victim whose name appears in the file of the convicted person shall be notified by the Department of Correctional Services or a county corrections agency:

- (a) When a convicted person is granted a furlough or release from incarceration for twenty-four hours or longer or any transfer of the convicted person to community status;
- (b) When a convicted person is released into community-based programs, including educational release and work release programs. Such notification shall occur at the beginning and termination of any such program;
- (c) When a convicted person escapes or does not return from a granted furlough or release and again when the convicted person is returned into custody;

<p>(d) When a convicted person is discharged from custody upon completion of his or her sentence. Such notice shall be given at least thirty days before discharge, when practicable;</p> <p>(e) Of the (i) department's calculation of the earliest parole eligibility date of the prisoner with all potential good time or disciplinary credits considered if the sentence exceeds ninety days or (ii) county corrections agency's calculation of the earliest release date of the prisoner. The victim may request one notice of the calculation described in this subdivision. Such information shall be mailed not later than thirty days after receipt of the request;</p> <p>(f) Of any reduction in the prisoner's minimum sentence; and</p> <p>(g) Of the victim's right to submit a statement as provided in section 81-1848.</p> <p>(4) A victim whose name appears in the file of a convicted person shall be notified by the Department of Health and Human Services:</p> <p>(a) When a person convicted of an offense listed in subsection (5) of this section becomes the subject of a petition pursuant to the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act prior to his or her discharge from custody upon the completion of his or her sentence or within thirty days after such discharge. The county attorney who filed the petition shall notify the Department of Correctional Services of such petition. The Department of Correctional Services shall forward the names and addresses of victims appearing in the file of the convicted person to the Department of Health and Human Services;</p> <p>(b) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection escapes from an inpatient facility providing board-ordered treatment and again when the person is returned to an inpatient facility;</p> <p>(c) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection is discharged or has a change in disposition from inpatient board-ordered treatment;</p> <p>(d) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection is granted a furlough or release for twenty-four hours or longer; and</p> <p>(e) When a person under a mental health board commitment pursuant to subdivision (a) of this subsection is released into educational release programs or work release programs. Such notification shall occur at the beginning and termination of any such program.</p>	
--	--

(5) Subsection (4) of this section applies to persons convicted of at least one of the following offenses which is also alleged to be the recent act or threat underlying the commitment of such persons as mentally ill and dangerous or as dangerous sex offenders as defined in section 83-174.01:

- (a) Murder in the first degree pursuant to section 28-303;
- (b) Murder in the second degree pursuant to section 28-304;
- (c) Kidnapping pursuant to section 28-313;
- (d) Assault in the first degree pursuant to section 28-308;
- (e) Assault in the second degree pursuant to section 28-309;
- (f) Sexual assault in the first degree pursuant to section 28-319;
- (g) Sexual assault in the second degree pursuant to section 28-320;
- (h) Sexual assault of a child in the first degree pursuant to section 28-319.01;
- (i) Sexual assault of a child in the second or third degree pursuant to section 28-320.01;
- (j) Stalking pursuant to section 28-311.03; or
- (k) An attempt, solicitation, or conspiracy to commit an offense listed in subdivisions (a) through (j) of this subsection.

(6) A victim whose name appears in the file of a convicted person shall be notified by the Board of Pardons:

- (a) Of any pardon or commutation proceedings; and
- (b) If a pardon or commutation has been granted.

(7) The Board of Parole, the Department of Correctional Services, the Department of Health and Human Services, and the Board of Pardons shall adopt and promulgate rules and regulations as needed to carry out this section.

(8) The victim's address and telephone number maintained by the Department of Correctional Services, the Department of Health and Human Services, the county corrections agency, or the Board of Parole pursuant to subsection (1) of this section shall be exempt from disclosure under public records laws and federal freedom of information laws, as such laws existed on January 1, 2004.

<p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully document a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p> <p> A promising practice is to have a policy and procedure in place that enables crime victims to easily keep their contact information up-to-date across agencies.</p>	
<p><b>Mandatory Reporting of Child Abuse or Neglect.</b></p> <p>When any physician, any medical institution, any nurse, any school employee, any social worker, the Inspector General appointed under section 43-4317, or any other person has reasonable cause to believe that a child has been subjected to child abuse or neglect or observes such child being subjected to conditions or circumstances which reasonably would result in child abuse or neglect, he or she shall report such incident or cause a report of child abuse or neglect to be made to the proper law enforcement agency or to the department on the toll-free number established by subsection (2) of this section. Such report may be made orally by telephone with the caller giving his or her name and address, shall be followed by a written report, and to the extent available shall contain the address and age of the abused or neglected child, the address of the person or persons having custody of the abused or neglected child, the nature and extent of the child abuse or neglect or the conditions and circumstances which would reasonably result in such child abuse or neglect, any evidence of previous child abuse or neglect including the nature and extent, and any other information which in the opinion of the person may be helpful in establishing the cause of such child abuse or neglect and the identity of the perpetrator or perpetrators. Law enforcement agencies receiving any reports of child abuse or neglect under this subsection shall notify the department pursuant to section 28-718 on the next working day by telephone or mail.</p>	<p>Neb. Rev. Stat. Ann. § 28-711(1).</p>

<p><b>Victims' Right to Consult with the Prosecutor Prior to a Plea Agreement.</b></p> <p>Prior to reaching a plea agreement with defense counsel, a prosecuting attorney, prosecuting a violation of a city or village ordinance enacted in conformance with section 60-6,196 or 60-6,197, shall consult with or make a good faith effort to consult with the victim regarding the content of and reasons for such plea agreement.</p> <p> Neb. Rev. Stat. Ann. § 29-119 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 inform victims who have financial losses caused by the criminal conduct that they may request that the prosecuting attorney include restitution as part of any plea agreement reached with the defendant.</p>	<p>Neb. Rev. Stat. Ann. § 29-120.</p>
<p><b>Sex Offenses Victims' Right to Not Be Required to Submit to Polygraph as a Condition of Proceeding with the Investigation.</b></p> <p>(1) No law enforcement officer, prosecuting officer, or other government official shall ask or require an adult, youth, or child victim of a sex offense as defined under federal, tribal, state, territorial, or local law to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such offense.</p> <p>(2) The refusal of a victim to submit to an examination as described in subsection (1) of this section shall not prevent the investigation of the offense.</p> <p> 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 condition of proceeding with the investigation.</p>	<p>Neb. Rev. Stat. Ann. § 29-216.</p>

<p><b>Duty of Peace Officers Responding to Domestic Assault Complaints from Two or More Opposing Persons to Evaluate Each Complaint Separately to Determine Predominant Aggressor; Factors to Be Considered.</b></p> <p>(1) If a peace officer receives complaints under section 28-323 from two or more opposing persons, the officer shall evaluate each complaint separately to determine who was the predominant aggressor. If the officer determines that one person was the predominant aggressor, the officer need not arrest the other person believed to have committed an offense. In determining whether a person is the predominant aggressor, the officer shall consider, among other things:</p> <ul style="list-style-type: none"> <li>(a) Prior complaints under section 28-323;</li> <li>(b) The relative severity of the injuries inflicted on each person;</li> <li>(c) The likelihood of future injury to each person; and</li> <li>(d) Whether one of the persons acted with a justified use of force under sections 28-1406 to 28-1416.</li> </ul> <p>(2) In addition to any other report required, a peace officer who arrests two or more persons with respect to such a complaint shall submit a detailed, written report setting forth the grounds for arresting multiple parties.</p>	<p>Neb. Rev. Stat. Ann. § 29-439.</p>
<p><b>Sexual Assault Victims' Rights Regarding Pretrial Depositions: Procedure; Advocate Presence.</b></p> <p>(1) Except as provided in section 29-1926, at any time after the filing of an indictment or information in a felony prosecution, the prosecuting attorney or the defendant may request the court to allow the taking of a deposition of any person other than the defendant who may be a witness in the trial of the offense. The court may order the taking of the deposition when it finds the testimony of the witness:</p> <ul style="list-style-type: none"> <li>(a) May be material or relevant to the issue to be determined at the trial of the offense; or</li> <li>(b) May be of assistance to the parties in the preparation of their respective cases.</li> </ul>	<p>Neb. Rev. Stat. Ann. § 29-1917.</p>

<p>(2) An order granting the taking of a deposition shall include the time and place for taking such deposition and such other conditions as the court determines to be just.</p> <p>(3) Except as provided in subsection (4) of this section, the proceedings in taking the deposition of a witness pursuant to this section and returning it to the court shall be governed in all respects as the taking of depositions in civil cases, including section 25-1223.</p> <p>(4)(a) A sexual assault victim may request to have an advocate of the victim's choosing present during a deposition under this section. The prosecuting attorney shall inform the victim that the victim may make such request as soon as reasonably practicable prior to the deposition. If the victim wishes to have an advocate present, the victim shall, if reasonably practicable, inform the prosecuting attorney if an advocate will be present, and, if known, the advocate's identity and contact information. If so informed by the victim, the prosecuting attorney shall notify the defendant as soon as reasonably practicable.</p> <p>(b) An advocate present at a deposition under this section shall not interfere with the deposition or provide legal advice.</p> <p>(c) For purposes of this subsection, the terms sexual assault victim, victim, and advocate have the same meanings as in section 29-4309.</p> <p>(5) A deposition taken pursuant to this section may be used at the trial by any party solely for the purpose of contradicting or impeaching the testimony of the deponent as a witness.</p>	
<p><b>Child-Victims' Rights to Courtroom Accommodations: Legislative Intent.</b></p> <p>The Legislature recognizes that obtaining testimony in a criminal prosecution from a child victim of or a child witness to a felony offense may be a delicate matter and may require some special considerations. It is the intent of the Legislature to promote, facilitate, and preserve the testimony of such child victim or child witness in a criminal prosecution to the fullest extent possible consistent with the constitutional right to confrontation guaranteed by the Sixth Amendment of the Constitution of the United States and Article I, section 11, of the Nebraska Constitution.</p>	<p>Neb. Rev. Stat. Ann. § 29-1925.</p>

<p><b>Child-Victims' Rights to Courtroom Accommodations.</b></p> <p>(1)(a) Upon request of the prosecuting or defense attorney and upon a showing of compelling need, the court shall order the taking of a videotape deposition of a child victim of or child witness to any offense punishable as a felony. The deposition ordinarily shall be in lieu of courtroom or in camera testimony by the child. If the court orders a videotape deposition, the court shall:</p> <ul style="list-style-type: none"> <li>(i) Designate the time and place for taking the deposition. The deposition may be conducted in the courtroom, the judge's chambers, or any other location suitable for videotaping;</li> <li>(ii) Assure adequate time for the defense attorney to complete discovery before taking the deposition; and</li> <li>(iii) Preside over the taking of the videotape deposition in the same manner as if the child were called as a witness for the prosecution during the course of the trial.</li> </ul> <p>(b) Unless otherwise required by the court, the deposition shall be conducted in the presence of the prosecuting attorney, the defense attorney, the defendant, and any other person deemed necessary by the court, including the parent or guardian of the child victim or child witness, an advocate as defined in section 2 of this act, or a counselor or other person with whom the child is familiar. Such parent, guardian, advocate, counselor, or other person shall be allowed to sit with or near the child unless the court determines that such person would be disruptive to the child's testimony.</p> <p>(c) At any time subsequent to the taking of the original videotape deposition and upon sufficient cause shown, the court shall order the taking of additional videotape depositions to be admitted at the time of the trial.</p> <p>(d) If the child testifies at trial in person rather than by videotape deposition, the taking of the child's testimony may, upon request of the prosecuting attorney and upon a showing of compelling need, be conducted in camera.</p> <p>(e) Unless otherwise required by the court, the child shall testify in the presence of the prosecuting attorney, the defense attorney, the defendant, and any other person deemed necessary by the court, including the parent or guardian of the child victim or child witness, an advocate as defined in section 2 of this act, or a counselor or other person with whom the child is familiar. Such parent, guardian, advocate, counselor, or other person shall be allowed to sit with or near the child unless the court determines that such person would be</p>	<p>Neb. Rev. Stat. Ann. § 29-1926.</p>
--	--

disruptive to the child's testimony. Unless waived by the defendant, all persons in the room shall be visible on camera except the camera operator.

(f) If deemed necessary to preserve the constitutionality of the child's testimony, the court may direct that during the testimony the child shall at all times be in a position to see the defendant live or on camera.

(g) For purposes of this section, child means a person eleven years of age or younger at the time the motion to take the deposition is made or at the time of the taking of in camera testimony at trial.

(h) Nothing in this section shall restrict the court from conducting the pretrial deposition or in camera proceedings in any manner deemed likely to facilitate and preserve a child's testimony to the fullest extent possible, consistent with the right to confrontation guaranteed in the Sixth Amendment of the Constitution of the United States and Article I, section 11, of the Nebraska Constitution. In deciding whether there is a compelling need that child testimony accommodation is required by pretrial videotape deposition, in camera live testimony, in camera videotape testimony, or any other accommodation, the court shall make particularized findings on the record of:

- (i) The nature of the offense;
- (ii) The significance of the child's testimony to the case;
- (iii) The likelihood of obtaining the child's testimony without modification of trial procedure or with a different modification involving less substantial digression from trial procedure than the modification under consideration;
- (iv) The child's age;
- (v) The child's psychological maturity and understanding; and
- (vi) The nature, degree, and duration of potential injury to the child from testifying.

(i) The court may order an independent examination by a psychologist or psychiatrist if the defense attorney requests the opportunity to rebut the showing of compelling need produced by the prosecuting attorney. Such examination shall be conducted in the child's county of residence.

(j) After a finding of compelling need by the court, neither party may call the child witness to testify as a live witness at the trial before the jury unless that party demonstrates that the compelling need no longer exists.

(k) Nothing in this section shall limit the right of access of the media or the public to open court.

<p>(l) Nothing in this section shall preclude discovery by the defendant as set forth in section 29-1912.</p> <p>(m) The Supreme Court may adopt and promulgate rules of procedure to administer this section, which rules shall not be in conflict with laws governing such matters.</p> <p>(2)(a) No custodian of a videotape of a child victim or child witness alleging, explaining, denying, or describing an act of sexual assault pursuant to section 28-319, 28-319.01, or 28-320.01 or child abuse pursuant to section 28-707 as part of an investigation or evaluation of the abuse or assault shall release or use a videotape or copies of a videotape or consent, by commission or omission, to the release or use of a videotape or copies of a videotape to or by any other party without a court order, notwithstanding the fact that the child victim or child witness has consented to the release or use of the videotape or that the release or use is authorized under law, except as provided in section 28-730 or pursuant to an investigation under the Office of Inspector General of Nebraska Child Welfare Act. Any custodian may release or consent to the release or use of a videotape or copies of a videotape to law enforcement agencies or agencies authorized to prosecute such abuse or assault cases on behalf of the state.</p> <p>(b) The court order may govern the purposes for which the videotape may be used, the reproduction of the videotape, the release of the videotape to other persons, the retention and return of copies of the videotape, and any other requirements reasonably necessary for the protection of the privacy and best interests of the child victim or child witness.</p> <p>(c) Pursuant to section 29-1912, the defendant described in the videotape may petition the district court in the county where the alleged offense took place or where the custodian of the videotape resides for an order releasing to the defendant a copy of the videotape.</p> <p>(d) Any person who releases or uses a videotape except as provided in this section shall be guilty of a Class I misdemeanor.</p>	
--	--

**Victims' Rights Regarding Presentence Investigations (PSI) and Reports; Courts' Duty to Order PSI in Felony Cases and Discretion to Order in Other Cases; PSI Report Must Include Victim Statements, If the Victim Agrees.**

Neb. Rev. Stat. Ann. § 29-2261.

(1) Unless it is impractical to do so, when an offender has been convicted of a felony other than murder in the first degree, the court shall not impose sentence without first ordering a presentence investigation of the offender and according due consideration to a written report of such investigation. When an offender has been convicted of murder in the first degree and (a) a jury renders a verdict finding the existence of one or more aggravating circumstances as provided in section 29-2520 or (b)(i) the information contains a notice of aggravation as provided in section 29-1603 and (ii) the offender waives his or her right to a jury determination of the alleged aggravating circumstances, the court shall not commence the sentencing determination proceeding as provided in section 29-2521 without first ordering a presentence investigation of the offender and according due consideration to a written report of such investigation.

(2) A court may order a presentence investigation in any case, except in cases in which an offender has been convicted of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V misdemeanor, a traffic infraction, or any corresponding city or village ordinance.

(3) The presentence investigation and report shall include, when available, an analysis of the circumstances attending the commission of the crime, the offender's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, and personal habits, and any other matters that the probation officer deems relevant or the court directs to be included. All local and state police agencies and Department of Correctional Services adult correctional facilities shall furnish to the probation officer copies of such criminal records, in any such case referred to the probation officer by the court of proper jurisdiction, as the probation officer shall require without cost to the court or the probation officer.

Such investigation shall also include:

- (a) Any written statements submitted to the county attorney by a victim; and
- (b) Any written statements submitted to the probation officer by a victim.

(4) If there are no written statements submitted to the probation officer, he or she shall certify to the court that:

(a) He or she has attempted to contact the victim; and

(b) If he or she has contacted the victim, such officer offered to accept the written statements of the victim or to reduce such victim's oral statements to writing.

For purposes of subsections (3) and (4) of this section, the term victim shall be as defined in section 29-119.

(5) Before imposing sentence, the court may order the offender to submit to psychiatric observation and examination for a period of not exceeding sixty days or such longer period as the court determines to be necessary for that purpose. The offender may be remanded for this purpose to any available clinic or mental hospital, or the court may appoint a qualified psychiatrist to make the examination. The report of the examination shall be submitted to the court.

(6)(a) Any presentence report, substance abuse evaluation, or psychiatric examination shall be privileged and shall not be disclosed directly or indirectly to anyone other than a judge; probation officers to whom an offender's file is duly transferred; the probation administrator or his or her designee; alcohol and drug counselors, mental health practitioners, psychiatrists, and psychologists licensed or certified under the Uniform Credentialing Act to conduct substance abuse evaluations and treatment; or others entitled by law to receive such information, including personnel and mental health professionals for the Nebraska State Patrol specifically assigned to sex offender registration and community notification for the sole purpose of using such report, evaluation, or examination for assessing risk and for community notification of registered sex offenders.

(b) For purposes of this subsection, mental health professional means (i) a practicing physician licensed to practice medicine in this state under the Medicine and Surgery Practice Act, (ii) a practicing psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided under similar provisions of the Psychology Interjurisdictional Compact, or (iii) a practicing mental health professional licensed or certified in this state as provided in the Mental Health Practice Act.

(7) The court shall permit inspection of the presentence report, substance abuse evaluation, or psychiatric examination or parts of the report, evaluation, or examination, as determined by the court, by the prosecuting attorney and defense counsel. Beginning July 1, 2016, such inspection shall be by electronic access only unless the court determines such access is not available to the prosecuting attorney or defense counsel. The State Court Administrator shall determine and develop the means of electronic access to such presentence reports, evaluations, and examinations. Upon application by the prosecuting attorney or defense counsel, the court may order that addresses, telephone numbers, and other contact information for victims or witnesses named in the report, evaluation, or examination be redacted upon a showing by a preponderance of the evidence that such redaction is warranted in the interests of public safety. The court may permit inspection of the presentence report, substance abuse evaluation, or psychiatric examination or examination of parts of the report, evaluation, or examination by any other person having a proper interest therein whenever the court finds it is in the best interest of a particular offender. The court may allow fair opportunity for an offender to provide additional information for the court's consideration.

(8) If an offender is sentenced to imprisonment, a copy of the report of any presentence investigation, substance abuse evaluation, or psychiatric examination shall be transmitted immediately to the Department of Correctional Services. Upon request, the Board of Parole or the Division of Parole Supervision may receive a copy of the report from the department.

(9) Notwithstanding subsections (6) and (7) of this section, the Supreme Court or an agent of the Supreme Court acting under the direction and supervision of the Chief Justice shall have access to psychiatric examinations, substance abuse evaluations, and presentence investigations and reports for research purposes. The Supreme Court and its agent shall treat such information as confidential, and nothing identifying any individual shall be released.



Neb. Rev. Stat. Ann. § 29-119 defines the term "victim" for the purposes of this statutory provision. This definition is included below in the section "State Victims' Rights: Select Definitions."

<p><b>Victims' Right to Restitution: Sentencing Court's Discretion; Inclusion of Uncharged or Dismissed Offenses with Consent from Parties; Presentence Investigation Required.</b></p> <p>A sentencing court may order the defendant to make restitution for the actual physical injury or property damage or loss sustained by the victim as a direct result of the offense for which the defendant has been convicted. With the consent of the parties, the court may order restitution for the actual physical injury or property damage or loss sustained by the victim of an uncharged offense or an offense dismissed pursuant to plea negotiations. Whenever the court believes that restitution may be a proper sentence or the victim of any offense or the prosecuting attorney requests, the court shall order that the presentence investigation report include documentation regarding the nature and amount of the actual damages sustained by the victim.</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>Neb. Rev. Stat. Ann. § 29-2280.</p>
<p><b>Victims' Right to Restitution: Court May Hold Hearing to Determine Restitution Amount; Factors for Court to Consider; How Payments Made.</b></p> <p>To determine the amount of restitution, the court may hold a hearing at the time of sentencing. The amount of restitution shall be based on the actual damages sustained by the victim and shall be supported by evidence which shall become a part of the court record. The court shall consider the defendant's earning ability, employment status, financial resources, and family or other legal obligations and shall balance such considerations against the obligation to the victim. In considering the earning ability of a defendant who is sentenced to imprisonment, the court may receive evidence of money anticipated to be earned by the defendant during incarceration. A person may not be granted or denied probation or parole either solely or primarily due to his or her financial resources or ability or inability to pay restitution. The court may order that restitution be made immediately, in</p>	<p>Neb. Rev. Stat. Ann. § 29-2281.</p>

<p>specified installments, or within a specified period of time not to exceed five years after the date of judgment or defendant’s final release date from imprisonment, whichever is later. Restitution payments shall be made through the clerk of the court ordering restitution. The clerk shall maintain a record of all receipts and disbursements.</p>	
<p><b>Victims’ Right to Restitution: Options for Court When Awarding Restitution for Property Damage, Destruction or Loss or Bodily Injury; Restitution for Bodily Injury May Include Medical Care Such as Physical and Psychological Treatment and Therapy and Payment for Lost Income.</b></p> <p>In determining restitution, if the offense results in damage, destruction, or loss of property, the court may require: (1) Return of the property to the victim, if possible; (2) payment of the reasonable value of repairing the property, including property returned by the defendant; or (3) payment of the reasonable replacement value of the property, if return or repair is impossible, impractical, or inadequate. If the offense results in bodily injury, the court may require payment of necessary medical care, including, but not limited to, physical or psychological treatment and therapy, and payment for income lost due to such bodily injury. If the offense results in the death of the victim, the court may require payment to be made to the estate of the victim for the cost of any medical care prior to death and for funeral and burial expenses.</p>	<p>Neb. Rev. Stat. Ann. § 29-2282.</p>
<p><b>Victims’ Right to Restitution: No Restitution for Losses for Which Victim Has Received Compensation; Set-Offs.</b></p> <p>The court shall not impose restitution for a loss for which the victim has received compensation, except that the court may order payment by the defendant to any person who has compensated the victim to the extent that such compensation has been provided. Any amount paid to a victim pursuant to an order of restitution shall be set off against any amount later recovered as compensatory damages in a civil action.</p>	<p>Neb. Rev. Stat. Ann. § 29-2283.</p>

<p><b>Court May Revoke Defendant’s Probation or Parole for Failure to Comply with Restitution Order.</b></p> <p>If the defendant is placed on probation or paroled, the court may revoke probation, and the Board of Parole may revoke parole if the defendant fails to comply with the restitution order. In determining whether to revoke probation or parole, the court or Board of Parole shall consider the defendant’s earning ability and financial resources, the willfulness of the defendant’s failure to pay, and any special circumstances affecting the defendant’s ability to pay. Probation or parole may not be revoked unless noncompliance with the restitution order is attributable to an intentional refusal to obey the order or a failure to make a good faith effort to comply with the order.</p>	<p>Neb. Rev. Stat. Ann. § 29-2284.</p>
<p><b>Victims’ Right to Restitution: Enforceable by Victim in the Same Manner as a Judgment in a Civil Action.</b></p> <p>An order of restitution may be enforced by a victim named in the order to receive the restitution or the personal representative of the victim’s estate in the same manner as a judgment in a civil action. If the victim is deceased and no claim is filed by the personal representative of the estate or if the victim cannot be found, the Attorney General may enforce such order of restitution for the benefit of the Victim’s Compensation Fund.</p>	<p>Neb. Rev. Stat. Ann. § 29-2286.</p>
<p><b>Sexual Assault Victims’ Right to No Cost Forensic Medical; Requirements for DNA Tests.</b></p> <p>(1) The full out-of-pocket cost or expense that may be charged to a sexual assault victim in connection with a forensic medical examination shall be paid from the Sexual Assault Payment Program Cash Fund. A report of a forensic medical examination shall not be remitted to the patient or his or her insurance for payment.</p>	<p>Neb. Rev. Stat. Ann. § 81-1429.03.</p>

<p>(2) Except as provided under section 81-2010, all forensic DNA tests shall be performed by a laboratory which is accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board or by any other national accrediting body or public agency which has requirements that are substantially equivalent to or more comprehensive than those of the society.</p> <p>(3) The full out-of-pocket cost or expense to be paid from the Sexual Assault Payment Program Cash Fund for a forensic medical examination described in subsection (1) of this section shall include:</p> <p>(a) An examiner's fee for:</p> <ul style="list-style-type: none"> <li>(i) Examination of physical trauma;</li> <li>(ii) Determination of penetration or force;</li> <li>(iii) Patient interview; and</li> <li>(iv) Collection and evaluation of evidence;</li> </ul> <p>(b) An examination facility fee for the:</p> <ul style="list-style-type: none"> <li>(i) Emergency room, clinic room, office room, or child advocacy center; and</li> <li>(ii) Pelvic tray and other medically required supplies; and</li> </ul> <p>(c) The laboratory fees for collection and processing of specimens for criminal evidence, the determination of the presence of any sexually transmitted disease, and pregnancy testing.</p>	
<p><b>Victims' Rights Regarding Confidentiality of Communications Between Victims and Sex Assault and Domestic Violence Advocates: Legislative Findings.</b></p> <p>The Legislature finds that because of the fear and stigma that often results from crimes of sexual assault or domestic violence, and because of the risk of retaliatory violence by the perpetrator, many victims hesitate to seek help even when it is available at no cost to them. Without assurances that communications made while receiving assistance in overcoming the adverse effects of a sexual assault or domestic violence situation will be confidential and protected from disclosure, victims will be even more reluctant to seek assistance or to confide openly to their advocates and to explore legal and social remedies fully. As a result, victims may fail to receive needed vital care and counseling and thus lack the support, resources, and information necessary to recover from the crime, to report the crime, to assist</p>	<p>Neb. Rev. Stat. Ann. § 29-4301.</p>

<p>in the prosecution of the crime, to participate effectively in the justice system, to achieve legal protections, and to prevent future sexual assaults and domestic violence. This is a matter of statewide concern, and the prevention of violence is for the protection of the health, safety, and welfare of the public.</p>	
<p><b>Victims' Rights Regarding Confidentiality of Communications Between Victims and Sex Assault and Domestic Violence Advocates: Confidentiality and Its Limitations.</b></p> <p>(1) A victim, an advocate without the consent of the victim, a third party as described in subdivision (3) of section 29-4302 without the consent of the victim, or a minor or incapacitated victim without the consent of a custodial guardian or a guardian ad litem appointed upon application of either party, shall not be compelled to give testimony or to produce records concerning a confidential communication for any purpose in any criminal, civil, legislative, administrative, or other proceeding, except as follows:</p> <p>(a) The party seeking disclosure of a confidential communication shall, in a criminal, civil, or administrative proceeding, file a motion that sets forth specifically the issues on which disclosure is sought and enumerates the reasons why the party is seeking disclosure and why disclosure is necessary, accompanied by an affidavit or affidavits containing specific information which establishes that the confidential communication constitutes relevant and material evidence in the case; and</p> <p>(b) If the party seeking disclosure has complied with subdivision (a) of this subsection, the court or a hearing officer shall review the confidential communication in camera and out of the presence and hearing of all persons, except the victim, the advocate, and any other person the victim is willing to have present, to determine whether a failure to disclose the confidential communication would violate the constitutional rights of the party seeking disclosure.</p> <p>(2) An advocate, a victim, or a third party as described in subdivision (3) of section 29-4302 cannot be compelled to provide testimony in any criminal, civil, legislative, administrative, or other proceeding that would identify the name, address, location, or telephone number of a safe house, abuse shelter, or other facility that provided temporary emergency shelter to</p>	<p>Neb. Rev. Stat. Ann. § 29-4303.</p>

<p>the victim of the offense that is the subject of the proceeding unless the facility is a party to the proceeding.</p> <p> Neb. Rev. Stat. Ann. § 29-4302 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Neb. Rev. Stat. Ann. § 29-4304 governs victims’ waiver of such confidentiality when testifying in court. This provision is included below.</p>	
<p><b>Victims’ Rights Regarding Confidentiality of Communications Between Victims and Sex Assault and Domestic Violence Advocates: Waiver.</b></p> <p>(1) A victim does not waive the protections afforded by sections 29-4301 to 29-4304 by testifying in court about the offense, except that:</p> <p>(a) If the victim partially discloses the contents of a confidential communication in the course of testifying, then either party may request the court to rule that justice requires the protections afforded by sections 29-4301 to 29-4304 be waived to the extent the protections apply to that portion of the confidential communication; and</p> <p>(b) Any waiver shall apply only to the extent necessary to require any witness to respond to counsel’s questions concerning a confidential communication that is relevant to the case.</p> <p>(2) An advocate cannot waive the protections afforded a victim under sections 29-4301 to 29-4304. However, if a victim brings suit against an advocate or the agency, business, or organization in which the advocate was employed or served as a volunteer at the time of the advocacy relationship, the advocate may testify or produce records regarding confidential communications with the victim and is not in violation of sections 29-4301 to 29-4304.</p> <p>(3) Sections 29-4301 to 29-4304 shall not relieve an advocate of any duty to report suspected adult abuse or neglect as required by section 28-372 or suspected child abuse or neglect as required by section 28-711 or any other legal duty to report a criminal or unlawful act.</p>	<p>Neb. Rev. Stat. Ann. § 29-4304.</p>

<p>(4) Sections 29-4301 to 29-4304 shall not be construed to limit any other testimonial privilege available to any person under the laws of this state.</p> <p> Neb. Rev. Stat. Ann. § 29-4302 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Domestic Violence Victims’ Rights to Have Court Order Presentence Investigation Report in Abuse Cases and to Have Safety and Protection Considered When Court is Suspending Sentence or Granting Probation.</b></p> <p>(1) When any person is found guilty of a crime involving abuse as defined in section 42-903, the judge shall order a presentence investigation to be completed and returned to the court for consideration at the time of sentencing.</p> <p>(2) At the time of sentencing, the court shall consider the safety and protection of the victim of abuse and any member of the victim’s family or household when suspending a sentence or granting probation.</p> <p>(3) The court may order the convicted person to complete a domestic abuse intervention program at the convicted person’s expense in addition to any other penalties.</p>	<p>Neb. Rev. Stat. Ann. § 29-4401.</p>
<p><b>Use of Standardized Sexual Assault Evidence Collection Kit by Health Care Professionals; Forensic Evidence</b></p> <p>Every health care professional as defined in section 44-5418 or any person in charge of any emergency room in this state:</p> <p>(1) Shall utilize a standardized sexual assault evidence collection kit approved by the Attorney General; and</p>	<p>Neb. Rev. Stat. Ann. § 29-4306.</p>

<p>(2) Shall collect forensic evidence with the consent of the sexual assault or domestic violence victim without separate authorization by a law enforcement agency. If the sexual assault or domestic violence victim is eighteen years of age, the consent of or notification of the parent, parents, guardian, or any other person having custody of the sexual assault or domestic violence victim is not required.</p>	
<p><b>Sexual Assault Victims' Rights Regarding Privileged Communications.</b></p> <p>Notwithstanding any provision of Chapter 27, article 5, any communication with a victim which is privileged, whether by statute, court order, or common law, shall retain such privilege regardless of who is present during the communication so long as the victim has a privilege with respect to each individual present. Nothing in this section shall relieve the prosecutor of the prosecutor's duty to disclose and make known to the defendant or the defendant's attorney any and all exculpatory material or information suitable for impeachment which is known to the prosecutor.</p> <p> Neb. Rev. Stat. Ann. § 29-4309 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p>	<p>Neb. Rev. Stat. Ann. § 29-4310.</p>
<p><b>Sexual Assault Victims' Rights Regarding Medical Evidentiary and Physical Examinations: Advocate Presence; No Cost Examination; Best Practices; Confidentiality; Shower; Anonymous Reporting.</b></p> <p>(1) A victim has the right to have an advocate of the victim's choosing present during a medical evidentiary or physical examination. The health care provider shall contact the advocate before beginning the medical evidentiary or physical examination, unless declined by the victim. If an advocate cannot appear in a timely manner, the health care provider shall inform the victim of the potential impact of delaying the examination.</p>	<p>Neb. Rev. Stat. Ann. § 29-4311.</p>

<p>(2) A victim retains such right to have an advocate present at any time during any medical evidentiary or physical examination, regardless of whether the victim has previously waived such right.</p> <p>(3) A victim has the right to a free forensic medical examination as provided in section 81-1429.03 without regard to whether a victim participates in the criminal justice system or cooperates with law enforcement.</p> <p>(4) A victim has the right to be provided health care in accordance with best practices and established protocols for age-appropriate sexual assault forensic medical examinations as set forth in publications of the Office on Violence Against Women of the United States Department of Justice.</p> <p>(5) A victim has the protection of confidential communications as provided in sections 29-4301 to 29-4304.</p> <p>(6) A victim has the right to shower at no cost after the medical evidentiary or physical examination, unless showering facilities are not available.</p> <p>(7) A victim has the right to anonymous reporting as provided in section 28-902.</p> <p> Neb. Rev. Stat. Ann. § 29-4309 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Sexual Assault Victims’ Rights Regarding Interviews and Depositions: Advocate Presence; Choice Regarding Gender of Interviewer; Use of Preferred Language; No Discouragement from Receiving Medical Evidentiary or Physical Examination; Right to Counsel; Forensic Interview By Someone with Special Training.</b></p> <p>(1)(a) A victim has the right to have an advocate present during an interview by a peace officer, prosecutor, or defense attorney, unless no advocate can appear in a reasonably timely manner. In an interview involving a prosecutor, the prosecutor shall inform the victim of</p>	<p>Neb. Rev. Stat. Ann. § 29-4312.</p>

the victim's rights under this subsection. The peace officer, prosecutor, or defense attorney shall contact the advocate before beginning the interview, unless declined by the victim.

(b) A victim has the right to have an advocate present during a deposition as provided in sections 29-1917 and 29-1926.

(c) An advocate present at an interview or deposition under this subsection shall not interfere in the interview or deposition or provide legal advice.

(d) Nothing in this subsection shall preclude law enforcement officers or prosecutors from contacting a victim directly to make limited inquiries regarding the sexual assault.

(2) A victim has the right to be interviewed by a peace officer of the gender of the victim's choosing, if such request can be reasonably accommodated by a peace officer that is properly trained to conduct such interviews.

(3) A victim has the right to be interviewed by a peace officer that speaks the victim's preferred language or to have a qualified interpreter available, if such request can be reasonably accommodated.

(4) A peace officer, prosecutor, or defense attorney shall not, for any reason, discourage a victim from receiving a medical evidentiary or physical examination.

(5) A victim has the right to counsel. This subsection does not create a new obligation by the state or a political subdivision to appoint or pay for counsel. Treatment of the victim shall not be affected or altered in any way as a result of the victim's decision to exercise such right to counsel.

(6) A victim who is a child three to eighteen years of age has the right to a forensic interview at a child advocacy center by a professional with specialized training as provided in section 28-728. The right to have an advocate, representative, or attorney present shall not apply during such a forensic interview.

<p> Neb. Rev. Stat. Ann. § 29-4309 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, when notifying victims that they have the right to counsel, to explain the different roles of a prosecuting attorney vs. an attorney hired by the victim to represent their interests and assert their rights. It should also be made clear to the victim that, while they do have a right to hire counsel, they do not have a right to counsel provided by the State.</p>	
<p><b>Sexual Assault Victims’ Bill of Rights Regarding Collection and Analysis of Forensic Evidence: Notice; Information; Copies of Reports.</b></p> <p>(1) A victim has the right to timely analysis of sexual assault forensic evidence.</p> <p>(2) Subject to section 28-902, a health care provider shall notify the appropriate law enforcement agency of a victim’s reported sexual assault and submit to law enforcement the sexual assault forensic evidence, if evidence has been obtained.</p> <p>(3) A law enforcement agency shall collect the sexual assault forensic evidence upon notification by the health care provider and shall retain the sexual assault forensic evidence for the longer of the statute of limitations applicable to the sexual assault or the retention period set forth in subsection (4) of section 28-902.</p> <p>(4) A victim has a right to contact the investigating law enforcement agency and be provided with information on the status of the processing and analysis of the victim’s sexual assault forensic evidence, if the victim did not report anonymously.</p> <p>(5) A victim has the right to have the results of the analysis of the victim’s sexual assault forensic evidence uploaded to the appropriate local, state, and federal DNA data bases, as allowed by law.</p>	<p>Neb. Rev. Stat. Ann. § 29-4313.</p>

<p>(6) A victim has the right to be informed by the investigating law enforcement agency, upon the victim’s request, of the results of analysis of the victim’s sexual assault forensic evidence, whether the analysis yielded a DNA profile, and whether the analysis yielded a DNA match, either to the named perpetrator or to a suspect already in the Federal Bureau of Investigation’s Combined DNA Index System, so long as the provision of such information would not hinder or interfere with investigation or prosecution of the case associated with such information.</p> <p>(7) A victim has the right to inspect or request copies of law enforcement reports concerning the sexual assault at the conclusion of the case.</p> <p> Neb. Rev. Stat. Ann. § 29-4309 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Sexual Assault Victims’ Right to Not Have Forensic Evidence Used to Prosecute Them for a Misdemeanor or Certain Drug Crimes or to Search for Further Evidence Regarding Such Crimes.</b></p> <p>Sexual assault forensic evidence from a victim shall not be used:</p> <p>(1) To prosecute such victim for any misdemeanor crime or any crime under the Uniform Controlled Substances Act; or</p> <p>(2) As a basis to search for further evidence of any misdemeanor crime or any crime under the Uniform Controlled Substances Act that may have been committed by the victim.</p> <p> Neb. Rev. Stat. Ann. § 29-4309 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Neb. Rev. Stat. Ann. § 29-4314.</p>

<p><b>Sexual Assault Victims' Right to Information.</b></p> <p>(1) Upon an initial interaction with a victim relating to or arising from a sexual assault of such victim, a health care provider or peace officer, and in the case of a victim under eighteen years of age, the Department of Health and Human Services, shall provide the victim with information that explains the rights of victims under the Sexual Assault Victims' Bill of Rights Act and other relevant law. The information shall be presented in clear language that is comprehensible to a person proficient in English at the fifth grade level, accessible to persons with visual disabilities, and available in all major languages spoken in this state. This information shall include, but not be limited to:</p> <ul style="list-style-type: none"> <li>(a) A clear statement that a victim is not required to participate in the criminal justice system or to undergo a medical evidentiary or physical examination in order to retain the rights provided by the act and other relevant law;</li> <li>(b) Contact information for appropriate services provided by professionals in the fields of domestic violence and sexual assault, including advocates;</li> <li>(c) State and federal relief available to victims of crime;</li> <li>(d) Law enforcement protection available to the victim, including domestic violence protection orders, harassment protection orders, and sexual assault protection orders and the process to obtain such protection;</li> <li>(e) Instructions for requesting information regarding the victim's sexual assault forensic evidence as provided in section 29-4313; and</li> <li>(f) State and federal compensation funds for medical and other costs associated with the sexual assault and information on any municipal, state, or federal right to restitution for a victim in the event of a conviction.</li> </ul> <p>(2) The information to be provided under subsection (1) of this section shall be developed by the Attorney General and the Nebraska Commission on Law Enforcement and Criminal Justice with input from prosecutors, sexual assault victims, and organizations with a statewide presence with expertise on domestic violence, sexual assault, and child sexual assault.</p>	<p>Neb. Rev. Stat. Ann. § 29-4315.</p>
--	--

<p>(3) The information to be provided under subsection (1) of this section shall be made available for viewing and download on the web sites of the Department of Health and Human Services and the Nebraska Commission on Law Enforcement and Criminal Justice. Other relevant state agencies are also encouraged to make such information available on their web sites.</p> <p> Neb. Rev. Stat. Ann. § 29-4309 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Sex Trafficking Victims’ Right to Move to Set Aside a Conviction or Adjudication.</b></p> <p>(2) At any time following the completion of sentence or disposition, a victim of sex trafficking convicted in county or district court of, or adjudicated in a juvenile court for, (a) a prostitution-related offense committed while the movant was a victim of sex trafficking or proximately caused by the movant’s status as a victim of sex trafficking or (b) any other offense committed as a direct result of, or proximately caused by, the movant’s status as a victim of sex trafficking, may file a motion to set aside such conviction or adjudication. The motion shall be filed in the county, district, or separate juvenile court of the county in which the movant was convicted or adjudicated.</p> <p>(3)(a) If the court finds that the movant was a victim of sex trafficking at the time of the prostitution-related offense or finds that the movant’s participation in the prostitution-related offense was proximately caused by the movant’s status as a victim of sex trafficking, the court shall grant the motion to set aside a conviction or an adjudication for such prostitution-related offense.</p> <p>(b) If the court finds that the movant’s participation in an offense other than a prostitution-related offense was a direct result of or proximately caused by the movant’s status as a victim of sex trafficking, the court shall grant the motion to set aside a conviction or an adjudication for such offense.</p> <p>(4) Official documentation of a movant’s status as a victim of sex trafficking at the time of the prostitution-related offense or other offense shall create a rebuttable presumption that the</p>	<p>Neb. Rev. Stat. Ann. § 29-3005(2)–(7).</p>

movant was a victim of sex trafficking at the time of the prostitution-related offense or other offense. Such official documentation shall not be required to obtain relief under this section. Such official documentation includes:

(a) A copy of an official record, certification, or eligibility letter from a federal, state, tribal, or local proceeding, including an approval notice or an enforcement certification generated from a federal immigration proceeding, that shows that the movant is a victim of sex trafficking; or

(b) An affidavit or sworn testimony from an attorney, a member of the clergy, a medical professional, a trained professional staff member of a victim services organization, or other professional from whom the movant has sought legal counsel or other assistance in addressing the trauma associated with being a victim of sex trafficking.

(5) In considering whether the movant is a victim of sex trafficking, the court may consider any other evidence the court determines is of sufficient credibility and probative value, including an affidavit or sworn testimony. Examples of such evidence include, but are not limited to:

(a) Branding or other tattoos on the movant that identified him or her as having a trafficker;

(b) Testimony or affidavits from those with firsthand knowledge of the movant's involvement in the commercial sex trade such as solicitors of commercial sex, family members, hotel workers, and other individuals trafficked by the same individual or group of individuals who trafficked the movant;

(c) Financial records showing profits from the commercial sex trade, such as records of hotel stays, employment at indoor venues such as massage parlors, bottle clubs, or strip clubs, or employment at an escort service;

(d) Internet listings, print advertisements, or business cards used to promote the movant for commercial sex; or

(e) Email, text, or voicemail records between the movant, the trafficker, or solicitors of sex that reveal aspects of the sex trade such as behavior patterns, meeting times, or payments or examples of the trafficker exerting force, fraud, or coercion over the movant.

(6) Upon request of a movant, any hearing relating to the motion shall be conducted in camera. The rules of evidence shall not apply at any hearing relating to the motion.

<p>(7) An order setting aside a conviction or an adjudication under this section shall have the same effect as an order setting aside a conviction as provided in subsections (4) and (5) of section 29-2264.</p> <p> Neb. Rev. Stat. Ann. § 29-3005(1) 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 maintain documentation of a victim’s request to exercise rights.</p>	
<p><b>Domestic Violence Victims’ Right to Comprehensive Support Services.</b></p> <p>The comprehensive support services shall include, but not be limited to:</p> <ul style="list-style-type: none"> <li>(1) Emergency services for victims of abuse and their families;</li> <li>(2) Support programs that meet specific needs of victims of abuse and their families;</li> <li>(3) Education, counseling, and supportive programs for the abuser;</li> <li>(4) Programs to aid in the prevention and elimination of domestic violence which shall include education and public awareness; and</li> <li>(5) Assistance in completing the standard petition and affidavit forms for persons who file a petition and affidavit for a protection order.</li> </ul>	<p>Neb. Rev. Stat. Ann. § 42-905.</p>

<p> Neb. Rev. Stat. Ann. § 42-903 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Domestic Violence Victims’ Right to Emergency Services.</b></p> <p>The department shall provide emergency services which shall consist of up to seventy-two hours of crisis intervention services including:</p> <ul style="list-style-type: none"> <li>(1) Constant access and intake to services;</li> <li>(2) Immediate transportation from a victim’s home or other location to a hospital or a place of safety;</li> <li>(3) Immediate medical services or first aid;</li> <li>(4) Emergency legal counseling and referral;</li> <li>(5) Crisis counseling to provide support and assurance of safety;</li> <li>(6) Emergency financial aid; and</li> <li>(7) Safe living environments that will provide a supportive, nonthreatening shelter to victims, their families, and household members.</li> </ul> <p> Neb. Rev. Stat. Ann. § 42-903 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Neb. Rev. Stat. Ann. § 42-907.</p>

<p><b>Domestic Violence Victims' Right to Have Needs Assessed Regarding Referrals and Services.</b></p> <p>The department shall, as soon as possible after initial contact with the victim, determine through diagnostic assessment which programs are needed and desired by the victim and family members. The department shall make appropriate referral and conduct appropriate followup. The department shall, to the extent possible, use private sources to provide the support services.</p> <p> Neb. Rev. Stat. Ann. § 42-903 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p>	<p>Neb. Rev. Stat. Ann. § 42-908.</p>
<p><b>Domestic Violence Victims' Rights to Support Services for Up to Thirty Days.</b></p> <p>The department shall, in addition to the emergency services, provide support services as needed to a victim of domestic abuse for up to thirty days. The support services shall be problem oriented and formulate a plan of action for the victim. Such services may include relocation, financial security, employment, advocacy, assertiveness training, substance abuse counseling, and alternatives to returning to the abuser. Also, the department shall provide services for children including day care, education, and counseling.</p> <p> Neb. Rev. Stat. Ann. § 42-903 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p>	<p>Neb. Rev. Stat. Ann. § 42-909.</p>
<p><b>Domestic Violence Child-Victims' and Witnesses' Right to Services.</b></p> <p>The department shall provide services for children which may include:</p> <p>(1) Emergency services which provide housing, food, clothing, and transportation to school;</p>	<p>Neb. Rev. Stat. Ann. § 42-910.</p>

<p>(2) Counseling for trauma which occurs when children witness or experience family violence;</p> <p>(3) Programs which provide for the appropriate educational needs of the individual child; and</p> <p>(4) Services for child care in the necessary absence of the victim parent.</p> <p> Neb. Rev. Stat. Ann. § 42-903 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Domestic Violence Victims’ Right to Information Regarding Available Support Services.</b></p> <p>The department shall provide complete resource information for victims and their families on legal, medical, financial, vocational, welfare, child care, housing, and other support services.</p> <p> Neb. Rev. Stat. Ann. § 42-903 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 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>Neb. Rev. Stat. Ann. § 42-911.</p>

<p><b>Domestic Violence Victims' Right to Confidentiality.</b></p> <p>Under the Protection from Domestic Abuse Act, strict confidence shall be observed in all contact with victims of spouse abuse and their families. Any record, report, or files maintained by the department pursuant to the act shall be confidential, except that the department may release statistical information, while not revealing names. Violation of this section shall be a Class V misdemeanor.</p> <p> Neb. Rev. Stat. Ann. § 42-903 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p>	<p>Neb. Rev. Stat. Ann. § 42-918.</p>
<p><b>Domestic Violence Victims' Right to Petition for a Protection Order; Procedures Regarding Protection Orders.</b></p> <p>(1)(a) Any victim of domestic abuse may file a petition and affidavit for a protection order as provided in this section. Upon the filing of such a petition and affidavit in support thereof, the court may issue a protection order without bond granting the following relief:</p> <ul style="list-style-type: none"> <li>(i) Enjoining the respondent from imposing any restraint upon the petitioner or upon the liberty of the petitioner;</li> <li>(ii) Enjoining the respondent from threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the petitioner;</li> <li>(iii) Enjoining the respondent from telephoning, contacting, or otherwise communicating with the petitioner;</li> <li>(iv) Removing and excluding the respondent from the residence of the petitioner, regardless of the ownership of the residence;</li> <li>(v) Ordering the respondent to stay away from any place specified by the court;</li> <li>(vi) Awarding the petitioner temporary custody of any minor children not to exceed ninety days;</li> <li>(vii) Enjoining the respondent from possessing or purchasing a firearm as defined in section 28-1201; or</li> </ul>	<p>Neb. Rev. Stat. Ann. § 42-924.</p>

- (viii) Ordering such other relief deemed necessary to provide for the safety and welfare of the petitioner and any designated family or household member.
- (b) The petition for a protection order shall state the events and dates or approximate dates of acts constituting the alleged domestic abuse, including the most recent and most severe incident or incidents.
- (c) The protection order shall specify to whom relief under this section was granted.
- (2) Petitions for protection orders shall be filed with the clerk of the district court, and the proceeding may be heard by the county court or the district court as provided in section 25-2740. A petition for a protection order may not be withdrawn except upon order of the court.
- (3)(a) A protection order shall specify that it is effective for a period of one year and, if the order grants temporary custody, the number of days of custody granted to the petitioner unless otherwise modified by the court.
- (b)(i) Any victim of domestic abuse may file a petition and affidavit to renew a protection order. Such petition and affidavit for renewal shall be filed any time within forty-five days before the expiration of the previous protection order, including the date the order expires.
- (ii) A protection order may be renewed on the basis of the petitioner's affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested renewal if:
- (A) The petitioner seeks no modification of the order; and
- (B)(I) The respondent has been properly served with notice of the petition for renewal and notice of hearing and fails to appear at the hearing; or
- (II) The respondent indicates that he or she does not contest the renewal.
- (iii) Such renewed order shall specify that it is effective for a period of one year to commence on the first calendar day following the expiration of the previous order or on the calendar day the court grants the renewal if such day is subsequent to the first calendar day after expiration of the previous order and, if the court grants temporary custody, the number of days of custody granted to the petitioner unless otherwise modified by the court.
- (4) Any person, except the petitioner, who knowingly violates a protection order issued pursuant to this section or section 42-931 after service or notice as described in subsection (2) of section 42-926 shall be guilty of a Class I misdemeanor, except that any person

<p>convicted of violating such order who has a prior conviction for violating a protection order shall be guilty of a Class IV felony.</p> <p>(5) If there is any conflict between sections 42-924 to 42-926 and any other provision of law, sections 42-924 to 42-926 shall govern.</p> <p> Neb. Rev. Stat. Ann. § 42-903 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Domestic Violence Victims’ Right to Petition for Protection Order at No Cost.</b></p> <p>Fees to cover costs associated with the filing of a petition for a protection order or the issuance or service of a protection order seeking only the relief provided by the Protection from Domestic Abuse Act shall not be charged, except that a court may assess such fees and costs if the court finds, by clear and convincing evidence, that the statements contained in the petition were false and that the protection order was sought in bad faith.</p> <p>At the final hearing, a court may assess costs associated with the filing of a petition for a protection order or the issuance or service of a protection order seeking only the relief provided by the Protection from Domestic Abuse Act against the respondent.</p> <p> Neb. Rev. Stat. Ann. § 42-903 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Neb. Rev. Stat. Ann. § 42-924.01.</p>
<p><b>Conditions Under Which Respondent to a Domestic Violence Petition May Be Granted Protection Order.</b></p> <p>A court shall only grant a respondent a protection order if (1) the respondent files a cross or counter petition seeking a protection order and (2) the issuing court makes specific findings</p>	<p>Neb. Rev. Stat. Ann. § 42-924.03.</p>

<p>of domestic or family abuse against the respondent and determines that the respondent is entitled to a protection order.</p> <p> Neb. Rev. Stat. Ann. § 42-903 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Domestic Violence Victims’ Rights Regarding Ex Parte Protection Orders: When Issued; Duration; Court May Treat Petition for Domestic Abuse Protection Order as Petition for Harassment or Sexual Assault Protection Order Where Appropriate.</b></p> <p>(1) An order issued under section 42-924 may be issued ex parte to the respondent if it reasonably appears from the specific facts included in the affidavit that the petitioner will be in immediate danger of abuse before the matter can be heard on notice. If an order is issued ex parte, such order is a temporary order and the court shall forthwith cause notice of the petition and order to be given to the respondent. The court shall also cause a form to request a show-cause hearing to be served upon the respondent. If the respondent wishes to appear and show cause why the order should not remain in effect, he or she shall affix his or her current address, telephone number, and signature to the form and return it to the clerk of the district court within ten business days after service upon him or her. Upon receipt of a timely request for a show-cause hearing, the request of the petitioner, or upon the court’s own motion, the court shall immediately schedule a show-cause hearing to be held within thirty days after the receipt of the request for a show-cause hearing and shall notify the petitioner and respondent of the hearing date. The petition and affidavit shall be deemed to have been offered into evidence at any show-cause hearing. The petition and affidavit shall be admitted into evidence unless specifically excluded by the court. If the respondent appears at the hearing and shows cause why such order should not remain in effect, the court shall rescind the temporary order.</p> <p>(2) A temporary ex parte order shall be affirmed and deemed the final protection order and service of the temporary ex parte order shall be notice of the final protection order if the respondent has been properly served with the temporary ex parte order and:</p>	<p>Neb. Rev. Stat. Ann. § 42-925.</p>

- (a) The respondent fails to request a show-cause hearing within ten business days after service upon him or her and no hearing was requested by the petitioner or upon the court's own motion;
- (b) The respondent has been properly served with notice of any hearing requested by the respondent, the petitioner, or upon the court's own motion and fails to appear at such hearing; or
- (c) The respondent has been properly served with notice of any hearing requested by the respondent, the petitioner, or upon the court's own motion and the protection order was not dismissed at the hearing.
- (3) If an order under section 42-924 is not issued ex parte, the court shall immediately schedule an evidentiary hearing to be held within fourteen days after the filing of the petition, and the court shall cause notice of the hearing to be given to the petitioner and the respondent. Any notice provided to the respondent shall include notification that a court may treat a petition for a domestic abuse protection order as a petition for a harassment protection order or a sexual assault protection order if it appears from the facts that such other protection order is more appropriate and that the respondent shall have an opportunity to show cause as to why such protection order should not be entered. If the respondent does not appear at the hearing and show cause why such order should not be issued, the court shall issue a final protection order.
- (4) The court may by rule or order refer or assign all matters regarding orders issued under section 42-924 to a referee for findings and recommendations.
- (5) An order issued under section 42-924 shall remain in effect for the period provided in subsection (3) of section 42-924, unless dismissed or modified by the court prior to such date. If the order grants temporary custody, such custody shall not exceed the number of days specified by the court unless the respondent shows cause why the order should not remain in effect.
- (6) The court shall also cause the notice created under section 29-2291 to be served upon the respondent notifying the respondent that it may be unlawful under federal law for a person who is subject to a protection order to possess or receive any firearm or ammunition.

<p>(7) A court may treat a petition for a domestic abuse protection order as a petition for a harassment protection order or a sexual assault protection order if it appears from the facts in the petition, affidavit, and evidence presented at a show-cause hearing that such other protection order is more appropriate and if:</p> <ul style="list-style-type: none"> <li>(a) The court makes specific findings that such other order is more appropriate; or</li> <li>(b) The petitioner has requested the court to so treat the petition.</li> </ul> <p> Neb. Rev. Stat. Ann. § 42-903 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Domestic Violence Victims’ Rights Regarding Temporary Ex Parte or Final Protection Orders: Procedures for Issuance; Service; Victim Confidentiality.</b></p> <p>(1) Upon the issuance of a temporary ex parte or final protection order under section 42-925, the clerk of the court shall forthwith provide the petitioner, without charge, with two certified copies of such order. The clerk of the court shall also forthwith provide the local police department or local law enforcement agency and the local sheriff’s office, without charge, with one copy each of such order and one copy each of the sheriff’s return thereon. The clerk of the court shall also forthwith provide a copy of the protection order to the sheriff’s office in the county where the respondent may be personally served together with instructions for service. Upon receipt of the order and instructions for service, such sheriff’s office shall forthwith serve the protection order upon the respondent and file its return thereon with the clerk of the court which issued the protection order within fourteen days of the issuance of the protection order. If any protection order is dismissed or modified by the court, the clerk of the court shall forthwith provide the local police department or local law enforcement agency and the local sheriff’s office, without charge, with one copy each of the order of dismissal or modification. If the respondent has notice as described in subsection (2) of this section, further service under this subsection is unnecessary.</p> <p>(2) If the respondent was present at a hearing convened pursuant to section 42-925 and the protection order was not dismissed, the respondent shall be deemed to have notice by the</p>	<p>Neb. Rev. Stat. Ann. § 42-926.</p>

<p>court at such hearing that the protection order will be granted and remain in effect and further service of notice described in subsection (1) of this section is not required for purposes of prosecution under subsection (4) of section 42-924.</p> <p>(3) When provided by the petitioner, the court shall make confidential numeric victim identification information, including social security numbers and dates of birth, available to appropriate criminal justice agencies engaged in protection order enforcement efforts. Such agencies shall maintain the confidentiality of this information, except for entry into state and federal data bases for protection order enforcement.</p> <p> Neb. Rev. Stat. Ann. § 42-903 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Domestic Violence Victims’ Right to Have Protection Orders Related to Domestic or Family Abuse Issued in Other Jurisdictions Accorded Full Faith and Credit in Courts of This State.</b></p> <p>A valid foreign protection order related to domestic or family abuse issued by a tribunal of another state, tribe, or territory shall be accorded full faith and credit by the courts of this state and enforced pursuant to the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.</p> <p> Neb. Rev. Stat. Ann. § 42-903 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Neb. Rev. Stat. Ann. § 42-931.</p>

<p><b>Address Confidentiality Act: Who May Apply; Application Contents; How Filed; Secretary of State to Certify Applicant as Program Participant Upon Receipt of Completed Application.</b></p> <p>(1) An adult, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person as defined in section 30-2601 may apply to the Secretary of State to have an address designated by the Secretary of State serve as the substitute address of such adult, minor, or incapacitated person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State and if it contains:</p> <p>(a) A sworn statement by the applicant that the applicant has good reason to believe (i) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of abuse, sexual assault, or stalking or is a trafficking victim and (ii) that the applicant fears for his or her safety, his or her children’s safety, or the safety of the minor or incapacitated person on whose behalf the application is made;</p> <p>(b) A designation of the Secretary of State as agent for purposes of service of process and receipt of mail;</p> <p>(c) The mailing address and the telephone number or numbers where the applicant can be contacted by the Secretary of State;</p> <p>(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of abuse, sexual assault, stalking, or trafficking; and</p> <p>(e) The signature of the applicant and of any individual or representative of any office designated in writing under section 42-1209 who assisted in the preparation of the application and the date on which the applicant signed the application.</p> <p>(2) Applications shall be filed in the office of the Secretary of State.</p> <p>(3) Upon filing a properly completed application, the Secretary of State shall certify the applicant as a program participant. Such certification shall be valid for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State may by rule and regulation establish a renewal procedure.</p>	<p>Neb. Rev. Stat. Ann. § 42-1204.</p>
---	--

<p>(4) A person who falsely attests in an application that disclosure of the applicant’s address would endanger the applicant, the applicant’s children, or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, is guilty of a Class II misdemeanor.</p> <p> Neb. Rev. Stat. Ann. § 42-1203 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Address Confidentiality Act: Name or Address Change of Program Participant; Notice Required to Secretary of State.</b></p> <p>(1) If a program participant obtains a name change, he or she shall forfeit his or her certification as a program participant unless the program participant applies to the Secretary of State for recertification and provides documentation of the legal name change.</p> <p>(2) The Secretary of State may cancel a program participant’s certification if there is a change in the mailing address from the one listed on the application under section 42-1204, unless the program participant provides the Secretary of State with notice of the change of address in such manner as is provided by rules and regulations adopted and promulgated by the Secretary of State.</p> <p>(3) The Secretary of State may cancel certification of a program participant if mail forwarded to the program participant’s address is returned as undeliverable.</p> <p>(4) The Secretary of State shall cancel certification of a program participant who applies using false information.</p> <p> Neb. Rev. Stat. Ann. § 42-1203 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Neb. Rev. Stat. Ann. § 42-1205.</p>

**Address Confidentiality Act: Use of Designated Address by Program Participant; New Public Records; All First Class Mail to Be Forwarded to Program Participant's Substitute Address.**

Neb. Rev. Stat. Ann. § 42-1206.

(1) A program participant may request that state and local agencies use the address designated by the Secretary of State as the program participant's substitute address. When creating a new public record, a state or local agency which has a bona fide statutory, tax situs, or administrative requirement for the participant's residence address may request that the participant verbally provide the agency with such residence address if the agency has the capability to use such address for such bona fide purpose without permanently entering it into the agency's records. If the agency does not have such capability, it shall accept the address designated by the Secretary of State as a program participant's substitute address, unless the Secretary of State determines that:

- (a) The state or local agency has a bona fide statutory, tax situs, or administrative requirement for the use of the address which would otherwise be confidential under the Address Confidentiality Act; and
- (b) The address will be used only for such bona fide statutory, tax situs, or administrative requirement.

(2) The Secretary of State shall forward all first-class mail to each program participant's substitute address.



Neb. Rev. Stat. Ann. § 42-1203 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, that victims must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.

<p><b>Address Confidentiality Act: Records in Program Participant’s File Not Made Available for Inspection or Copying; Exceptions.</b></p> <p>The Secretary of State shall not make any records in a program participant’s file available for inspection or copying, other than the substitute address designated by the Secretary of State, except under the following circumstances:</p> <p>(1) If requested of the Secretary of State by the chief commanding officer of a law enforcement agency or the officer’s designee in the manner provided for by rules and regulations adopted and promulgated by the Secretary of State;</p> <p>(2) To a person identified in a court order upon the receipt by the Secretary of State of that court order which specifically orders the disclosure of a particular program participant’s address and the reasons stated therefor; or</p> <p>(3) To verify the participation of a specific program participant, in which case the Secretary of State may only confirm or deny information supplied by the requester.</p> <p> Neb. Rev. Stat. Ann. § 42-1203 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Neb. Rev. Stat. Ann. § 42-1208.</p>
<p><b>Adult Sexual Assault and Domestic Violence Victims’ Right to Diagnostic Examinations by Physicians and Mental Health Professionals.</b></p> <p>A physician, his or her agent, or a mental health professional as defined in section 71-906, upon consultation with a patient who is eighteen years of age, shall, with the consent of the patient, make or cause to be made a diagnostic examination for physical or mental injuries associated with sexual assault or domestic violence and prescribe for and treat such person for injuries associated with sexual assault or domestic violence. All such examinations and</p>	<p>Neb. Rev. Stat. Ann. § 71-9001.</p>

<p>treatment may be performed without the consent of or notification to the parent, parents, guardian, or any other person having custody of the patient.</p>	
<p><b>Victims' Right to Compensation: Eligibility.</b></p> <p>Any person who may be eligible for compensation under the Nebraska Crime Victim's Reparations Act may make application to the committee on forms provided by the committee. Such application need not be signed and acknowledged before a notary public. If the person entitled to make application is a minor or mentally incompetent, the application may be made on his or her behalf by his or her parent, guardian, or any other individual authorized to administer his or her estate. Residents and nonresidents of Nebraska who are victims of crimes committed in Nebraska shall be treated similarly in determining compensation awards under the act. A resident of Nebraska who is the victim of a crime committed in another state shall be eligible for compensation if (1) the crime would be compensable had it occurred in Nebraska and (2) the crime occurred in a state which does not have a crime victim compensation program for which the person is eligible.</p> <p> Neb. Rev. Stat. Ann. § 81-1801 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p>	<p>Neb. Rev. Stat. Ann. § 81-1807.</p>
<p><b>Victims' Right to Compensation: Decisions; Request for Hearing.</b></p> <p>(1) A hearing officer shall consider and rule upon any application made under the Nebraska Crime Victim's Reparations Act within one hundred eighty days after receipt of all required information related to the crime.</p> <p>(2) If the hearing officer denies an award of compensation or awards an amount less than or equal to the amount requested by the applicant, the hearing officer shall furnish the applicant with a written statement of the reason for the ruling. The applicant may request a hearing on his or her application within thirty days after receipt of the statement. If the applicant requests a hearing, the hearing officer shall furnish the committee with his or her findings of</p>	<p>Neb. Rev. Stat. Ann. § 81-1809.</p>

<p>fact and conclusions of law together with the reasons for the findings and conclusions. The committee shall specify a time and place for a hearing and shall give written notice to the applicant. The hearing shall be held within one hundred twenty days after receipt of the request for a hearing. If no request for a hearing is made within the specified time, the decision of the hearing officer shall be final.</p> <p>(3) If the hearing officer awards an amount to the applicant greater than the amount requested by the applicant, the hearing officer shall furnish the committee with his or her findings of fact and conclusions of law together with the reasons for granting the applicant more than he or she requested. The committee shall review the decision of the hearing officer taking into consideration the availability of funds appropriated for the purposes of the act and other standards formulated pursuant to section 81-1814. The committee may approve the same amount awarded by the hearing officer, may increase or decrease the amount, or may deny an award of compensation.</p> <p> Neb. Rev. Stat. Ann. § 81-1801 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 maintain documentation of a victim’s request to exercise rights.</p>	
<p><b>Victims’ Right to Compensation: Inclusion of Attorney’s Fees.</b></p> <p>The hearing officer or the committee may, as part of an order entered under the Nebraska Crime Victim’s Reparations Act, determine and allow reasonable attorney’s fees not to exceed five percent of any compensation awarded. If the decision of a hearing officer or the committee is appealed, the court shall determine reasonable attorney’s fees.</p> <p> Neb. Rev. Stat. Ann. § 81-1801 defines the terms used in this statutory provision. These</p>	<p>Neb. Rev. Stat. Ann. § 81-1812.</p>

<p>definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Victims’ Right to Compensation: Awards Generally Capped at \$25,000.</b></p> <p>Except as provided in section 81-1813, no compensation shall be awarded under the Nebraska Crime Victim’s Reparations Act from the Victim’s Compensation Fund in an amount in excess of twenty-five thousand dollars for each applicant per incident. Each award shall be paid in installments unless the hearing officer or committee decides otherwise.</p> <p> Neb. Rev. Stat. Ann. § 81-1801 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Neb. Rev. Stat. Ann. § 81-1823.</p>
<p><b>Victims’ Right to Compensation: Appeal from Compensation Decisions.</b></p> <p>All determinations, decisions, and awards made by the committee or any hearing officer may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.</p> <p> Neb. Rev. Stat. Ann. § 81-1801 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Neb. Rev. Stat. Ann. § 81-1832.</p>
<p><b>Victims’ Right to Compensation: Names of Sexual Assault Victims in Compensation Information or Records Shall Not Be Made Public.</b></p> <p>The name of any victim of a sexual assault appearing in information or records of the Crime Victim’s Reparations Committee when the victim is applying for compensation under the Nebraska Crime Victim’s Reparations Act shall not be made public.</p>	<p>Neb. Rev. Stat. Ann. § 81-1842.</p>

 <p>Neb. Rev. Stat. Ann. § 81-1801 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p><b>Victims’ Right to Privacy in Court Records.</b></p> <p>The following privacy rules shall apply to all pleadings and documents filed in all criminal actions in the county courts of Nebraska.</p> <p>(A) Redacted Filings. In any filing with the court that contains an individual’s Social Security number; a taxpayer identification number; a birth date; the name of an individual known to be a minor; or a financial account number, a party or nonparty making the filing may include only, unless otherwise ordered by the court:</p> <ol style="list-style-type: none"> <li>(1) a reference to Social Security number or taxpayer identification number (no digits);</li> <li>(2) the year of the individual’s birth;</li> <li>(3) a minor child’s initials;</li> <li>(4) the last four digits of a financial account number.</li> </ol> <p>(B) Exemptions. The redaction requirement does not apply to the following:</p> <ol style="list-style-type: none"> <li>(1) the date of birth of a defendant or person subject to detention;</li> <li>(2) the name of a defendant or person subject to detention;</li> <li>(3) a financial account number or real property address that identifies the account or property allegedly subject to forfeiture in a forfeiture proceeding;</li> <li>(4) the record of an administrative or agency proceeding;</li> <li>(5) the record of a court or tribunal, if that record was not subject to this rule when originally filed;</li> <li>(6) a filing covered by § 6–1466(D).</li> </ol> <p>(C) Victim Information. Personal identifying information, other than a victim’s name, shall be prevented from being disclosed on pleadings and documents filed in criminal actions that may be available to the public. Victims eligible for protection are defined in Neb. Rev. Stat. § 29–119. The Crime Victim Information Form, as set forth in Appendix 13 shall:</p> <ol style="list-style-type: none"> <li>(1) be completed by the County Attorney (or deputy) at initial filing;</li> </ol>	<p>Neb. R. Ct. § 6-1466.</p>

(2) be separately tendered with any such pleading or other document, pursuant to Neb. Ct. R. § 2-210;

(3) always have the following language visible, "THIS DOCUMENT IS CONFIDENTIAL AND SHALL NOT BE PART OF THE COURT FILE OR PROVIDED TO THE PUBLIC PURSUANT TO N.R.S. 81-1848." The clerk of the court shall keep the document separate from the case file but accessible to the judges and court staff. The data contained therein may be reproduced or stored in JUSTICE or other court case management system. Such document, image, or data shall be electronically marked and shall not be accessible or viewable by the public.

The personal identifying information identified in Crime Victim Information Form, Appendix 13, shall not be included in any court order or judgment.

(D) Filings Made Under Seal. The court may, on its own motion or for good cause shown, order that a filing be made under seal without redaction. See Neb. Ct. R. § 2-210. 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 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 shall retain the unredacted copy as part of the record, under seal. The person making the filing shall follow the procedures set forth in § 2-210.

(G) Option for Filing a Reference List. A filing that contains information set forth as provided by § 6-1466(A) 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 reference list shall be filed under seal and may be amended as of right. The court shall retain the reference list as part of the record, under seal. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information as stated on the reference list.

(H) The responsibility for redacting information set forth in § 6-1466(A) rests solely with counsel of record. The clerk of the court shall not be required to review documents for compliance with this rule. If a clerk of the court identifies a violation of this rule, the clerk may, at his or her option, provide a redacted document for public access. However, the clerk electing to provide a redacted copy for public access shall maintain the original document without any alterations thereof, which document shall only be available to the court and to the parties or counsel of record.

 Neb. Rev. Stat. Ann. § 29-119 defines the term “victim” for the purposes of this statutory provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”

 Neb. Rev. Stat. Ann. § 81-1848(1)(h) provides victims with the right to have any personal information, other than their name, not be disclosed on pleadings or other publicly available court documents. This provision is included above.

STATE VICTIMS' RIGHTS: SELECT DEFINITIONS	Nebraska Statutes
<p><b>Statutory Victims' Rights: Definitions of "Plea Agreement" and "Victim."</b></p> <p>For purposes of this section and sections 23-1201, 29-120, and 29-2261, unless the context otherwise requires:</p> <p>(1) A plea agreement means that as a result of a discussion between the defense counsel and the prosecuting attorney:</p> <p>(a) A charge is to be dismissed or reduced; or</p> <p>(b) A defendant, if he or she pleads guilty to a charge, may receive less than the maximum penalty permitted by law; and</p> <p>(2)(a) Victim means a person who has had a personal confrontation with an offender as a result of a homicide under sections 28-302 to 28-306, a first degree assault under section 28-308, a second degree assault under section 28-309, a third degree assault under section 28-310 when the victim is an intimate partner as defined in section 28-323, a first degree false imprisonment under section 28-314, a first degree sexual assault under section 28-319, a sexual assault of a child in the first degree under section 28-319.01, a second or third degree sexual assault under section 28-320, a sexual assault of a child in the second or third degree under section 28-320.01, domestic assault in the first, second, or third degree under section 28-323, or a robbery under section 28-324. Victim also includes a person who has suffered serious bodily injury as defined in section 28-109 as a result of a motor vehicle accident when the driver was charged with a violation of section 60-6,196 or 60-6,197 or with a violation of a city or village ordinance enacted in conformance with either section.</p> <p>(b) In the case of a homicide, victim means the nearest surviving relative under the law as provided by section 30-2303 but does not include the alleged perpetrator of the homicide.</p> <p>(c) In the case of a violation of section 28-813.01, 28-1463.03, 28-1463.04, or 28-1463.05, victim means a person who was a child as defined in section 28-1463.02 and a participant or portrayed observer in the visual depiction of sexually explicit conduct which is the subject of the violation and who has been identified and can be reasonably notified.</p>	<p>Neb. Rev. Stat. Ann. § 29-119.</p>

<p>(d) In the case of a sexual assault of a child, a possession offense of a visual depiction of sexually explicit conduct, or a distribution offense of a visual depiction of sexually explicit conduct, victim means the child victim and the parents, guardians, or duly appointed legal representative of the child victim but does not include the alleged perpetrator of the crime.</p> <p>(e) Victim also includes a person who was the victim of a theft under section 28-511, 28-512, 28-513, or 28-517 when (i) the value of the thing involved is five thousand dollars or more and (ii) the victim and perpetrator were intimate partners as defined in section 28-323.</p> <p>(f) Victim also includes a sexual assault victim as defined in section 2 of this act.</p> <p> These definitions apply to Neb. Rev. Stat. Ann. §§ 23-1201, 29-120, 29-2261 and 81-1848 (Victims and witnesses of crimes; rights; enumerated). These definitions also apply to Neb. Ct. R. § 6-1466(C), which mandates the non-disclosure of victims' personal identifying information in pleadings and other documents filed in criminal cases that may be available to the public. Many of these provisions are included above in the section "Select State Crime Victims' Rights."</p>	
<p><b>Confidentiality of Communications Between Victims and Domestic Violence and Sexual Assault Victim Advocates Definitions.</b></p> <p>For purposes of sections 29-4301 to 29-4304:</p> <p>(1) Advocate means any employee or supervised volunteer of a domestic violence and sexual assault victim assistance program or of any other agency, business, or organization that is not affiliated with a law enforcement or prosecutor's office, whose primary purpose is assisting domestic violence and sexual assault victims;</p> <p>(2) Victim means a person who communicates with an advocate for assistance in overcoming the adverse effects of domestic violence or sexual assault; and</p> <p>(3) Confidential communication means any written or spoken information exchanged between a victim and an advocate in private or in the presence of a third party who is necessary to facilitate communication or further the advocacy process and which is disclosed</p>	<p>Neb. Rev. Stat. Ann. § 29-4302.</p>

<p>to the advocate for the purposes of overcoming the adverse effects of domestic violence or sexual assault.</p> <p> These definitions explicitly apply to the provisions governing the confidentiality of communications between victims and domestic violence and sexual assault victim advocates, Neb. Rev. Stat. Ann. §§ 29-4301 through 29-4304. Many of these provisions are included above in the section “Select State Crime Victims’ Rights.”</p>	
<p><b>Sexual Assault Victims’ Bill of Rights Definitions.</b></p> <p>For the purposes of the Sexual Assault Victims’ Bill of Rights Act:</p> <p>(1)(a) Advocate means:</p> <ul style="list-style-type: none"> <li>(i) Any employee or supervised volunteer of a domestic violence and sexual assault victim assistance program or of any other agency, business, or organization that is not affiliated with a law enforcement or prosecutor’s office, whose primary purpose is assisting domestic violence and sexual assault victims. This includes employees or supervised volunteers of an Indian tribe or a postsecondary educational institution;</li> <li>(ii) A representative from a victim and witness assistance center as established in sections 81-1845 to 81-1847 or a similar entity affiliated with a law enforcement agency or prosecutor’s office; or</li> <li>(iii) An advocate who is employed by a child advocacy center that meets the requirements of subsection (2) of section 28-728.</li> </ul> <p>(b) If reasonably possible, an advocate shall speak the victim’s preferred language or use the services of a qualified interpreter;</p> <p>(2) Health care provider means any individual who is licensed, certified, or registered to perform specified health services consistent with state law;</p> <p>(3) Sexual assault means a violation of section 28-319, 28-319.01, 28-320, 28-320.01, 28-320.02, 28-322.01, 28-322.02, 28-322.03, 28-322.04, 28-322.05, 28-703, or 28-1463.03, sex trafficking or sex trafficking of a minor under section 28-831, or subdivision (1)(c) or (g) of section 28-386 or subdivision (1)(d), (e), or (f) of section 28-707;</p>	<p>Neb. Rev. Stat. Ann. § 29-4309.</p>

<p>(4) Sexual assault forensic evidence means evidence collected by a health care provider contained within any sexual assault forensic evidence collection kit, including a toxicology kit, or any forensic evidence collected by law enforcement through the course of an investigation; and</p> <p>(5)(a) Sexual assault victim or victim means any person who is a victim of sexual assault who reports such sexual assault:</p> <p>(i) To a health care provider, law enforcement, or an advocate, including anonymous reporting as provided in section 28-902; and</p> <p>(ii) In the case of a victim who is under eighteen years of age, to the Department of Health and Human Services.</p> <p>(b) Sexual assault victim or victim also includes, if the victim described in subdivision (5)(a) of this section is incompetent, deceased, or a minor who is unable to consent to counseling services, such victim's parent, guardian, or spouse, unless such person is the reported assailant.</p> <p> These definitions apply to the Sexual Assault Victims' Bill of Rights, §§ 29-4308 through 29-4315. Many of these provisions are included above in the section "Select State Crime Victims' Rights."</p>	
<p><b>Address Confidentiality Act Definitions.</b></p> <p>For purposes of the Address Confidentiality Act:</p> <p>(1) Abuse means causing or attempting to cause physical harm, placing another person in fear of physical harm, or causing another person to engage involuntarily in sexual activity by force, threat of force, or duress, when committed by (a) a person against his or her spouse, (b) a person against his or her former spouse, (c) a person residing with the victim if such person and the victim are or were in a dating relationship, (d) a person who formerly resided with the victim if such person and the victim are or were in a dating relationship, (e) a person against a parent of his or her children, whether or not such person and the victim have been</p>	<p>Neb. Rev. Stat. Ann. § 42-1203.</p>

<p>married or resided together at any time, (f) a person against a person with whom he or she is in a dating relationship, (g) a person against a person with whom he or she formerly was in a dating relationship, or (h) a person related to the victim by consanguinity or affinity;</p> <p>(2) Address means a residential street address, school address, or work address of an individual as specified on the individual's application to be a program participant;</p> <p>(3) Dating relationship means an intimate or sexual relationship;</p> <p>(4) Program participant means a person certified as a program participant under section 42-1204;</p> <p>(5) Sexual assault has the same meaning as in section 28-319, 28-319.01, 28-320, 28-320.01, or 28-386;</p> <p>(6) Stalking has the same meaning as in sections 28-311.02 to 28-311.05; and</p> <p>(7) Trafficking victim has the same meaning as in section 28-830.</p> <p> These definitions explicitly apply to the provisions governing the Address Confidentiality Act, Neb. Rev. Stat. Ann. §§ 42-1201 through 42-1210. Many of these provisions are included above in the section "Select State Crime Victims' Rights."</p>	
<p><b>Protection from Domestic Abuse Act Definitions.</b></p> <p>For purposes of the Protection from Domestic Abuse Act, unless the context otherwise requires:</p> <p>(1) Abuse means the occurrence of one or more of the following acts between family or household members:</p> <p>(a) Attempting to cause or intentionally and knowingly causing bodily injury with or without a dangerous instrument;</p>	<p>Neb. Rev. Stat. Ann. § 42-903.</p>

(b) Placing, by means of credible threat, another person in fear of bodily injury. For purposes of this subdivision, credible threat means a verbal or written threat, including a threat performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct that is made by a person with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat shall not prevent the threat from being deemed a credible threat under this section; or

(c) Engaging in sexual contact or sexual penetration without consent as defined in section 28-318;

(2) Department means the Department of Health and Human Services;

(3) Family or household members includes spouses or former spouses, children, persons who are presently residing together or who have resided together in the past, persons who have a child in common whether or not they have been married or have lived together at any time, other persons related by consanguinity or affinity, and persons who are presently involved in a dating relationship with each other or who have been involved in a dating relationship with each other. For purposes of this subdivision, dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context; and

(4) Law enforcement agency means the police department or town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol.



These definitions explicitly apply to the provisions governing the Protection from Domestic Abuse Act, Neb. Rev. Stat. Ann. §§ 42-901 through 42-931. Many of these provisions are included above in the section “Select State Crime Victims’ Rights.”

<p><b>Sex Trafficking Victims' Right to File a Motion to Set Aside a Conviction or Adjudication Definitions.</b></p> <p>For purposes of this section:</p> <p>(a) Prostitution-related offense includes:</p> <p>(i) Prostitution under section 28-801, solicitation of prostitution under section 28-801.01, keeping a place of prostitution under section 28-804, public indecency under section 28-806, or loitering for the purpose of engaging in prostitution or related or similar offenses under local ordinances; and</p> <p>(ii) Attempt, conspiracy, solicitation, being an accessory to, aiding and abetting, aiding the consummation of, or compounding a felony with any of the offenses in subdivision (1)(a) of this section as the underlying offense;</p> <p>(b) Trafficker means a person who engages in sex trafficking or sex trafficking of a minor as defined in section 28-830; and</p> <p>(c) Victim of sex trafficking means a person subjected to sex trafficking or sex trafficking of a minor, as those terms are defined in section 28-830.</p> <p> These definitions apply to Neb. Rev. Stat. Ann. § 29-3005, which governs the right of a victim of sex trafficking to file a motion to set aside a conviction or adjudication. This provision is included above in the section "Select State Crime Victims' Rights."</p>	<p>Neb. Rev. Stat. Ann. § 29-3005(1).</p>
<p><b>Victims' Right to Compensation Definitions.</b></p> <p>For purposes of the Nebraska Crime Victim's Reparations Act, unless the context otherwise requires:</p> <p>(1) Child abuse means an offense under section 28-707;</p>	<p>Neb. Rev. Stat. Ann. § 81-1801.</p>

<p>(2) Commission shall mean the Nebraska Commission on Law Enforcement and Criminal Justice;</p> <p>(3) Committee shall mean the Crime Victim’s Reparations Committee;</p> <p>(4) Dependent shall mean a relative of a deceased victim who was dependent upon the victim’s income at the time of death, including a child of a victim born after a victim’s death;</p> <p>(5) Domestic assault means an offense under section 28–323;</p> <p>(6) Executive director shall mean the executive director of the commission;</p> <p>(7) Health care provider means any person licensed or certified by the State of Nebraska to deliver health care under the Uniform Credentialing Act and any health care facility licensed under the Health Care Facility Licensure Act. Health care provider includes any professional corporation or other professional entity comprised of such health care providers;</p> <p>(8) Personal injury shall mean actual bodily harm;</p> <p>(9) Relative shall mean spouse, parent, grandparent, stepparent, natural born child, stepchild, adopted child, grandchild, brother, sister, half brother, half sister, or spouse’s parent;</p> <p>(10) Sexual assault has the same meaning as in section 29–4309; and</p> <p>(11) Victim shall mean a person who is injured or killed as a result of conduct specified in section 81–1818.</p> <p> These definitions explicitly apply to the provisions governing the Crime Victim’s Reparations Act, Neb. Rev. Stat. Ann. §§ 81-1801 through 1842. Some of these provisions are included above in the section “Select State Crime Victims’ Rights.”</p>	
--	--

This resource was developed by the National Crime Victim Law Institute (NCVLI), under 2018-V3-GX-K049, awarded to the International Association of Chiefs of Police (IACP) by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this resource are those of the contributors and do not necessarily represent the official position of the U.S. Department of Justice.