



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

INTRODUCTION

Best practice in victim services is about facilitating victims' ability to exercise meaningful choices. In the context of crimes perpetrated on tribal land or against tribal members¹ on nontribal land, victims' meaningful choices about whether to assert their rights require that they know in which justice system—tribal, federal or state—their case will be investigated and prosecuted, as well as what their rights are within that system. The authority of a justice system to investigate and try crimes is known as “jurisdiction” and for crimes committed on tribal land or against tribal members on nontribal land, the determination of jurisdiction can be complex. Given this complexity, a full analysis of the procedures for determining jurisdiction in such instances is outside the scope of this resource, though some considerations are noted below. Ultimately, understanding which justice system has jurisdiction over a crime committed on tribal land or against a tribal member on nontribal land—as well as the victims' rights recognized within each justice system—is critical to providing effective victims' services.

LIMITED SCOPE OF RESOURCE: JURISDICTION

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

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

The determination of which justice system has jurisdiction over a crime committed on tribal land or against a tribal member on nontribal land depends upon various sources of law, including federal statutes, court decisions, and regulations, as well as tribal laws and agreements with state and local governments. Some factors in the jurisdictional analysis for crimes committed on tribal land include: whether the perpetrator and/or victim is an Indian^{2,3}; the type and seriousness of the crime at issue;⁴ the type of punishment sought;⁵ and whether Public Law 280⁶ or another federal statute⁷ expressly affords a state jurisdiction over crimes committed on tribal land in place of the federal government and, when applicable, whether the state has retroceded any or all of such criminal jurisdiction to the federal government.⁸ The process for determining jurisdiction over a crime committed against a tribal member on nontribal land also depends upon consideration of multiple factors, though the primary concern is whether the crime at issue violates tribal,

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

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

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

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

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

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

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

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

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

USING THIS RESOURCE

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

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

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

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

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

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

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

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

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

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SELECT FEDERAL AND STATE VICTIMS' RIGHTS LAWS

1. Federal Victims' Rights

SELECT FEDERAL CRIME VICTIMS' RIGHTS	Federal Statutes and Rules
<p>Victims' Right to Be Reasonably Protected from the Accused.</p> <p>A crime victim has . . . [t]he right to be reasonably protected from the accused.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA¹⁴. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3771(a)(1).</p>
<p>Victims' Right to Reasonable, Accurate, and Timely Notice of Any Public Court Proceeding or Any Parole Proceeding, Relating to Crime, Release or Escape.</p> <p>A crime victim has . . . [t]he right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3771(a)(2).</p>

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

<p> A promising practice is to have a policy in place to establish what constitutes “reasonable, accurate, and timely notice.”</p>	
<p>Victims’ Right to Be Present at Public Court Proceedings.</p> <p>A crime victim has . . . [t]he right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> 18 U.S.C. § 3510 also affords victims the right to be present at trial and Fed. R. Crim. P. 60(a)(2) gives victims the right to be present at public court proceedings. This provision and rule are included below.</p> <p> A victim’s right to be present should provide for the victim’s presence during the entirety of the trial. Even if the victim is to be a witness and the court concludes that the victim’s testimony would be materially altered if the victim hears other testimony, consider discussing with the prosecutor the possibility of the victim testifying first to best ensure the victim’s right to be present during the entirety of the trial.</p>	<p>18 U.S.C. § 3771(a)(3).</p>
<p>Victims’ Right to Be Reasonably Heard at Any Public Court Proceeding Involving Release, Plea, Sentencing or Parole.</p> <p>A crime victim has . . . [t]he right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.</p>	<p>18 U.S.C. § 3771(a)(4).</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> Fed. R. Crim. P. 60(a)(3) also gives victims the right to be present at public court proceedings. This rule is included below.</p> <p> A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your jurisdiction’s law, victims may choose to: (1) read or speak their impact statement aloud at the sentencing proceeding, or have another person do it for them; (2) submit a written victim impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.</p>	
<p>Victims’ Right to Confer with the Attorney for the Government in the Case.</p> <p>A crime victim has . . . [t]he reasonable right to confer with the attorney for the Government in the case.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3771(a)(5).</p>
<p>Victims’ Right to Full and Timely Restitution.</p> <p>A crime victim has . . . [t]he right to full and timely restitution as provided in law.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3771(a)(6).</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. § 3663A. 18 U.S.C. § 3664 governs restitution-related procedures. Additionally, numerous federal statutes contain crime-specific restitution provisions. <i>See, e.g.</i>, 18 U.S.C. § 2259; 18 U.S.C. § 2264. These and other federal restitution provisions are included below.</p> <p> Victims should be informed that they are entitled to restitution upon the conviction of defendant for losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p>Victims’ Right to Proceedings Free from Unreasonable Delay.</p> <p>A crime victim has . . . [t]he right to proceedings free from unreasonable delay.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3771(a)(7).</p>
<p>Victims’ Right to Be Treated with Fairness and with Respect for the Victim’s Dignity and Privacy.</p> <p>A crime victim has . . . [t]he right to be treated with fairness and with respect for the victim’s dignity and privacy.</p> <p> 18 U.S.C. § 3771(e) defines the terms used in the CVRA. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3771(a)(8).</p>

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

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

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

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

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

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



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



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



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



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

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

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

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

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

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

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

...

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

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

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

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

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

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

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

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

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

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

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

(2) Limitations on defined monetary assistance. --

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

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

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

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

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

18 U.S.C. § 2264(a), (b)(1)–(2), (4).

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

(b) Scope and nature of order. —

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

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

...

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

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

(i) the economic circumstances of the defendant; or

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



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



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

<p>Courts' Duty to Accord Full Faith and Credit to Protection Orders Issued by Courts of Other States, Indian Tribes, or Territories; Tribal Court Jurisdiction.</p> <p>(a) Full Faith and Credit.--Any protection order issued that is consistent with subsection (b) of this section by the court of one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory¹ as if it were the order of the enforcing State or tribe.</p> <p>(b) Protection order. --A protection order issued by a State, tribal, or territorial court is consistent with this subsection if--</p> <p>(1) such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and</p> <p>(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.</p> <p>(c) Cross or counter petition. --A protection order issued by a State, tribal, or territorial court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if--</p> <p>(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or</p> <p>(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.</p> <p>(d) Notification and registration. --</p> <p>(1) Notification. --A State, Indian tribe, or territory according full faith and credit to an order by a court of another State, Indian tribe, or territory shall not notify or require notification</p>	<p>18 U.S.C. § 2265.</p>
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<p>of the party against whom a protection order has been issued that the protection order has been registered or filed in that enforcing State, tribal, or territorial jurisdiction unless requested to do so by the party protected under such order.</p> <p>(2) No prior registration or filing as prerequisite for enforcement. --Any protection order that is otherwise consistent with this section shall be accorded full faith and credit, notwithstanding failure to comply with any requirement that the order be registered or filed in the enforcing State, tribal, or territorial jurisdiction.</p> <p>(3) Limits on Internet publication of registration information.--A State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration, filing of a petition for, or issuance of a protection order, restraining order or injunction, restraining order, or injunction² in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.</p> <p>(e) Tribal court jurisdiction.--For purposes of this section, a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any person, including the authority to enforce any orders through civil contempt proceedings, to exclude violators from Indian land, and to use other appropriate mechanisms, in matters arising anywhere in the Indian country of the Indian tribe (as defined in section 1151) or otherwise within the authority of the Indian tribe.</p> <p> 18 U.S.C. § 2266 defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	
<p>Mandatory Restitution for Victims of Crimes Involving Transportation of Persons for Illegal Sexual Activity and Related Crimes.</p> <p>(a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.</p>	<p>18 U.S.C. § 2429(a)–(c).</p>

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

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

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

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

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

<p>(6) Not before jury. --A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.</p> <p>(7) Direct examination of child. --Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the Government and the attorney for the defendant including a party acting as an attorney pro se. The court may permit an attorney but not a party acting as an attorney pro se to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.</p> <p>(8) Appropriate questions. --The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.</p> <p>(9) Psychological and psychiatric examinations. --Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section "Federal Victims' Rights: Select Definitions."</p>	
<p>Child-Victims' Rights: Privacy Protections. 33</p> <p>(1) Confidentiality of information. (A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall-- (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 (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>Child-Victims’ Rights: Closing the Courtroom.</p> <p>When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child’s inability to effectively communicate. Such an order shall be narrowly tailored to serve the Government’s specific compelling interest.</p> <p> 18 U.S.C. § 3509(a) defines the terms used in this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>18 U.S.C. § 3509(e).</p>
<p>Child-Victims’ Rights: Victim Impact Statement.</p> <p>In preparing the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, the probation officer shall request information from the multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the Child-Victim and any other children who may have been affected. A guardian ad litem appointed under subsection (h) shall make every effort to obtain and report information that accurately expresses the child’s and the family’s views concerning the child’s victimization. A guardian ad litem shall use forms that permit the child to express the child’s views concerning the personal consequences of the child’s victimization, at a level and in a form of communication commensurate with the child’s age and ability.</p>	<p>18 U.S.C. § 3509(f).</p>

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

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

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

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

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

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

...

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

(b) The order may require that such defendant—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) return of property;

(B) replacement of property; or

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

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

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

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

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

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

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

(A) any Federal civil proceeding; and

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

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

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

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

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

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

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

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

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

(1) such a sentence can subsequently be--

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

(B) appealed and modified under section 3742;

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

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

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

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

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

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

18 U.S.C. § 3681.

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

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

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

(A) be levied upon to satisfy--

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

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

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

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

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

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

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

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

<p>(b) Information to be included in judgment; judgment to be transmitted to Attorney General.</p> <p>—</p> <p>(1) A judgment or order imposing, modifying, or remitting a fine or restitution order of more than \$100 shall include--</p> <p>(A) the name, social security account number, mailing address, and residence address of the defendant;</p> <p>(B) the docket number of the case;</p> <p>(C) the original amount of the fine or restitution order and the amount that is due and unpaid;</p> <p>(D) the schedule of payments (if other than immediate payment is permitted under section 3572(d));</p> <p>(E) a description of any modification or remission;</p> <p>(F) if other than immediate payment is permitted, a requirement that, until the fine or restitution order is paid in full, the defendant notify the Attorney General of any change in the mailing address or residence address of the defendant not later than thirty days after the change occurs; and</p> <p>(G) in the case of a restitution order, information sufficient to identify each victim to whom restitution is owed. It shall be the responsibility of each victim to notify the Attorney General, or the appropriate entity of the court, by means of a form to be provided by the Attorney General or the court, of any change in the victim's mailing address while restitution is still owed the victim. The confidentiality of any information relating to a victim shall be maintained.</p> <p>(2) Not later than ten days after entry of the judgment or order, the court shall transmit a certified copy of the judgment or order to the Attorney General.</p> <p>(c) Responsibility for collection. --The Attorney General shall be responsible for collection of an unpaid fine or restitution concerning which a certification has been issued as provided in subsection (b). An order of restitution, pursuant to section 3556, does not create any right of action against the United States by the person to whom restitution is ordered to be paid. Any money received from a defendant shall be disbursed so that each of the following obligations is paid in full in the following sequence:</p> <p>(1) A penalty assessment under section 3013 of title 18, United States Code.</p> <p>(2) Restitution of all victims.</p> <p>(3) All other fines, penalties, costs, and other payments required under the sentence.</p>	
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(d) Notification of delinquency. --Within ten working days after a fine or restitution is determined to be delinquent as provided in section 3572(h), the Attorney General shall notify the person whose fine or restitution is delinquent, to inform the person of the delinquency.

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

(f) Interest on fines and restitution. –

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

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

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

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

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

(A) waive the requirement for interest;

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

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

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

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

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

(2) Showing required

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

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

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

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

(3) Follow-up testing

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

(4) Termination of testing requirements

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

(5) Confidentiality of test

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

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

<p> A promising practice is to have a policy in place to establish what constitutes “the earliest opportunity after the detection of a crime.”</p> <p> A promising practice is to have a policy and procedure ensuring that victims receive all required information at the earliest possible time after initial contact with law enforcement. Consideration should be given to providing written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p>Duty of Responsible Officials to Provide Victims with Certain Information Regarding Available Services.</p> <p>A responsible official shall--</p> <p>(A) inform a victim of the place where the victim may receive emergency medical and social services;</p> <p>(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and¹ manner in which such relief may be obtained;</p> <p>(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and</p> <p>(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).</p> <p> 34 U.S.C. § 20141(e) defines the terms “responsible official” and “victim” for the purposes of this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p>	<p>34 U.S.C. § 20141(c)(1).</p>

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

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

<p> Although this provision is directed at responsible officials regarding court proceedings, the same concept can and should be applied to law enforcement interactions with victims, victims' families, and victims' witnesses.</p>	
<p>Duty of Responsible Official to Provide Victims with Notice of Certain Post-Sentencing Events within the Criminal Justice System.</p> <p>After trial, a responsible official shall provide a victim the earliest possible notice of</p> <ul style="list-style-type: none"> (A) the scheduling of a parole hearing for the offender; (B) the escape, work release, furlough, or any other form of release from custody of the offender; and (C) the death of the offender, if the offender dies while in custody. <p> 34 U.S.C. § 20141(e) defines the terms “responsible official” and “victim” for the purposes of this statutory provision. These definitions are included below in the section “Federal Victims’ Rights: Select Definitions.”</p> <p> A promising practice is to have a policy in place to establish what constitutes “the earliest possible notice.”</p>	<p>34 U.S.C. § 20141(c)(5).</p>
<p>Duty of Responsible Official to Ensure Return of Victims’ Property.</p> <p>At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.</p>	<p>34 U.S.C. § 20141(c)(6).</p>

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

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

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

(b) Disclosing Government Witnesses.

(1) Disclosure.

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

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

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

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

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

(c) Continuing Duty to Disclose.

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

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

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

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

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

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

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

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

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

(4) Disclosing Witnesses.

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

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

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

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

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

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

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

(b) Continuing Duty to Disclose.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

(d) Presentence Report.

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

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

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

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

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

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

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

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

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

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

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

(e) Disclosing the Report and Recommendation.

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

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

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

(f) Objecting to the Report.

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

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

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

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

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

(i) Sentencing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) when full restitution has been made; or

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

(B) bestiality;

(C) masturbation;

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

(E) sadistic or masochistic abuse;

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

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

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



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

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

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

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

<p>SELECT STATE CRIME VICTIMS' RIGHTS</p>	<p>Wisconsin Constitutional Provisions and Statutes</p>
<p>Victims' Right to Be Treated with Fairness, Dignity, Respect, Courtesy, Sensitivity, and Fairness.</p> <p>[Victims have the right] [t]o be treated with dignity, respect, courtesy, sensitivity, and fairness.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v)(ag) also affords crime victims the right to be treated with fairness, dignity and respect for their privacy.</p>	<p>Wis. Const. art. I, § 9m(2)(a).</p>
<p>Victims' Right to Privacy.</p> <p>[Victims have the right] [t]o privacy.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v)(ag) also affords crime victims the right to be treated with fairness, dignity and respect for their privacy.</p>	<p>Wis. Const. art. I, § 9m(2)(b).</p>

<p>Victims' Right to Proceedings Free from Unreasonable Delay.</p> <p>[Victims have the right] [t]o proceedings free from unreasonable delay.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Const. art. I, § 9m(2)(d) provides victims with the right to a timely disposition of the case. Wis. Stat. Ann. § 950.04(1v)(ar) affords crime victims the right to have courts consider victims’ interests when deciding whether to grant a continuance. Wis. Stat. Ann. § 950.04(1v)(k) affords crime victims the right to a speedy disposition. Wis. Stat. Ann. § 971.105 requires the court and the district attorney take appropriate action to ensure a speedy trial to minimize stress to the child. These provisions are included below.</p>	<p>Wis. Const. art. I, § 9m(2)(c).</p>
<p>Victims' Right to Timely Disposition of the Case, Free from Unreasonable Delay.</p> <p>[Victims have the right] [t]o timely disposition of the case, free from unreasonable delay.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Const. art. I, § 9m(2)(c) provides victims with the right to proceedings free from unreasonable delay. Wis. Stat. Ann. § 950.04(1v)(ar) affords crime victims the right to have courts consider victims’ interests when deciding whether to grant a continuance. Wis. Stat. Ann. § 950.04(1v)(k) affords crime victims the right to a speedy disposition. Wis. Stat. Ann. § 971.105 requires the court and the district attorney take appropriate action to ensure a speedy trial to minimize stress to the child. These provisions are included above and below.</p>	<p>Wis. Const. art. I, § 9m(2)(d).</p>

<p>Victims' Right, Upon Request, to Attend All Proceedings Involving the Case.</p> <p>[Victims have the right] [u]pon request, to attend all proceedings involving the case.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v)(b) also affords victims the right to attend court proceedings, subject to certain statutory limitations. This statutory provision is included below.</p> <p> A victim’s constitutional and statutory 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 or affected 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> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	<p>Wis. Const. art. I, § 9m(2)(e).</p>
<p>Victims' Right to Protection.</p> <p>[Victims have the right] [t]o reasonable protection from the accused throughout the criminal and juvenile justice process.</p>	<p>Wis. Const. art. I, § 9m(2)(f).</p>

<p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Victims’ Right to Reasonable and Timely Notice.</p> <p>[Victims have the right] [u]pon request, to reasonable and timely notification of proceedings.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wisconsin law affords victims a number of specific notification rights regarding certain proceedings and changes in an offender’s status. Many of these statutory provisions are included below.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	<p>Wis. Const. art. I, § 9m(2)(g).</p>
<p>Victims’ Right to Confer with the Prosecution.</p> <p>[Victims have the right] [u]pon request, to confer with the attorney for the government.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v)(j) provides victims the right to confer with the prosecution and Wis. Stat. Ann. § 971.095 details a victim’s right to confer with the district attorney “as soon as practicable” after a defendant is charged with a crime. Wis. Stat. Ann.</p>	<p>Wis. Const. art. I, § 9m(2)(h).</p>

<p>§ 950.04(1v)(i) governs a victim’s right to confer with intake workers, district attorneys and corporation counsel in juvenile justice cases. These statutory provisions appear below.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p>Victims’ Right to Be Heard.</p> <p>[Victims have the right] [u]pon request, to be heard in any proceeding during which a right of the victim is implicated, including release, plea, sentencing, disposition, parole, revocation, expungement, or pardon.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v) affords victims the right to provide statements concerning sentencing, disposition, or parole. This statutory provision 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> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should</p>	<p>Wis. Const. art. I, § 9m(2)(i).</p>

<p>carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p>Victims’ Right to Have Information Relating to the Effects of the Offense on Them Considered.</p> <p>[Victims have the right] [t]o have information pertaining to the economic, physical, and psychological effect upon the victim of the offense submitted to the authority with jurisdiction over the case and to have that information considered by that authority.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Wis. Const. art. I, § 9m(2)(j).</p>
<p>Victims’ Right to Timely Notice of Offenders’ Release or Escape.</p> <p>[Victims have the right] [u]pon request, to timely notice of any release or escape of the accused or death of the accused if the accused is in custody or on supervision at the time of death.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this 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 to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	<p>Wis. Const. art. I, § 9m(2)(k).</p>

<p>Victims' Right to Refuse an Interview, Deposition or Other Discovery Request.</p> <p>[Victims have the right] [t]o refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Wis. Const. art. I, § 9m(2)(L).</p>
<p>Victims' Right to Restitution.</p> <p>[Victims have the right] [t]o full restitution from any person who has been ordered to pay restitution to the victim and to be provided with assistance in collecting restitution.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v)(q) affords victims the right to restitution. This right is also addressed in Wis. Stat. Ann. §§ 938.245(2)(a)5., 938.32(1t), 938.34(5), 938.345, 943.212, 943.23 (6), 943.245, 943.51 and 973.20. Relevant portions from some of these statutory provisions are included below.</p> <p> A promising practice, when informing victims about their right to restitution, is to notify victims that they should collect and organize all documentation relating to their losses. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	<p>Wis. Const. art. I, § 9m(2)(m).</p>

<p>Victims' Right to Compensation.</p> <p>[Victims have the right] [t]o compensation as provided by law.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v)(rm) affords crime victims the right to compensation under Wis. Stat. Ann. §§ 949.001 to 949.18. Section § 950.04(1v)(rm) is included below, but other compensation-related statutory provisions are not.</p>	<p>Wis. Const. art. I, § 9m(2)(n).</p>
<p>Victims' Right to Information About Case Status.</p> <p>[Victims have the right] [u]pon request, to reasonable and timely information about the status of the investigation and the outcome of the case.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v)(vm) affords crime victims the right to request information from a district attorney concerning the disposition of a case and Wis. Stat. Ann. § 971.095(6) provides that the district attorney must make a reasonable attempt to provide victims with information regarding the disposition of a case, where the victim requests such information. These statutory provisions are included below.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish</p>	<p>Wis. Const. art. I, § 9m(2)(o).</p>

<p>to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Victims' Right to Timely Notice of Their Rights, Privileges and Protections.</p> <p>[Victims have the right] [t]o timely notice about all rights under this section and all other rights, privileges, or protections of the victim provided by law, including how such rights, privileges, or protections are enforced.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this 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 to ensure that victims are informed of their rights, privileges and protections as soon as possible. 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>Wis. Const. art. I, § 9m(2)(p).</p>
<p>Victims' Constitutional Rights as Self Executing.</p> <p>Except as provided under sub. (2) (n), all provisions of this section are self-executing. The legislature may prescribe further remedies for the violation of this section and further procedures for compliance with and enforcement of this section.</p> <p> Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Wis. Const. art. I, § 9m(3).</p>

Victims' Right to Assert and Enforce Rights.

(a) In addition to any other available enforcement of rights or remedy for a violation of this section or of other rights, privileges, or protections provided by law, the victim, the victim's attorney or other lawful representative, or the attorney for the government upon request of the victim may assert and seek in any circuit court or before any other authority of competent jurisdiction, enforcement of the rights in this section and any other right, privilege, or protection afforded to the victim by law. The court or other authority with jurisdiction over the case shall act promptly on such a request and afford a remedy for the violation of any right of the victim. The court or other authority with jurisdiction over the case shall clearly state on the record the reasons for any decision regarding the disposition of a victim's right and shall provide those reasons to the victim or the victim's attorney or other lawful representative.

(b) Victims may obtain review of all adverse decisions concerning their rights as victims by courts or other authorities with jurisdiction under par. (a) by filing petitions for supervisory writ in the court of appeals and supreme court.

 Wis. Const. art. I, § 9m(1) defines the term "victim" for the purposes of this provision. This definition is included below in the section "State Victims' Rights: Select Definitions."

 Wis. Stat. Ann. § 950.105 guarantees victims standing to assert their rights. This provision is included below.

 A promising practice is to notify victims as soon as possible that they have standing to enforce their rights in court and to let them know that they may do so personally or with the assistance of an independent attorney or the prosecution. 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.

Wis. Const. art. I, § 9m(4).

 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>No Cause of Action for Damages Against the State.</p> <p>(5) This section does not create any cause of action for damages against the state; any political subdivision of the state; any officer, employee, or agent of the state or a political subdivision of the state acting in his or her official capacity; or any officer, employee, or agent of the courts acting in his or her official capacity.</p>  Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”	<p>Wis. Const. art. I, § 9m(5).</p>
<p>Victims’ Rights Do Not Limit Defendants’ Legal Rights or Afford Party Status to Victims.</p> <p>This section is not intended and may not be interpreted to supersede a defendant’s federal constitutional rights or to afford party status in a proceeding to any victim.</p>  Wis. Const. art. I, § 9m(1) defines the term “victim” for the purposes of this provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”	<p>Wis. Const. art. I, § 9m(6).</p>
<p>Rights of Victims and Witnesses of Crime: Legislative Intent.</p> <p>In recognition of the civic and moral duty of victims and witnesses of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law</p>	<p>Wis. Stat. Ann. § 950.01.</p>

<p>enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent, in this chapter, to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy and sensitivity; and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors and judges in a manner no less vigorous than the protections afforded criminal defendants. This chapter does not prohibit a public official, employee, or agency from sharing information with victim service organizations that are eligible to receive grants under s. 49.165(2) or 165.93(2). Nothing in this chapter shall be construed to impair the exercise of prosecutorial discretion.</p>	
<p>Victims' Statutory Rights and Eligibility for Services Depend Upon Crime Having Been Reported to Law Enforcement.</p> <p>A victim has the rights and is eligible for the services under [Wis. Stat. Ann., Crimes, Ch. 950] only if the crime has been reported to law enforcement authorities.</p> <p> Wis. Stat. Ann. § 950.02 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 their eligibility for services depends upon the crime being reported to law enforcement.</p>	<p>Wis. Stat. Ann. § 950.03.</p>
<p>Victims' Right to Be Treated with Fairness, Dignity and Respect for Their Privacy.</p> <p>Victims of crimes have the following right[]: [t]o be treated with fairness, dignity, and respect for his or her privacy by public officials, employees, or agencies. This paragraph does not impair the right or duty of a public official or employee to conduct his or her official duties reasonably and in good faith.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(ag).</p>

<p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Const. art. I, § 9m(2)(a) affords victims the right to be treated with fairness, dignity, courtesy, sensitivity, and fairness. Wis. Const. art. I, § 9m(2)(b) affords victims the right to privacy. These provisions are included above.</p>	
<p>Victims’ Right to Have Courts Consider Their Interests When Deciding Whether to Grant a Continuance.</p> <p>Victims of crimes have the following right[]: [t]o have his or her interest considered when the court is deciding whether to grant a continuance in the case, as provided under ss. 938.315(2) and 971.10(3)(b)(3).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v)(k) affords crime victims the right to a speedy disposition of a case. Wis. Stat. Ann. § 938.315(2) authorizes courts to grant a continuance upon a showing of good cause, taking into account, <i>inter alia</i>, victims’ interest in the prompt disposition of cases. Wis. Stat. Ann. § 971.10(3)(b)(3) authorizes courts to grant a continuance if doing so serves the ends of justice in a manner that outweighs the public and defendant’s interest in a speedy trial and requires courts to consider, <i>inter alia</i>, victims’ interests. Some of these statutory provisions are included below.</p> <p> Wis. Const. art. I, § 9m(2)(c) grants victims the right “[t]o proceedings free from unreasonable delay” and Wis. Const. art. I, § 9m(2)(d) grants victims the right “[t]o timely disposition of the case, free from unreasonable delay.” These provisions are included above.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(ar).</p>

Victims' Right to Be Present at Court Proceedings.

Victims of crimes have the following right[]: [t]o attend court proceedings in the case, subject to ss. 906.15 and 938.299(1). The court may require the victim to exercise his or her right under this paragraph using telephone or live audiovisual means, if available, if the victim is under arrest, incarcerated, imprisoned or otherwise detained by any law enforcement agency or is admitted or committed on an inpatient basis to a treatment facility under ch. 51,971 or 980, and the victim does not have a person specified in s. 950.02(4)(a)3 to exercise the victim's right under this paragraph.



Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”



Wis. Stat. Ann. § 906.15 governs the exclusion of witnesses and does not authorize the exclusion of a victim unless the court finds that exclusion is “necessary to provide a fair trial for the defendant or a fair fact-finding hearing for the juvenile. The presence of a victim during the testimony of other witnesses may not by itself be a basis for a finding that exclusion of the victim is necessary to provide a fair trial for the defendant or a fair fact-finding hearing for the juvenile.” Wis. Stat. Ann. § 906.15(2)(d).



Wis. Const. art. I, § 9m(2)(e) grants victims the right, “[u]pon request to attend all proceedings involving the case.” This provision is included above.



Wis. Stat. Ann. § 938.299(1) concerns victim presence at juvenile justice proceedings. Under the statute, a victim may attend any hearing, but may be excluded “from any portion of a hearing that deals with sensitive personal matters of the juvenile or the juvenile’s family and that does not directly relate to the act or alleged act committed against the victim. A member of the victim’s family, and at the request of the victim, a representative of an organization providing support services to the victim, may attend the hearing[.]” Wis. Stat. Ann. § 938.299(1)(am).

Wis. Stat. Ann. § 950.04(1v)(b).

<p> A victim’s constitutional and statutory 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 or affected 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>Victims’ Right to Employer Intercession Services.</p> <p>Victims of crimes have the following right[]: [t]o be provided with appropriate intercession services to ensure that employers of victims will cooperate with the criminal justice process and the juvenile justice process in order to minimize an employee’s loss of pay and other benefits resulting from court appearances.”</p> <p> Wis. Stat. Ann. § 950.02 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, of their employment-related rights and to have a policy and procedure in place to provide employers with this information.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(bm).</p>
<p>Adult Abusive Conduct Victims’ Right to be Accompanied by a Service Representative.</p> <p>Victims of crimes have the following right[]: [t]o be accompanied by a service representative, as provided under s. 895.45.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Wis. Stat. Ann. § 950.04(1v)(c).</p>

<p> Wis. Stat. Ann. § 895.45 affords adult abusive the right to be accompanied by a service representative when attending hearings, depositions, court proceedings, and related interviews and depositions.</p>	
<p>Victims' Right to Request and Receive Results of Testing to Determine the Presence of a HIV and Other Communicable Diseases.</p> <p>Victims of crimes have the following right[]: [t]o request an order for, and to be given the results of, testing to determine the presence of a communicable disease, as provided under ss. 938.296 or 968.38.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 968.38 governs such testing in criminal cases. This statutory provision is included below.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(d).</p>
<p>Sex Offense Victims' Right to Not Be Subjected to a Lie Detector Test.</p> <p>Victims of crimes have the following right[]: [t]o not be the subject of a law enforcement officer’s or district attorney’s order, request, or suggestion that he or she submit to a test using a lie detector, as defined in s. 111.37(1)(b), if he or she claims to have been the victim of a sexual assault under s. 940.22(2), 940.225, 948.02(1) or (2), or 948.085, except as permitted under s. 968.265.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(dL).</p>

<p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. Wis. Stat. Ann. § 111.37(1)(b) defines “lie detector” for the purposes of this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 968.265 also prohibits the use of lie detector tests on sex offense victims. This statutory provision is included below.</p> <p> A promising practice is to ensure that officers who work with victims of sexual offenses are aware that victims cannot be subjected to truth-telling examinations.</p>	
<p>Victims’ Right to be Informed About Process of Filing a Complaint and of an Inquest.</p> <p>Victims of crimes have the following right[]: [t]o be informed about the process by which he or she may file a complaint under s. 968.02 or 968.26(2) and about the process of an inquest under s. 979.05 if he or she is the victim of an officer-involved death, as defined in s. 175.47(1)(c).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 968.02 authorizes the filing of a complaint where the district attorney refuses or is unavailable to issue a complaint. Wis. Stat. Ann. § 968.26(2) governs John Doe proceedings, which, <i>inter alia</i>, allow someone other than the district attorney to bring a complaint to the court. Wis. Stat. Ann. § 979.05 governs inquest procedure and Wis. Stat. Ann. § 175.46(1)(c) governs the review of officer-involved deaths.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(do).</p>

<p>Victims' Right to Nondisclosure of Personal Identifiers.</p> <p>Victims of crimes have the following right[]: [t]o not have his or her personal identifiers, as defined in s. 85.103(1) and including an electronic mail address, used or disclosed by a public official, employee, or agency for a purpose that is unrelated to the official responsibilities of the official, employee, or agency.</p> <p> Wis. Stat. Ann. § 950.02 defines the other terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 85.103(1) defines personal identifier as “a name, social security number, telephone number, street address, postoffice box number or 9-digit extended zip code.”</p> <p> Wis. Const. art. I, § 9m(2)(b) guarantees victims the right to privacy. This provision is included above.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(dr).</p>
<p>Victims' Right to a Separate Waiting Area.</p> <p>Victims of crimes have the following right[]: [t]o be provided a waiting area under ss. 938.2965 and 967.10.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Under Wis. Stat. Ann. § 967.10, the county must provide a separate waiting area for victims to use during court proceedings, if there is an area available and use of this area is practical, or otherwise minimize contact between victims and defendants. This statutory</p>	<p>Wis. Stat. Ann. § 950.04(1v)(e).</p>

<p>provision is included below. Wis. Stat. Ann. § 938.2965 provides similar requirements within the juvenile justice system.</p> <p> Although this law is directed at court proceedings, the same concept can and should be applied to law enforcement agencies when interacting with victims, victims' families, victims' witnesses and the defendant, the defendants' families and defense witnesses.</p>	
<p>Victims' Right to Have Courts Consider Their Interests When Deciding Whether to Exclude Persons from a Preliminary Hearing.</p> <p>Victims of crimes have the following right[]: [t]o have his or her interests considered by the court in determining whether to exclude persons from a preliminary hearing, as provided under s. 970.03(4).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p> <p> Wis. Stat. Ann. § 970.03(4) provides that when a defendant is accused of certain sex offenses, the court may exclude from the hearing all persons who are not officers of the court, members of the victim's or defendant's families, support persons and others required to attend. When making this decision, the court may consider the need to protect the victim from "undue embarrassment and emotional trauma." This statutory provision is included below.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(em).</p>
<p>Victims' Right to Refuse Pretrial Defense Interviews and Depositions.</p> <p>Victims of crimes have the following right[]: [t]o not be compelled to submit to a pretrial interview or deposition by a defendant or his or her attorney as provided under s. 971.23(6c).</p>	<p>Wis. Stat. Ann. § 950.04(1v)(er).</p>

<p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 971.23(6c) states that “[e]xcept as provided in s. 967.04, the defendant or his or her attorney may not compel a victim of a crime to submit to a pretrial interview or deposition.” Wis. Stat. Ann. § 967.04 governs depositions in criminal proceedings. These statutory provisions are included below.</p>	
<p>Victims’ Right to Notice of Parole Applications.</p> <p>Victims of crimes have the following right[]: [t]o have the parole commission make a reasonable attempt to notify the victim of applications for parole, as provided under s. 304.06(1).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 304.06(1) details the parole board’s responsibilities with respect to providing notice to victims. Relevant portions of this statutory provisions are included below.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(f).</p>
<p>Victims’ Right to Notice of Hearings and Court Proceedings.</p> <p>Victims of crimes have the following right[]: [t]o have reasonable attempts made to notify the victim of hearings or court proceedings, as provided under ss. 302.113(9g)(g)(2), 302.114(6), 938.27(4m) and (6), 938.273(2), 971.095(3) and 972.14(3)(b).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These</p>	<p>Wis. Stat. Ann. § 950.04(1v)(g).</p>

<p>definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 302.113(9g)(g)(2) details a victim’s right to notice of an inmate’s petition for modification of a bifurcated sentence and related proceedings; Wis. Stat. Ann. § 302.114(6) details a victim’s right to notice of an inmate’s petition for extended supervision; Wis. Stat. Ann. § 938.27(4m) and (6) and Wis. Stat. Ann. § 938.273(2) detail a victim’s right to notice of hearings related to a juvenile offender; Wis. Stat. Ann. § 971.095(3) details a victim’s right to notice of criminal court proceedings; and Wis. Stat. Ann. § 972.14(3)(b) details a victim’s right to notice of criminal sentencing proceedings. Relevant portions of some of these statutes are included below.</p> <p> Wis. Const. art. I, § 9m(2)(g) affords victims the right to timely notification of proceedings. This provision is included above.</p>	
<p>Victims’ Right to Notice of Petitions for Sentence Adjustment.</p> <p>Victims of crimes have the following right[]: [t]o have reasonable attempts made to notify the victim of petitions for sentence adjustment as provided under s. 973.09(3m), 973.195(1r)(d), or 973.198.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 973.09(3m) details a victim’s right to notice of a petition to modify an offender’s probation and discharge them from probation; Wis. Stat. Ann. § 973.195(1r)(d) details a victim’s right to notice of an inmate’s petition to adjust a sentence related to certain sex offenses; and Wis. Stat. Ann. § 973.198 details an inmate’s petition for sentence adjustment related to a bifurcated sentence. Relevant portions of some of these statutes are included below.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(gm).</p>

<p>Victims' Right to Confer with Intake Workers, District Attorneys and Corporation Counsel Regarding Juvenile Delinquent.</p> <p>Victims of crimes have the following right[]: [t]o have, at his or her request, the opportunity to consult with intake workers, district attorneys and corporation counsel in cases under ch. 938, as provided under ss. 938.245(1m), 938.265 and 938.32(1)(am).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Const. art. I, § 9m(2)(h) affords victims the right to confer with the prosecutor. This provision is included above.</p> <p> Wis. Stat. Ann. § 938.245(1m) details a victim’s right to confer with an intake worker regarding a proposed deferred prosecution agreement with a juvenile; Wis. Stat. Ann. § 938.265 details a victim’s right to confer with the district attorney or corporation counsel “as soon as practicable but before the plea hearing”; and Wis. Stat. Ann. § 938.32(1)(am) details a victim’s right to consult with the district attorney or corporation counsel prior to entry of a consent decree.</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>Wis. Stat. Ann. § 950.04(1v)(i).</p>
<p>Victims' Right to Confer with the Prosecution in a Criminal Case.</p> <p>Victims of crimes have the following right[]: [t]o have, at his or her request, the opportunity to consult with the prosecution in a case brought in a court of criminal jurisdiction, as provided under s. 971.095(2).</p>	<p>Wis. Stat. Ann. § 950.04(1v)(j).</p>

<p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 971.095(2) details a victim’s right to confer with the district attorney “as soon as practicable” after a defendant is charged with a crime. A victim must request to exercise this right. This statutory provision is included below.</p> <p> Wis. Const. art. I, § 9m(2)(h) affords victims the right to confer with the prosecutor. This provision is included above.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p>Victims’ Right to a Speedy Disposition.</p> <p>Victims of crimes have the following right[]: [t]o a speedy disposition of the case in which they are involved as a victim in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Const. art. I, § 9m(2)(d) guarantees victims the right “[t]o timely disposition of the case, free from unreasonable delay.” This provision is included above.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(k).</p>

Victims' Right to Notice Regarding Their Right to Make a Statement in Certain Proceedings.

Wis. Stat. Ann. § 950.04(1v)(L).

Victims of crimes have the following right[]: [t]o have the district attorney or corporation counsel, whichever is applicable, make a reasonable attempt to contact the victim concerning the victim's right to make a statement, as provided under ss. 938.32(1)(b)2., 938.335(3m)(b) and 972.14(3)(b).

 Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."

 Wis. Stat. Ann. § 938.32(1)(b)2 provides that, before entering into a consent decree with a juvenile delinquent, the district attorney or corporation counsel must make a reasonable attempt to contact the victim and inform them of their right to make a statement at the consent decree hearing. Wis. Stat. Ann. § 938.335(3m)(b) requires the district attorney or corporation to make a reasonable attempt to contact the victim and inform them of their right to make a statement at a dispositional hearing. Wis. Stat. Ann. § 972.14(3)(b) provides that, after a conviction, the district attorney must make a reasonable attempt to contact the victim to inform them of their right to speak at sentencing. Relevant portions of § 972.14 are included below.

 Wis. Const. art. I, § 9m(2)(i) guarantees victims the right, "[u]pon request, to be heard in any proceeding during which a right of the victim is implicated, including release, plea, sentencing, disposition, parole, revocation, expungement, or pardon." This provision is included above.

 A promising practice is to have a policy and procedure outlining what constitutes "a reasonable attempt to notify the victim."

<p>Victims' Right to Provide Statements Regarding Sentencing, Disposition and Parole.</p> <p>Victims of crimes have the following right[]: [t]o provide statements concerning sentencing, disposition, or parole, as provided under ss. 304.06(1)(e), 938.32(1)(b)1g., 938.335(3m)(ag), and 972.14(3)(a).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 304.06(1)(e) requires the parole commission to consider a victim’s written statement. Wis. Stat. Ann. § 938.32(1)(b)1g. details a victim’s right to submit a written statement prior to a juvenile’s consent decree proceeding. Wis. Stat. Ann. § 938.335(3m)(ag) details a victim’s right to submit a written statement prior to imposition of a disposition in a juvenile adjudication. Wis. Stat. Ann. § 972.14(3)(a) requires the court to determine, prior to sentencing, whether a victim wants to make a statement and, if the victim does, the court must allow the victim to make the statement in court or to submit a written statement to be read in court. Relevant portions of some of these statutory provisions are included below.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(m).</p>
<p>Victims' Right to Have Direct Input in the Parole Decision-Making Process.</p> <p>Victims of crimes have the following right[]: [t]o have direct input in the parole decision-making process, as provided by the rules promulgated under s. 304.06(1)(em).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Under Wis. Stat. Ann. § 304.06(1)(em), the parole commission is required to promulgate rules that provide a procedure to allow any person who is a victim, or the family member of</p>	<p>Wis. Stat. Ann. § 950.04(1v)(n).</p>

<p>a victim, of certain crimes—including homicide, murder, sexual assault and child sex offenses—to have direct input in the decision-making process for parole. This statutory provision is included below.</p>	
<p>Victims’ Right to Attend Parole Interviews or Hearings and Make Statements.</p> <p>Victims of crimes have the following right[]: [t]o attend parole interviews or hearings and make statements as provided under s. 304.06(1)(eg).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 304.06(1)(eg) requires the parole commission to allow a victim, or the family member of a victim, to attend any interview or hearing regarding a parole application and to make a statement at that interview or hearing. This statutory provision is included below.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(nn).</p>
<p>Victims’ Right to Attend and Be Heard at Hearing Regarding Modification of a Bifurcated Sentence.</p> <p>Victims of crimes have the following right[]: [t]o attend a hearing on a petition for modification of a bifurcated sentence and provide a statement concerning modification of the bifurcated sentence, as provided under s. 302.113(9g)(d).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 302.113(9g)(d) affords victims the right to notice of and to be present at a hearing on an inmate’s petition for modification of a bifurcated sentence. This statutory</p>	<p>Wis. Stat. Ann. § 950.04(1v)(nt).</p>

<p>provision is included below.</p>	
<p>Victims' Right to Attend and Be Heard at Hearing Regarding Probation Modification.</p> <p>Victims of crimes have the following right[]: [t]o attend a hearing on a petition for modification of a term of probation under s. 973.09(3)(d) and provide a statement to the court concerning modification of the term of probation as provided under s. 973.09(3m).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 973.09(3)(d) lists the requirements that a probationer must meet before the court can modify probation, including fulfilling all financial obligations to any victims. Wis. Stat. Ann. § 973.09(3m) details a victim’s rights to notice of a probation hearing and to provide a statement at the hearing. These statutory provisions are included below.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(nx).</p>
<p>Victims' Right to Have Information Regarding the Impact of a Delinquent Act Included in the Court Report and to Have the Person Preparing the Report Contact the Victim.</p> <p>Victims of crimes have the following right[]: [t]o have information concerning the impact of a delinquent act on the victim included in a court report under s. 938.33 and to have the person preparing the court report attempt to contact the victim, as provided under s. 938.331.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 938.33 governs court reports in the juvenile justice system and § 938.331 requires that where a delinquent act would constitute a felony if committed by an</p>	<p>Wis. Stat. Ann. § 950.04(1v)(o).</p>

<p>adult, the person preparing the court report must attempt to determine the economic, physical and psychological effect of the delinquent act on the victim.</p>	
<p>Victims' Right to Provide Input Regarding Presentence Investigation and to View the Sentence Recommendation and Any Victim Information Included in the Report.</p> <p>Victims of crimes have the following right[]: [t]o have the person preparing a presentence investigation under s. 972.15 make a reasonable attempt to contact the victim, as provided in s. 972.15(2m), and to view the sentence recommendation and any victim information included on the presentence investigation report, as provided in s. 972.15(4m).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 972.15 governs presentence investigations and the preparation of the report. Under Wis. Stat. Ann. § 972.15(2m), the person preparing the presentence investigation report must make a reasonable attempt to contact the victim to determine the economic, physical and psychological effect of the crime. Under Wis. Stat. Ann. § 972.15(4m), the prosecuting attorney and defense counsel are entitled to keep a copy of the report and required to keep it confidential. Relevant portions of § 972.15 are included below.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(p).</p>
<p>Victims' Right to View Portions of the Presentence Investigation Report.</p> <p>Victims of crimes have the following right[]: [s]ubject to the limits set forth in s. 972.15(4r), to view portions of a presentence investigation report prepared under s. 972.15 that relate to the crime upon the victim.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These</p>	<p>Wis. Stat. Ann. § 950.04(1v)(pd).</p>

<p>definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 972.15(4r) provides that a victim is entitled to view all sentencing recommendations in the presentence report and other portions of the report that contain information pertaining to them. This statutory provision is included below.</p>	
<p>Victims’ Right to Have the Court Consider Information Pertaining to the Economic, Physical and Psychological Effect of the Crime Upon the Victim.</p> <p>Victims of crimes have the following right[]: [t]o have the court provided with information pertaining to the economic, physical and psychological effect of the crime upon the victim and have the information considered by the court.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Under Wis. Stat. Ann. § 972.15(2m), the person preparing a presentence investigation report must make a reasonable attempt to contact the victim to determine the economic, physical and psychological effect of the crime on the victim.</p> <p> Wis. Const. art. I, § 9m(2)(j) guarantee victims the right “[t]o have information pertaining to the economic, physical, and psychological effect upon the victim of the offense submitted to the authority with jurisdiction over the case and to have that information considered by that authority.” This provision is included above.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(pm).</p>
<p>Victims’ Right to Restitution.</p> <p>Victims of crimes have the following right[]: [t]o restitution, as provided under ss. 938.245(2)(a)5., 938.32(1t), 938.34(5), 938.345, 943.212, 943.23(6), 943.245, 943.51 and</p>	<p>Wis. Stat. Ann. § 950.04(1v)(q).</p>

<p>973.20.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. §§ 938.245(2)(a)(5), 938.32 (1t), 938.34(5), 938.345 govern restitution in the juvenile justice system. Wis. Stat. Ann. §§ 943.212, 943.23(6), 943.245, 943.51 and 973.20 govern restitution in the criminal justice system. Relevant portions from some of these statutory provisions are included below.</p> <p> Wis. Const. art. I, § 9m(2)(m) guarantees victims the right “[t]o full restitution from any person who has been ordered to pay restitution to the victim and to be provided with assistance collecting restitution.” This provision is included above.</p> <p> A promising practice, when informing victims about their right to restitution, is to notify victims that they should collect and organize all documentation relating to their losses. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p>Victims’ Right to Recompense from Forfeited Bail.</p> <p>Victims of crimes have the following right[]: [t]o recompense as provided under s. 969.13(5)(a).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 969.13(5)(a) allows for forfeited bail to be applied to a recompense amount, determined by the court, for any victim of the crime for which the bond was entered</p>	<p>Wis. Stat. Ann. § 950.04(1v)(qm).</p>

<p>into, “unless the court finds substantial reason not to and states the reason on the record.”</p>	
<p>Victims’ Right to a Judgment for Unpaid Restitution.</p> <p>Wis. Stat. Ann. § 950.04(1v)(r).Victims of crimes have the following right[]: [t]o a judgment for unpaid restitution, as provided under ss. 895.035(2m) and 973.09(3)(b).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 895.035(2m) applies to unpaid restitution in the juvenile justice setting. Wis. Stat. Ann. § 973.09(3)(b), the text of which is included below, applies to unpaid restitution in the criminal justice setting.</p> <p> A promising practice, when informing victims about their right to restitution, is to notify victims that they should collect and organize all documentation relating to their losses. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(r).</p>
<p>Victims’ Right to Compensation.</p> <p>Victims of crimes have the following right[]: [t]o compensation, as provided under subch. I of ch. 949.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Const. art. I, § 9m(2)(n) guarantees victims the right to compensation. This</p>	<p>Wis. Stat. Ann. § 950.04(1v)(rm).</p>

<p>provision is included above.</p> <p> Wis. Stat. Ann. §§ 949.001 to 949.18 governs crime victim compensation. These compensation-related statutory provisions are not included in this document.</p>	
<p>Victims' Right to the Expeditious Return of Property.</p> <p>Victims of crimes have the following right[]: [t]o have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence, subject to s. 968.205. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, property subject to preservation under s. 968.205, and property the ownership of which is disputed, shall be returned to the person within 10 days of being taken.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 968.205 governs the preservation of certain evidence.</p> <p> It is a promising practice to have a policy and procedure in place establishing when and how to return property to victims. 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>Wis. Stat. Ann. § 950.04(1v)(s).</p>

<p>Victims' Right to Information from Law Enforcement.</p> <p>Victims of crimes have the following right[]: [t]o receive information from law enforcement agencies, as provided under s. 950.08(2g).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.08(2g) provides that, no later than 24 after law enforcement’s initial contact with a victim, law enforcement must provide victims with written information regarding, <i>inter alia</i>, their legal rights, the availability of compensation, certain persons to contact for additional information, suggested procedures to follow if the victim has experienced threats or intimidation related to her cooperation with law enforcement. This statutory provision is included below.</p> <p> A promising practice is to provide victims with this information as soon as possible. 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>Wis. Stat. Ann. § 950.04(1v)(t).</p>
<p>Victims' Right to Information from District Attorneys.</p> <p>Victims of crimes have the following right[]: [t]o receive information from district attorneys, as provided under s. 950.08(2r).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.08(2r) requires the district attorney provide victims with certain,</p>	<p>Wis. Stat. Ann. § 950.04(1v)(u).</p>

<p>written information as soon as practicable, but no later than 10 days after an offender's initial appearance before a judge or 24 hours before a preliminary examination. This statutory provision is included below.</p> <p> A promising practice is to provide victims with this information as soon as possible. Consideration should be given to providing this written information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p>Victims' Right to Notice Regarding Conditional Release.</p> <p>Victims of crimes have the following right[]: [t]o have district attorneys make a reasonable attempt to notify the victim under s. 971.17(4m) regarding conditional releases under s. 971.17.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p> <p> Wis. Stat. Ann. § 971.17(4m) requires the district attorney to make a reasonable attempt to notify the victim of an offender's conditional release. This statutory provision is included below.</p> <p> A promising practice is to have a policy and procedure outlining what constitutes "a reasonable attempt to notify the victim."</p>	<p>Wis. Stat. Ann. § 950.04(1v)(um).</p>
<p>Victims' Right to Have the Department of Corrections Notify Them of Changes to an Offender's Status, Including Participation in Programs, Release, and Escape.</p> <p>Victims of crimes have the following right[]: [t]o have the department of corrections make a reasonable attempt to notify the victim under s. 301.046(4) regarding community</p>	<p>Wis. Stat. Ann. § 950.04(1v)(v).</p>

residential confinements, under s. 301.048(4m) regarding participation in the intensive sanctions program, under s. 301.38 regarding escapes from a Type 1 prison, under s. 301.46(3) regarding persons registered under s. 301.45, under s. 302.105 regarding release upon expiration of certain sentences, under s. 304.063 regarding extended supervision and parole releases, and under s. 938.51 regarding release or escape of a juvenile from correctional custody.



Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”



Wis. Stat. Ann. § 301.046(4) requires that, prior to a prisoner being placed in community residential confinement for committing certain crimes—including felony murder, homicide, sexual assault and child sex offenses—the department of corrections notify the victim; Wis. Stat. Ann. § 301.048(4m) provides that, “as soon as possible” after an offender convicted of certain crimes—including felony murder, sexual assault and child sex offenses—enters an intensive sanctions program, the department of corrections must make a reasonable attempt to notify the victim; Wis. Stat. Ann. § 301.38 requires the department of corrections to make a reasonable attempt to notify the victim when a prisoner escapes from a Type 1 prison; Wis. Stat. Ann. § 301.46(3) requires the department of corrections to make a reasonable attempt to notify victims when a registered sex offender provides the department with updated information, such as moving to or becoming employed in another state; Wis. Stat. Ann. § 302.105 requires the department of corrections make a reasonable attempt to notify victims before an inmate convicted of certain crimes—including felony murder, homicide, sexual assault and child sex offenses—is released from prison; Wis. Stat. Ann. § 302.105 requires the department of corrections notify victims when the same categories of inmates are released on parole or on extended supervision; and Wis. Stat. Ann. § 938.51 requires that the department of corrections or county department with supervision of a juvenile notify the victim when the juvenile is released or escapes from custody. Some of these statutory provisions are included below.



A promising practice is to have a policy and procedure outlining what constitutes “a

<p>reasonable attempt to notify the victim.”</p>	
<p>Victims’ Right to Have the Department of Corrections Notify Them of a Revocation of Parole or of Release to Extended Supervision.</p> <p>Victims of crimes have the following right[]: [t]o have the department of corrections make a reasonable attempt to notify the victim, pursuant to s. 302.107, of a revocation of parole or of release to extended supervision under s. 302.11(7), 302.113(9), 302.114(9), or 304.06(3) or (3g).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 302.107 provides for victim notification upon revocation of parole or release to extended supervision under §§ 302.11(7) [mandatory release on parole]; 302.113(9) [release to extended supervision for felony offenders not serving life sentences]; 302.114(9) [release to extended supervision for felony offenders serving life sentences]; and 304.06(3) or (3g) [parole from state prison and house of corrections]. Victims have the right to make or submit a statement concerning release under most of these statutory provisions. Some of these provisions are included in full below.</p> <p> A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt to notify the victim.”</p>	<p>Wis. Stat. Ann. § 950.04(1v)(vg).</p>
<p>Victims’ Right to a Copy of an Inmate’s Petition for Extended Supervision and Notice of Related Hearing.</p> <p>Victims of crimes have the following right[]: [t]o have the appropriate clerk of court send the victim a copy of an inmate’s petition for extended supervision and notification of the</p>	<p>Wis. Stat. Ann. § 950.04(1v)(vm).</p>

<p>hearing on that petition under s. 302.114(6).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 302.114(6) governs the issuance of a copy of the petition and the process and contents of the victim notification. This statutory provision is included below.</p>	
<p>Victims’ Right to Notice of Leave for Qualified Inmates.</p> <p>Victims of crimes have the following right[]: [t]o have the department of corrections make a reasonable attempt to notify the victim under s. 303.068(4m) regarding leave granted to qualified inmates under s. 303.068.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 303.068(4m) governs notice to certain victims before an offender is released on leave. This statutory provision is included below.</p> <p> A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt to notify the victim.”</p>	<p>Wis. Stat. Ann. § 950.04(1v)(w).</p>
<p>Victims’ Right to Notice When an Offender Who has Been Criminally Committed to a Mental Health Institute Petitions for Termination or Discharge of a Commitment Order or Requests a Home Visit.</p> <p>Victims of crimes have the following right[]: [t]o have the department of health services</p>	<p>Wis. Stat. Ann. § 950.04(1v)(x).</p>

<p>make a reasonable attempt to notify the victim under s. 971.17(6m) regarding termination or discharge under s. 971.17 and under s. 51.37(10) regarding home visits under s. 51.37(10).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 971.17(6m) governs victim notice requirements related to an offender’s petition for termination or discharge of a commitment order based on a finding of not guilty by reason of mental disease or defect. This statutory provision is included below. Wis. Stat. Ann. § 51.37(10) governs victim notice requirements regarding home visits for individuals who have been criminally committed to a mental health institute.</p> <p> A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt to notify the victim.”</p>	
<p>Sexual Violence Victims’ Right to Notice of Supervised Release and Discharge of Sexually Violent Persons Committed to Mental Health Facilities.</p> <p>Victims of crimes have the following right[]: [t]o have the department of health services make a reasonable attempt to notify the victim under s. 980.11 regarding supervised release under s. 980.08 and discharge under s. 980.09(4).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 980.11 governs victim notice requirements related to the supervised release or discharge of a sexually violent person who has been committed to a mental health facility. This statutory provision is included below.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(xm).</p>

<p> A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt to notify the victim.”</p>	
<p>Victims’ Right to Notice Regarding Actions Taken in a Juvenile Proceeding.</p> <p>Victims of crimes have the following right[]: [t]o have reasonable attempts made to notify the victim concerning actions taken in a juvenile proceeding, as provided under ss. 938.24(5m), 938.25(2m), 938.312 and 938.346.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 938.24(5m) requires intake workers to make a reasonable attempt to inform victims when an intake worker decides to close a case; Wis. Stat. Ann. § 938.25(2m) requires the district attorney or corporation counsel to make a reasonable attempt to inform victims when they decide to not file a petition; Wis. Stat. Ann. § 938.312 requires the district attorney or corporation counsel to make a reasonable attempt to inform victims when a delinquency petition is dismissed or does not otherwise result in a consent decree or dispositional order; and Wis. Stat. Ann. § 938.346 requires notice of certain information to the victims of a juvenile’s acts.</p> <p> A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt to notify the victim.”</p>	<p>Wis. Stat. Ann. § 950.04(1v)(y).</p>
<p>Victims’ Right to Notice of a Motion for DNA Testing.</p> <p>Victims of crimes have the following right[]: [t]o have the appropriate clerk of court make a reasonable attempt to send the victim a copy of a motion made under s. 974.07(2) for postconviction deoxyribonucleic acid testing of certain evidence and notification of any</p>	<p>Wis. Stat. Ann. § 950.04(1v)(yd).</p>

<p>hearing on that motion, as provided under s. 974.07(4).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 947.07 governs postconviction DNA testing of certain evidence. When an offender moves for such testing under Wis. Stat. § 947.07(2), § 947.07(4) requires that the clerk make a reasonable effort to send a copy of the motion to the victim within 7 days of filing.</p> <p> A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt” to send the victim a copy of the motion for DNA testing.</p>	
<p>Victims’ Right to Notice of a Pardon Application.</p> <p>Victims of crimes have the following right[]: [t]o have the governor make a reasonable attempt to notify the victim of a pardon application, as provided under s. 304.09(2) and (3).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 340.09(2) provides that victims must be served with notice of a pardon application, including when the application is to be heard by the governor. This notice must inform victims of the manner in which they may provide written statements or participate in applicable hearings. <i>Id.</i> at § 340.09(3).</p> <p> A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt to notify the victim.”</p>	<p>Wis. Stat. Ann. § 950.04(1v)(ym).</p>

<p>Victims' Right to Make a Written Statement Regarding a Pardon Application.</p> <p>Victims of crimes have the following right[]: [t]o make a written statement concerning pardon applications, as provided under s. 304.10(2).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 340.10(2) provides that victims may submit to the governor a written statement containing their views regarding a pardon application.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(z).</p>
<p>Victims' Right to Request Information from a District Attorney Regarding the Disposition of a Case.</p> <p>Victims of crimes have the following right[]: [t]o request information from a district attorney concerning the disposition of a case involving a crime of which he or she was a victim, as provided under s. 971.095(6).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 971.095(6) provides that the district attorney must make a reasonable attempt to provide victims with information regarding the disposition of a case, where the victim requests such information. This statutory provision is included below.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish</p>	<p>Wis. Stat. Ann. § 950.04(1v)(zm).</p>

<p>to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Victims' Right to Complain to the Department of Justice Regarding Their Treatment and to Request Review of Their Complaint by the Crime Victims Rights Board.</p> <p>Victims of crimes have the following right[]: [t]o complain to the department of justice concerning the treatment of crime victims, as provided under s. 950.08(3), and to request review by the crime victims rights board of the complaint, as provided under s. 950.09(2).</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.08(3) governs complaints to the department of justice regarding about the treatment of crime victims by public officials, employees or agencies under crime victim assistance programs. Wis. Stat. Ann. § 950.08(3) provides that the crime victims rights board may issue reports and recommendations concerning the securing and provision of victims’ rights and services. These statutory provisions are included below.</p>	<p>Wis. Stat. Ann. § 950.04(1v)(zx).</p>
<p>Sex Offense Victims’ Right to Accompaniment by Victim Advocate at Law Enforcement Interviews and Proceedings.</p> <p>(1) Right to accompaniment at law enforcement interviews; exceptions.</p> <p>(a) In addition to all rights afforded to victims under s. 950.04, an individual who is a victim of a violation of s. 940.22, 940.225, 940.302, 948.02, 948.025, or 948.05 to 948.11 has the right to be accompanied by a victim advocate at law enforcement interviews, subject to par. (b) or (c) and except as provided in par. (c) or (d).</p> <p>(am) A parent, guardian, or legal custodian of a minor who is a victim of sexual assault, human trafficking, or child sexual abuse may make a request under par. (a) for a victim</p>	<p>Wis. Stat. Ann. § 950.045.</p>

advocate to accompany the minor victim of sexual assault, human trafficking, or child sexual abuse.

(b) A victim advocate may not obstruct or delay a law enforcement interview, shall comply with the victim's requests or instructions, and shall comply with any rule, policy, or requirement established by a law enforcement agency regarding the confidentiality of information relating to an investigation. A victim advocate may not disclose information not previously disclosed to the general public to any person except that the victim advocate may disclose information to an individual or to an agency that is providing counseling, assistance, or support services to the victim to the extent that disclosure is reasonably necessary to assist in the provision of counseling, assistance, or support services.

(c) A victim advocate may not obstruct or delay a forensic interview conducted at or on behalf of a child advocacy center, as described in s. 165.96, and shall comply with any instructions or requests from the lead forensic interviewer, including excluding himself or herself from the interview room, and shall comply with any rule, policy, or requirement established by the child advocacy center.

(d) A victim advocate who violates the provisions of par. (b) or (c) may be excluded from a law enforcement interview. At the request of the victim, a different victim advocate may be allowed to accompany the victim.

(2) Right to accompaniment at proceedings.

(a) In addition to all rights afforded to victims under s. 950.04, an individual who is a victim of a violation of s. 940.22, 940.225, 940.302, 948.02, 948.025, or 948.05 to 948.11 has a right to be accompanied by a victim advocate at interviews and proceedings at which he or she is requested or allowed to attend that are related to the crime committed against him or her, including prosecution interviews, department of corrections proceedings, court proceedings, and postconviction proceedings, except as provided in s. 950.045(1)(c) and (d).

(b) A parent, guardian, or legal custodian of a minor who is a victim of sexual assault, human trafficking, or child sexual abuse may make a request under par. (a) for a victim advocate to accompany the minor victim of sexual assault, human trafficking, or child sexual abuse.

(3) Civil immunity. A law enforcement agency and its employees or agents are immune from civil liability for allowing a victim advocate to accompany a victim, for any failure to comply with any requirement in this section, and for any act or omission by a victim advocate.

<p> Wis. Stat. Ann. § 950.02 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>Child Victims’ Additional Rights and Considerations: Legislative Intent.</p> <p>The legislature finds that it is necessary to provide child victims and witnesses with additional consideration and different treatment than that usually afforded to adults. The legislature intends, in this section, to provide these children with additional rights and protections during their involvement with the criminal justice or juvenile justice system. The legislature urges the news media to use restraint in revealing the identity of child victims or witnesses, especially in sensitive cases.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	<p>Wis. Stat. Ann. § 950.055(1).</p>
<p>Child Victims’ Additional Rights and Considerations: Use of Easily Understood Language.</p> <p>In addition to all rights afforded to victims and witnesses under s. 950.04 and services provided under s. 950.06(1m), counties are encouraged to provide the following additional services on behalf of children who are involved in criminal or delinquency proceedings as victims or witnesses:</p> <p>... Explanations, in language understood by the child, of all legal proceedings in which the</p>	<p>Wis. Stat. Ann. § 950.055(2)(a).</p>

<p>child will be involved.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> The rights available to child victims under Wis. Stat. Ann. § 950.04 are included above. The services available to child victims under Wis. Stat. Ann. § 950.06(1m) are included below.</p>	
<p>Child Victims’ Additional Rights and Considerations: Advice to the Court Regarding Child’s Ability to Understand Proceedings and Questions.</p> <p>In addition to all rights afforded to victims and witnesses under s. 950.04 and services provided under s. 950.06(1m), counties are encouraged to provide the following additional services on behalf of children who are involved in criminal or delinquency proceedings as victims or witnesses:</p> <p>. . . Advice to the judge, when appropriate and as a friend of the court, regarding the child’s ability to understand proceedings and questions. The services may include providing assistance in determinations concerning the taking of depositions by audiovisual means under s. 908.08 or 967.04(7) and (8) and the duty to expedite proceedings under s. 971.105.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> The rights available to child victims under Wis. Stat. Ann. § 950.04 are included above. The services available to child victims under Wis. Stat. Ann. § 950.06(1m) are included below.</p>	<p>Wis. Stat. Ann. § 950.055(2)(b).</p>

<p> Wis. Stat. Ann. § 908.08 governs the use of audiovisual recordings of statements by children in certain proceedings. Wis. Stat. Ann. § 967.04(7) and (8) govern the use of recorded depositions in lieu of live child testimony in criminal prosecutions. Wis. Stat. Ann. § 971.105 requires the court and the district attorney to take appropriate action to ensure a speedy trial to minimize stress to the child. Some of these statutory provisions are included below.</p>	
<p>Child Victims' Additional Rights and Considerations: Advice to the District Attorney Concerning the Child's Ability to Cooperate with the Prosecution and the Effects of Proceedings on the Child.</p> <p>In addition to all rights afforded to victims and witnesses under s. 950.04 and services provided under s. 950.06(1m), counties are encouraged to provide the following additional services on behalf of children who are involved in criminal or delinquency proceedings as victims or witnesses:</p> <p>... Advice to the district attorney concerning the ability of a child witness to cooperate with the prosecution and the potential effects of the proceedings on the child.</p> <p> The rights available to child victims under Wis. Stat. Ann. § 950.04 are included above. The services available to child victims under Wis. Stat. Ann. § 950.06(1m) are included below.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p>	<p>Wis. Stat. Ann. § 950.055(2)(c).</p>

<p>Child Victims' Additional Rights and Considerations: Information About Social Service Referrals.</p> <p>In addition to all rights afforded to victims and witnesses under s. 950.04 and services provided under s. 950.06(1m), counties are encouraged to provide the following additional services on behalf of children who are involved in criminal or delinquency proceedings as victims or witnesses:</p> <p>... Information about and referrals to appropriate social services programs to assist the child and the child's family in coping with the emotional impact of the crime and the subsequent proceedings in which the child is involved.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p> <p> The rights available to child victims under Wis. Stat. Ann. § 950.04 are included above. The services available to child victims under Wis. Stat. Ann. § 950.06(1m) are included below.</p>	<p>Wis. Stat. Ann. § 950.055(2)(d).</p>
<p>Victims' Right to Information and Mediation Services: Duties of Department of Justice; Toll-Free Number; General Information Program; Mediation</p> <p>(1) Duties of department; toll-free telephone number. The department shall maintain a toll-free telephone number to provide crime victims and witnesses with all of the following services:</p> <ul style="list-style-type: none"> (a) Information and referral to available services. (b) Crisis counseling and emotional support. (c) Assistance in securing resources and protection. <p>(2) Duties of department; general informational program. The department shall provide an</p>	<p>Wis. Stat. Ann. § 950.08(1)–(2), (3).</p>

<p>informational program to inform crime victims, the general public, criminal justice officials and related professionals about crime victim rights and services.</p> <p>...</p> <p>(3) The department may receive complaints, seek to mediate complaints and, with the consent of the involved parties, actually mediate complaints regarding the treatment of crime victims and witnesses by public officials, employees or agencies or under crime victim and witness assistance programs. The department may act as a liaison between crime victims or witnesses and others when seeking to mediate these complaints and may request a written response regarding the complaint from the subject of a complaint. If asked by the department to provide a written response regarding a complaint, the subject of a complaint shall respond to the department's request within a reasonable time.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p> <p> Under Wis. Stat. Ann. § 950.09(2), at the request of one of the involved parties, the crime victims' rights board may review a complaint made to the department of justice under § 950.08(3) regarding a violation of a victims' rights. This statutory provision is included below.</p>	
<p>Victims' Right to Information to Be Provided by Law Enforcement Agencies.</p> <p>No later than 24 hours after a law enforcement agency has initial contact with a victim of a crime that the law enforcement agency is responsible for investigating, the law enforcement agency shall make a reasonable attempt to provide to the victim written information on all of the following:</p> <p>(a) A list of the rights of victims under s. 950.04(1v).</p>	<p>Wis. Stat. Ann. § 950.08(2g).</p>

(b) The availability of compensation under subch. I of ch. 949 and the address and telephone number at which to contact the department for information concerning compensation under subch. I of ch. 949.

(c) The address and telephone number of the intake worker, corporation counsel or district attorney whom the victim may contact to obtain information concerning the rights of victims and to request notice of court proceedings under ss. 938.27(4m) and (6), 938.273(2), 938.299(1)(am) and 938.335(3m)(b) or ss. 971.095(3) and 972.14(3)(b), whichever is applicable, and to request the opportunity to confer under ss. 938.245(1m), 938.265 or 938.32(1)(am) or s. 971.095(2), whichever is applicable.

(d) The address and telephone number of the custodial agency that the victim may contact to obtain information concerning the taking into custody or arrest of a suspect in connection with the crime of which he or she is a victim.

(e) The address and telephone number of the custodial agency that the victim may contact for information concerning release under s. 938.20 or 938.21 or ch. 969, whichever is appropriate, of a person arrested or taken into custody for the crime of which he or she is a victim.

(f) Suggested procedures for the victim to follow if he or she is subject to threats or intimidation arising out of his or her cooperation with law enforcement and prosecution efforts relating to a crime of which he or she is a victim.

(g) The address and telephone number at which the victim may contact the department or any local agency that provides victim assistance in order to obtain further information about services available for victims, including medical services.

(h) If the victim is a victim of an officer-involved death, as defined in s. 175.47(1)(c), information about the process by which he or she may file a complaint under s. 968.02 or 968.26(2) and about the process of an inquest under s. 979.05.



Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These

<p>definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v)(t), which is included above, affords victims the right to receive this information from law enforcement. Many of the notification statutes detailed in § 950.08(2g)(c). are included below, as are many of the statutes governing a victim’s right to confer, as also referenced in paragraph (c). Wis. Stat. Ann. § 950.04(1v)(do) affords victims of an officer-involved death to be informed of the inquest process. This statutory provision is included above.</p> <p> A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt to provide to the victim” such written information.</p> <p> A promising practice is to have a policy and procedure to ensure that victims are provided this written information as quickly as possible. Consideration should be given to providing this information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p> <p> A promising practice is to have a procedure in place that reminds victims of their responsibility to keep their contact information current and that enables victims to make any necessary updates easily.</p>	
<p>Victims’ Right to Information to Be Provided by the District Attorney in a Criminal Case.</p> <p>As soon as practicable, but in no event later than 10 days after the initial appearance under s. 970.01 or 24 hours before a preliminary examination under s. 970.03, whichever is earlier, of a person charged with a crime in a court of criminal jurisdiction, a district attorney shall make a reasonable attempt to provide to each victim of the crime written information on all of the following:</p>	<p>Wis. Stat. Ann. § 950.08(2r).</p>

- (a) A brief statement of the procedure for prosecuting a crime.
- (b) A list of the rights of victims under s. 950.04 (1v) and information about how to exercise those rights.
- (c) The person or agency to notify if the victim changes his or her address and wants to continue to receive notices and services under s. 950.04 or 971.095(3).
- (d) The availability of compensation under subch. I of ch. 949, including information concerning eligibility for compensation and the procedure for applying for compensation.
- (e) The person to contact for further information about a case involving the prosecution of a crime of which he or she is a victim.

 Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”

 Wis. Stat. Ann. § 950.04(1v)(u) affords victims the right to receive this information from district attorneys. Wis. Stat. Ann. § 971.095(3) details a victim’s right to notification of court proceedings and any changes in schedule. These statutory provisions are included in this document.

 A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt to provide to each victim” such written information.

 A promising practice is to have a policy and procedure to ensure that victims are provided this written information as quickly as possible. Consideration should be given to providing this 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 procedure in place that reminds victims of their responsibility to keep their contact information current and that enables victims to make any necessary updates easily.	
<p>Victims' Rights Regarding Complaints Made to the Department of Justice About Rights Violations.</p> <p>(1) In this section, "board" means the crime victims rights board.</p> <p>(2) At the request of one of the involved parties, the board may review a complaint made to the department under s. 950.08(3) regarding a violation of the rights of a crime victim. A party may not request the board to review a complaint under this subsection until the department has completed its action on the complaint under s. 950.08(3). In reviewing a complaint under this subsection, the board may not begin any investigation or take any action specified in pars. (a) to (d) until the board first determines that there is probable cause to believe that the subject of the complaint violated the rights of a crime victim. Based on its review of a complaint under this subsection, the board may do any of the following:</p> <p>(a) Issue private and public reprimands of public officials, employees or agencies that violate the rights of crime victims provided under this chapter, ch. 938 and article I, section 9m, of the Wisconsin constitution.</p> <p>(b) Refer to the judicial commission a violation or alleged violation by a judge of the rights of crime victims provided under this chapter, ch. 938 and article I, section 9m, of the Wisconsin constitution.</p> <p>(c) Seek appropriate equitable relief on behalf of a victim if such relief is necessary to protect the rights of the victim. The board may not seek to appeal, reverse or modify a judgment of conviction or a sentence in a criminal case.</p> <p>(d) Bring civil actions to assess a forfeiture under s. 950.11. Notwithstanding s. 778.06, an action or proposed action authorized under this paragraph may be settled for such sum as may be agreed upon between the parties. In settling actions or proposed actions, the board shall treat comparable situations in a comparable manner and shall assure that any settlement bears a reasonable relationship to the severity of the offense or alleged offense. Forfeiture actions brought by the board shall be brought in the circuit court for the county in which the</p>	<p>Wis. Stat. Ann. § 950.09.</p>

<p>violation is alleged to have occurred.</p> <p>(3) In addition to its powers under sub. (2), the board may issue reports and recommendations concerning the securing and provision of crime victims rights and services.</p> <p>(4) Actions of the board are not subject to approval or review by the attorney general.</p> <p>(5) The board shall promulgate rules establishing procedures for the exercise of its powers under this section.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.08(3) details the department of justice’s authority to receive and mediate complaints regarding the treatment of crime victims and witnesses by public officials, employees or agencies or under crime victim and witness assistance programs. This statutory provision is included above.</p>	
<p>Victims’ Right to Confidential Complaint Regarding Treatment.</p> <p>(1)(a) The records of the department relating to a complaint made under s. 950.08(3) are confidential unless the subject of the complaint waives the right to confidentiality in writing to the department.</p> <p>(am) Before a finding of probable cause under s. 950.09(2), a complaint referred to the crime victims rights board under s. 950.09(2) is confidential unless the subject of the complaint waives the right to confidentiality in writing to the crime victims rights board.</p> <p>(b) If a complaint becomes known to the public before the completion of action by the department under s. 950.08(3) or a finding of probable cause by the crime victims rights board under s. 950.09(2), the department or the crime victims rights board, whichever is applicable, may issue statements in order to confirm that a complaint has been made or is being reviewed, to clarify the procedural aspects of actions taken under ss. 950.08(3) and</p>	<p>Wis. Stat. Ann. § 950.095.</p>

950.09(2), to explain the right of the subject of the complaint to respond to the complaint, to state that the subject of the complaint denies the allegations, if applicable, to state that action under ss. 950.08(3) and 950.09(2) has been completed and no basis for the complaint was found or to correct public misinformation.

(1m) In investigating a complaint made under s. 950.08(3) or being reviewed under s. 950.09(2), the department or the crime victims rights board, whichever is applicable, shall do all of the following:

- (a) Act to avoid unnecessary embarrassment to and publicity for the subject of the complaint.
- (b) Request any person contacted for information not to disclose that an investigation is being conducted or the nature of any inquiries made by the department or the crime victims rights board.

(2) This section does not preclude the department or the crime victims rights board from doing any of the following:

- (a) Informing the person who made the complaint of the outcome of any action by the department or review by the crime victims rights board.
- (b) Referring to the judicial commission information relating to alleged misconduct by or an alleged disability of a judge or court commissioner.
- (c) Referring to an appropriate law enforcement authority information relating to possible criminal conduct or otherwise cooperating with a law enforcement authority in matters of mutual interest.
- (d) Referring to an attorney disciplinary agency information relating to the possible misconduct or incapacity of an attorney or otherwise cooperating with an attorney disciplinary agency in matters of mutual interest.
- (e) Disclosing to the chief justice or director of state courts information relating to matters affecting the administration of the courts.



Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”



Under Wis. Stat. Ann. § 950.09(2), at the request of one of the involved parties, the crime victims’ rights board may review a complaint made to the department of justice under

<p>§ 950.08(3) regarding a violation of a victims' rights. Wis. Stat. Ann. § 950.08(3) details the department of justice's authority to receive and mediate complaints regarding the treatment of crime victims and witnesses by public officials, employees or agencies or under crime victim and witness assistance programs. These statutory provisions are included above.</p>	
<p>Limitations on Liability for Violations of Victims' Constitutional and Statutory Rights; Rights Violations Not Ground for Appeal, Reversal or Modification of a Judgment of Conviction or Sentence.</p> <p>(1) No cause of action for money damages may arise against the state, any political subdivision of the state or any employee or agent of the state or a political subdivision of the state for any act or omission in the performance of any power or duty under this chapter or under article I, section 9m, of the Wisconsin constitution or for any act or omission in the performance of any power or duty under ch. 938 relating to the rights of, services for or notices to victims.</p> <p>(2) A failure to provide a right, service or notice to a victim under this chapter or ch. 938 or under article I, section 9m, of the Wisconsin constitution is not a ground for an appeal of a judgment of conviction or sentence and is not grounds for any court to reverse or modify a judgment of conviction or sentence.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p>	<p>Wis. Stat. Ann. § 950.10.</p>
<p>Victims' Right to Assert Rights; Victim Standing.</p> <p>A crime victim has a right to assert, in a court in the county in which the alleged violation occurred, his or her rights as a crime victim under the statutes or under article I, section 9m, of the Wisconsin Constitution. This section does not preclude a district attorney from asserting a victim's statutory or constitutional crime victim's rights in a criminal case or in</p>	<p>Wis. Stat. Ann. § 950.105.</p>

<p>a proceeding or motion brought under this section.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Const. art. I, § 9m(4) provides victims with standing to assert and enforce their rights. This provision is included above.</p> <p> A promising practice is to notify victims as soon as possible that they have standing to enforce their rights in court and to let them know that they may do so personally or with the assistance of an independent attorney or the prosecution. 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>Address Confidentiality Program.</p> <p>(2) Eligibility. (a) A person is eligible for participation in the confidentiality program established in this section if he or she attests all of the following:</p> <ol style="list-style-type: none"> 1. That he or she is a resident of this state. 2. That at least one of the following applies: <ol style="list-style-type: none"> a. He or she is a victim of abuse, a parent or guardian of a person who is a victim of abuse, or a resident of a household in which a victim of abuse also resides. b. He or she fears for his or her physical safety or for the physical safety of his or her child or ward. 3. That he or she resides or will reside at a location in this state that is not known by the person who committed the abuse against, or who threatens, the applicant or his or her child or ward. 4. That he or she will not disclose his or her actual address to the person who committed the abuse against, or who threatens, the applicant or his or her child or ward. <p>(b) A person is eligible under par. (a) regardless of whether any criminal charges have been</p>	<p>Wis. Stat. Ann. § 165.68(2)–(7).</p>

brought relating to any act or threat against the person, whether the person has sought any restraining order or injunction relating to any act or threat against the person, or whether the person has reported any act or threat against him or her to a law enforcement officer or agency.

(3) Administration; application. (a) The department shall provide an application form for participation in the confidentiality program established in this section. The department may not charge a fee for applying to, or participating in, the program.

(b) The application form shall include all of the following:

1. The applicant's name.

2. The applicant's actual address.

3. A place for the applicant to identify any state or local government agency that employs a person who committed an act of abuse against the applicant.

4. A statement certifying that the applicant understands and consents to all of the following program requirements:

a. A program participant remains enrolled in the program for 5 years, unless he or she cancels his or her participation under subd. 4. f. or is disenrolled under subd. 4.e.

b. A program participant is required to notify the department when he or she changes his or her actual address or legal name.

c. A program participant is required to develop a safety plan with a program assistant.

d. A program participant authorizes the department to notify state or local agencies and units of government that the applicant is a program participant.

e. The department may disenroll a program participant if the person fails to update his or her information under subd. 4. b., or at any time after the department determines that the person no longer meets the eligibility requirements established under sub. (2). The department will notify a program participant if his or her participation will expire or if the department will disenroll the participant . A program participant who receives a notification under this subd. 4. e. may update his or her information to establish eligibility or may reenroll in the program within 6 months from the date the department issues the notification.

f. A program participant may cancel his or her participation in the program at any time by submitting a written notice to the department.

g. A program participant certifies the department to be the program participant's designated agent for service of process.

(4) Use of assigned address; release of information. (a) The department shall provide to each person it approves as a program participant an assigned address and shall provide each program participant a notification form for use under sub. (5).

(b) The department shall forward all mail it receives at the assigned address for each program participant to the program participant's actual address.

(c) The department shall provide, at the request of a program participant or at the request of a state or local agency or unit of government, confirmation of the person's status as a program participant.

(d) 1. Except as provided under subd. 2., the department may not disclose a program participant's actual address to any person except pursuant to a court order. If a court order is requested for disclosure, the department shall request the court to keep any record containing the program participant's actual address sealed and confidential.

2. The department may disclose a program participant's actual address to a law enforcement officer for official purposes.

(5) Use of assigned address; confidentiality. (a) A program participant may use the assigned address provided to him or her under sub. (4) for all purposes.

(b) No state or local agency or unit of government may refuse to use a program participant's assigned address for any official business, unless a specific statutory duty requires the agency or unit of government to use the participant's actual address. A state or local agency or unit of government may confirm with the department a person's status as a program participant.

(c) No person who has received a notification form from a program participant may refuse to use the assigned address for the program participant, may require a program participant to disclose his or her actual address, or may intentionally disclose to another person the actual address of a program participant.

(d) Notwithstanding pars. (a), (b), and (c), a municipal clerk may require a program participant to provide his or her actual address for voter registration and voter verification purposes. A municipal clerk shall also require a program participant to disclose his or her actual address to enroll a program participant in the confidential voter program provided under s. 6.47. If a voter is enrolled in the confidential voter program under s. 6.47 the municipal clerk shall keep the program participant's actual address confidential as provided

<p>under s. 6.47.</p> <p>(e) The department may promulgate rules under sub. (6) to allow a program participant to consent to a disclosure of his or her actual address by the department or other entity with knowledge of the program participant's actual address when necessary to qualify for certain public assistance benefits or real property transactions. A person who discloses information under this paragraph shall include a notice that the information is confidential, and disclosure of the information to any 3rd party will be subject to the penalty under sub. (7).</p> <p>(f)1. If a program participant is the sole member of a limited liability company, the limited liability company may list the department as its registered agent and registered office under s. 183.0105(1).</p> <p>2. If the department receives service of process, notice, or demand required or permitted by law to be served on a limited liability company under subd. 1., the department shall forward the process, notice, or demand to the program participant's actual address.</p> <p>(6) Rules. The department shall promulgate rules regarding administration of the program established under this section and regarding the retention and destruction of applications, records, and other documents received or generated under this section. The department may use the emergency rule procedures under s. 227.24 to promulgate the rules required under this subsection. Notwithstanding s. 227.24(1)(a) and (3), the department may promulgate those rules as emergency rules without providing evidence that promulgating those rules as emergency rules is necessary to preserve the public peace, health, safety, or welfare and without a finding of emergency. Notwithstanding s. 227.24(1)(e)1d. and 1g., the department is not required to prepare a statement of the scope of those rules or to submit those rules in final draft form to the governor for approval.</p> <p>(7) Criminal penalty. A person who intentionally releases information in violation of this section is guilty of a misdemeanor.</p> <p> Wis. Stat. Ann. § 302.113(9g)(a) and (g)(1) define the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p>	
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Department of Correction's Duty to Notify Certain Sex Offense Victims of Community Residential Confinement.

Wis. Stat. Ann. § 301.046(4)(b)–(e).

(b) Before a prisoner is confined [to a community residential program] under [Wis. Stat. Ann. § 301.046](1) for a violation of s. 940.03, 940.05, 940.225(1) or (2), 948.02(1) or (2), 948.025, 948.06, 948.07, or 948.085, the department [of corrections] shall make a reasonable attempt to notify all of the following persons, if they can be found, in accordance with par. (c) and after receiving a completed card under par. (d):

1. The victim of the crime committed by the prisoner or, if the victim died as a result of the crime, an adult member of the victim's family or, if the victim is younger than 18 years old, the victim's parent or legal guardian.
2. Any witness who testified against the prisoner in any court proceeding involving the offense.

(c) The department shall make a reasonable effort to send the notice, postmarked at least 7 days before a prisoner is confined under sub. (1), to the last-known address of the persons under par. (b).

(d) The department shall design and prepare cards for any person specified in par. (b) to send to the department. The cards shall have space for any such person to provide his or her name and address, the name of the applicable prisoner and any other information the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in par. (b). These persons may send completed cards to the department. All department records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35(1).

(e) Before a prisoner is confined under sub. (1), the department shall notify the police chief of any community and the sheriff and district attorney of any county where the prisoner will be confined.



Wis. Stat. Ann. § 301.046(4)(a) defines terms used in this statutory provision. These

<p>definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v)(v) affords victims the right to have the department of corrections make a reasonable attempt to notify them, pursuant to this statutory provision, regarding community residential confinements. Section 950.04(1v)(v) is included above.</p> <p> A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt to provide to the victim” with notice.</p> <p> A promising practice is for victims to be provided with notification cards in an easily understood format. Consideration should be given to providing this information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p> <p> A promising practice is for district attorneys to have a policy and procedure to ensure that victims are provided with notification cards in a timely manner.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Department of Correction’s Duty to Notify Victims of Revocation of Parole or Extended Supervision.</p> <p>(2) Upon revocation of parole or extended supervision under s. 302.11(7), 302.113(9), 302.114(9), or 304.06(3) or (3g), the department shall make a reasonable effort to send a</p>	<p>Wis. Stat. Ann. § 302.107(2)–(4).</p>

notice of the revocation to a victim of an offense committed by the inmate, if the victim can be found, in accordance with sub. (3) and after receiving a completed card under sub. (4).

(3) The department shall make a reasonable effort to send the notice, postmarked not more than 10 days after the revocation, to the last-known address of the victim.

(4) The department shall design and prepare cards for a victim of any crime for which the inmate is sentenced to confinement in prison to send to the department. The cards shall have space for any such person to provide his or her name and address, the name of the applicable inmate, and any other information the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to the victims, who may send completed cards to the department. All department records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35(1).



Wis. Stat. Ann. § 302.107(1) defines terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”



Wis. Stat. Ann. § 950.04(1v)(vg) affords victims the right to have the department of corrections make a reasonable attempt to notify them, pursuant to this statutory provision, of parole revocation and extended release. Section 950.04(1v)(vg) is included above.



A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt to provide to the victim” with notice.



A promising practice is for victims to be provided with notification cards in an easily understood format. Consideration should be given to providing this information in the primary language of the victim, as well as in a form accessible to those with vision impairment.

<p> A promising practice is for district attorneys to have a policy and procedure to ensure that victims are provided with notification cards in a timely manner.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Department of Correction’s Duty to Notify Victims of Release of or Extended Supervision for Felony Offenders Not Serving Life Sentences.</p> <p>(b) An inmate who is serving a bifurcated sentence for a crime other than a Class B felony may seek modification of the bifurcated sentence in the manner specified in par. (f) if he or she meets one of the following criteria:</p> <ol style="list-style-type: none"> 1. The inmate is 65 years of age or older and has served at least 5 years of the term of confinement in prison portion of the bifurcated sentence. 2. The inmate is 60 years of age or older and has served at least 10 years of the term of confinement in prison portion of the bifurcated sentence. 3. The inmate has an extraordinary health condition. <p>(c) An inmate who meets a criterion under par. (b) may submit a petition to the program review committee at the correctional institution in which the inmate is confined requesting a modification of the inmate’s bifurcated sentence in the manner specified in par. (f). If the inmate alleges in the petition that he or she has an extraordinary health condition, the inmate shall attach to the petition affidavits from 2 physicians setting forth a diagnosis that the inmate has an extraordinary health condition.</p> <p>(cm) If, after receiving the petition under par. (c), the program review committee determines that the public interest would be served by a modification of the inmate’s bifurcated sentence in the manner provided under par. (f), the committee shall approve the petition for referral</p>	<p>Wis. Stat. Ann. § 302.113(9g)(b)–(j).</p>

to the sentencing court and notify the department of its approval. The department shall then refer the inmate's petition to the sentencing court and request the court to conduct a hearing on the petition. If the program review committee determines that the public interest would not be served by a modification of the inmate's bifurcated sentence in the manner specified in par. (f), the committee shall deny the inmate's petition.

(d) When a court is notified by the department that it is referring to the court an inmate's petition for modification of the inmate's bifurcated sentence, the court shall schedule a hearing to determine whether the public interest would be served by a modification of the inmate's bifurcated sentence in the manner specified in par. (f). The inmate and the district attorney have the right to be present at the hearing, and any victim of the inmate's crime has the right to be present at the hearing and to provide a statement concerning the modification of the inmate's bifurcated sentence. The court shall order such notice of the hearing date as it considers adequate to be given to the department, the inmate, the attorney representing the inmate, if applicable, and the district attorney. Victim notification shall be provided as specified under par. (g).

(e) At a hearing scheduled under par. (d), the inmate has the burden of proving by the greater weight of the credible evidence that a modification of the bifurcated sentence in the manner specified in par. (f) would serve the public interest. If the inmate proves that a modification of the bifurcated sentence in the manner specified in par. (f) would serve the public interest, the court shall modify the inmate's bifurcated sentence in that manner. If the inmate does not prove that a modification of the bifurcated sentence in the manner specified in par. (f) would serve the public interest, the court shall deny the inmate's petition for modification of the bifurcated sentence.

(f) A court may modify an inmate's bifurcated sentence under this section only as follows:

1. The court shall reduce the term of confinement in prison portion of the inmate's bifurcated sentence in a manner that provides for the release of the inmate to extended supervision within 30 days after the date on which the court issues its order modifying the bifurcated sentence.
2. The court shall lengthen the term of extended supervision imposed so that the total length of the bifurcated sentence originally imposed does not change.

(g)1. In this paragraph, "victim" has the meaning given in s. 950.02(4).

2. When a court schedules a hearing under par. (d), the clerk of the circuit court shall send a notice of hearing to the victim of the crime committed by the inmate, if the victim has submitted a card under subd. 3. requesting notification. The notice shall inform the victim that he or she may appear at the hearing scheduled under par. (d) and shall inform the victim of the manner in which he or she may provide a statement concerning the modification of the inmate's bifurcated sentence in the manner provided in par. (f). The clerk of the circuit court shall make a reasonable attempt to send the notice of hearing to the last-known address of the inmate's victim, postmarked at least 10 days before the date of the hearing.

3. The director of state courts shall design and prepare cards for a victim to send to the clerk of the circuit court for the county in which the inmate was convicted and sentenced. The cards shall have space for a victim to provide his or her name and address, the name of the applicable inmate, and any other information that the director of state courts determines is necessary. The director of state courts shall provide the cards, without charge, to clerks of circuit court. Clerks of circuit court shall provide the cards, without charge, to victims. Victims may send completed cards to the clerk of the circuit court for the county in which the inmate was convicted and sentenced. All court records or portions of records that relate to mailing addresses of victims are not subject to inspection or copying under s. 19.35(1).

(h) An inmate may appeal a court's decision to deny the inmate's petition for modification of his or her bifurcated sentence. The state may appeal a court's decision to grant an inmate's petition for a modification of the inmate's bifurcated sentence. In an appeal under this paragraph, the appellate court may reverse a decision granting or denying a petition for modification of a bifurcated sentence only if it determines that the sentencing court erroneously exercised its discretion in granting or denying the petition.

(i) If the program review committee denies an inmate's petition under par. (cm), the inmate may not file another petition within one year after the date of the program review committee's denial. If the program review committee approves an inmate's petition for referral to the sentencing court under par. (cm) but the sentencing court denies the petition, the inmate may not file another petition under par. (cm) within one year after the date of the court's decision.

(j) An inmate eligible to seek modification of his or her bifurcated sentence under this subsection has a right to be represented by counsel in proceedings under this subsection. An inmate, or the department on the inmate's behalf, may apply to the state public defender for determination of indigency and appointment of counsel under s. 977.05(4)(jm) before or after the filing of a petition with the program review committee under par. (c). If an inmate whose petition has been referred to the court under par. (cm) is without counsel, the court shall refer the matter to the state public defender for determination of indigency and appointment of counsel under s. 977.05(4)(jm).



Wis. Stat. Ann. § 950.04(1v)(g) affords victims the right to have reasonable attempts made to notify the victims of hearings or court proceedings, as provided by this statute; Wis. Stat. Ann. § 950.04(1v)(vg) affords victims the right to have the department of corrections make a reasonable attempt to notify them of a revocation of parole or a release to extended supervision; and Wis. Stat. Ann. § 950.04(1v)(nt) affords victims the right to attend a hearing on a petition for modification of a bifurcated sentence and provide a statement concerning modification of the bifurcated sentence. These statutory provisions are included above.



Wis. Stat. Ann. § 302.113(9g)(a) and (g)(1) define 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 outlining what constitutes "a reasonable attempt to provide to the victim" with notice.



A promising practice is for victims to be provided with notification cards in an easily understood format. Consideration should be given to providing this information in the primary language of the victim, as well as in a form accessible to those with vision impairment.

<p> A promising practice is for county clerks to have a policy and procedure to ensure that victims are provided with notification cards in a timely manner.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Department of Correction’s Duty to Notify Victims of Release of or Extended Supervision for Felony Offenders Serving Life Sentences.</p> <p>(5)(a) An inmate subject to this section who is seeking release to extended supervision shall file a petition for release to extended supervision with the court that sentenced him or her. An inmate may not file an initial petition under this paragraph earlier than 90 days before his or her extended supervision eligibility date. If an inmate files an initial petition for release to extended supervision at any time earlier than 90 days before his or her extended supervision eligibility date, the court shall deny the petition without a hearing.</p> <p>(am) The inmate shall serve a copy of a petition for release to extended supervision on the district attorney’s office that prosecuted him or her, and the district attorney shall file a written response to the petition within 45 days after the date he or she receives the petition.</p> <p>(b) After reviewing a petition for release to extended supervision and the district attorney’s response to the petition, the court shall decide whether to hold a hearing on the petition or, if it does not hold a hearing, whether to grant or deny the petition without a hearing. If the court decides to hold a hearing under this paragraph, the hearing shall be before the court without a jury. The office of the district attorney that prosecuted the inmate shall represent the state at the hearing.</p> <p>(c) Before deciding whether to grant or deny the inmate’s petition, the court shall allow a victim, as defined in s. 950.02(4), to make a statement or submit a statement concerning the release of the inmate to extended supervision. The court may allow any other person to</p>	<p>Wis. Stat. Ann. § 302.114(5)–(6).</p>

make or submit a statement under this paragraph. Any statement under this paragraph must be relevant to the release of the inmate to extended supervision.

(cm) A court may not grant an inmate's petition for release to extended supervision unless the inmate proves, by clear and convincing evidence, that he or she is not a danger to the public.

(d) If the court grants the inmate's petition for release to extended supervision, the court may impose conditions on the term of extended supervision.

(e) If the court denies the inmate's petition for release to extended supervision, the court shall specify the date on which the inmate may file a subsequent petition under this section. An inmate may file a subsequent petition at any time on or after the date specified by the court, but if the inmate files a subsequent petition for release to extended supervision before the date specified by the court, the court may deny the petition without a hearing.

(f) An inmate may appeal an order denying his or her petition for release to extended supervision. In an appeal under this paragraph, the appellate court may reverse an order denying a petition for release to extended supervision only if it determines that the sentencing court erroneously exercised its discretion in denying the petition for release to extended supervision.

(6)(a) In this subsection, "victim" has the meaning given in s. 950.02(4).

(b) If an inmate petitions a court under sub. (5) or (9)(bm) for release to extended supervision under this section, the clerk of the circuit court in which the petition is filed shall send a copy of the petition and, if a hearing is scheduled, a notice of hearing to the victim of the crime committed by the inmate, if the victim has submitted a card under par. (e) requesting notification.

(c) The notice under par. (b) shall inform the victim that he or she may appear at the hearing under sub. (5) or (9)(bm), if a hearing is scheduled, and shall inform the victim of the manner in which he or she may provide written statements concerning the inmate's petition for release to extended supervision.

(d) The clerk of the circuit court shall make a reasonable attempt to send a copy of the inmate's petition to the last-known address of the victim within 7 days of the date on which the petition is filed and shall make a reasonable attempt to send the notice of hearing, if a hearing is scheduled, to the last-known address of the persons victim, postmarked at least 10 days before the date of the hearing.

(e) The director of state courts shall design and prepare cards for a victim to send to the clerk of the circuit court in which the inmate is convicted and sentenced. The cards shall have space for a victim to provide his or her name and address, the name of the applicable inmate and any other information the director of state courts determines is necessary. The director of state courts shall provide the cards, without charge, to clerks of circuit court. Clerks of circuit court shall provide the cards, without charge, to victims. Victims may send completed cards to the clerk of the circuit court in which the inmate was convicted and sentenced. All court records or portions of records that relate to mailing addresses of victims are not subject to inspection or copying under s. 19.35 (1).



Wis. Stat. Ann. § 950.02(4) defines the term “victim” for the purposes of this statutory provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”



Wis. Stat. Ann. § 950.04(1v)(g) affords victims the right to have reasonable attempts made to notify the victims of hearings or court proceedings, as provided by this statute. Wis. Stat. Ann. § 950.04(1v)(vg) affords victims the right to have the department of corrections make a reasonable attempt to notify them of a revocation of parole or a release to extended supervision. Wis. Stat. Ann. § 950.04(1v)(vm) affords victims the right to have the appropriate clerk of court send the victim a copy of an inmate’s petition for extended supervision and notification of the hearing on that petition under § 302.114(6). These statutory provisions are included above.



A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt to provide to the victim” with notice.



A promising practice is for victims to be provided with notification cards in an easily understood format. Consideration should be given to providing this information in the primary language of the victim, as well as in a form accessible to those with vision impairment.

<p> A promising practice is for county clerks to have a policy and procedure to ensure that victims are provided with notification cards in a timely manner.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Department of Correction’s Duty to Notify Victims of Leave for Qualified Inmates.</p> <p>(b) Before an inmate who is imprisoned for a violation of s. 940.01, 940.03, 940.05, 940.225(1) or (2), 948.02(1) or (2), 948.025, 948.06, 948.07, or 948.085 is released on leave under this section, the department shall make a reasonable attempt to notify all of the following persons, if they can be found, in accordance with par. (c) and after receiving a completed card under par. (d):</p> <ol style="list-style-type: none"> 1. The victim of the crime committed by the inmate or, if the victim died as a result of the crime, an adult member of the victim’s family or, if the victim is younger than 18 years old, the victim’s parent or legal guardian. 2. Any witness who testified against the inmate in any court proceeding involving the offense. <p>(c) The department shall make a reasonable effort to send the notice, postmarked at least 7 days before an inmate is released on leave, to the last-known address of the persons under par. (b).</p> <p>(d) The department shall design and prepare cards for any person specified in par. (b) to send to the department. The cards shall have space for any such person to provide his or her name and address, the name of the applicable inmate and any other information the department determines is necessary. The department shall provide the cards, without charge, to district</p>	<p>Wis. Stat. Ann. § 303.068(4m).</p>

attorneys. District attorneys shall provide the cards, without charge, to persons specified in par. (b). These persons may send completed cards to the department. All department records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35(1).



Wis. Stat. Ann. § 303.068(4m)(a) defines the term used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”



Wis. Stat. Ann. § 950.04(1v)(w) affords victims the right to have the department of corrections make a reasonable attempt to notify victims under § 303.068(4m) regarding leave granted to qualified inmates. This statutory provision is included above.



A promising practice is to have a policy and procedure outlining what constitutes “a reasonable effort” to provide victims with notice.



A promising practice is for victims to be provided with notification cards in an easily understood format. Consideration should be given to providing this information in the primary language of the victim, as well as in a form accessible to those with vision impairment.



A promising practice is for district attorneys to have a policy and procedure to ensure that victims are provided with notification cards in a timely manner.



A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with

<p>relevant agencies.</p>	
<p>Parole Commission’s Duties to Victims Regarding Notice, Written Statement and Presence</p> <p>(c) If an inmate applies for parole under this subsection, the parole commission shall make a reasonable attempt to notify the following, if they can be found, in accordance with par. (d):</p> <ol style="list-style-type: none"> 1. The office of the court that participated in the trial or that accepted the inmate’s plea of guilty or no contest, whichever is applicable. 2. The office of the district attorney that participated in the trial of the inmate or that prepared for proceedings under s. 971.08 regarding the inmate’s plea of guilty or no contest, whichever is applicable. 3. The victim of the crime committed by the inmate or, if the victim died as a result of the crime, an adult member of the victim’s family or, if the victim is younger than 18 years old, the victim’s parent or legal guardian, upon submission of a card under par. (f) requesting notification. <p>(d)1. The notice under par. (c) shall inform the offices and persons under par. (c)1. to 3. of the manner in which they may provide written statements under this subsection, shall inform persons under par. (c)3. of the manner in which they may attend interviews or hearings and make statements under par. (eg) and shall inform persons under par. (c)3. who are victims, or family members of victims, of crimes specified in s. 940.01, 940.03, 940.05, 940.225(1), (2), or (3), 948.02(1) or (2), 948.025, 948.06, or 948.07 of the manner in which they may have direct input in the parole decision-making process under par. (em). The parole commission shall provide notice under this paragraph for an inmate’s first application for parole and, upon request, for subsequent applications for parole.2. The notice shall be by 1st class mail to an office’s or a person’s last-known address sent at least 3 weeks before the interview or hearing upon the application for parole.</p> <ol style="list-style-type: none"> 3. The notice shall state the name of the inmate, the date and term of the sentence and the date when the written statement must be received in order to be considered. If the notice is to an office under par. (c)1 or 2, the notice shall also state the crime of which the inmate was 	<p>Wis. Stat. Ann. § 304.06(1)(c)–(f).</p>

convicted.

3g. If applicable, the notice shall state the date of the interview or hearing that the person may attend.

3m. If applicable, the notice shall state the manner in which the person may have direct input in the decision-making process for parole.

4. If the notice is for a first application for parole, the notice shall inform the offices and persons under par. (c)1. to 3. that notification of subsequent applications for parole will be provided only upon request.

(e) The parole commission shall permit any office or person under par. (c)1. to 3. to provide written statements. The parole commission shall give consideration to any written statements provided by any such office or person and received on or before the date specified in the notice. This paragraph does not limit the authority of the parole commission to consider other statements or information that it receives in a timely fashion.

(eg) The parole commission shall permit any person under par. (c)3. to attend any interview or hearing on the application for parole of an applicable inmate and to make a statement at that interview or hearing.

(em) The parole commission shall promulgate rules that provide a procedure to allow any person who is a victim, or a family member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225(1), (2), or (3), 948.02(1) or (2), 948.025, 948.06, or 948.07 to have direct input in the decision-making process for parole.

(f) The parole commission shall design and prepare cards for persons specified in par. (c)3. to send to the commission. The cards shall have space for these persons to provide their names and addresses, the name of the applicable prisoner and any other information the parole commission determines is necessary. The parole commission shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in par. (c)3. These persons may send completed cards to the parole commission. All commission records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35(1). Before any written statement of a person specified in par. (c)3. is made a part of the documentary

record considered in connection with a parole hearing under this section, the parole commission shall obliterate from the statement all references to the mailing addresses of the person. A person specified in par. (c)3. who attends an interview or hearing under par. (eg) may not be required to disclose at the interview or hearing his or her mailing addresses.



Wis. Stat. Ann. § 304.06(1)(a) defines the terms used in this statutory provision. Those definitions are included below in the section “State Victims’ Rights: Select Definitions.”



Wis. Stat. Ann. § 950.04(1v)(f) affords victims the right to have the parole commission make a reasonable attempt to notify victims of applications for parole under § 304.06(1). This statutory provision is included above.



Wis. Stat. Ann. § 950.04(1v)(m) affords victims the right to provide statements concerning parole under § 304.06(1)(e). Wis. Stat. Ann. § 950.04(1v)(n) affords victims the right to have direct input in the parole decision-making process under § 304.06(1)(em). Wis. Stat. Ann. § 950.04(1v)(nn) affords victims the right to attend parole interviews or hearings and make statements under § 304.06(1)(eg). These statutory provisions are included above.



A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt” to provide victims with notice.



A promising practice is for victims to be provided with notification cards in an easily understood format. Consideration should be given to providing this information in the primary language of the victim, as well as in a form accessible to those with vision impairment.



A promising practice is for district attorneys to have a policy and procedure to ensure that victims are provided with notification cards in a timely manner.

<p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Victims’ Right to Privacy in Appellate Filings; Court Rule Regarding Identification of Victims and Others in Criminal Appellate Briefing, Petitions for Review and Responses for Petitions for Review.</p> <p>(1) Declaration of Policy. By enacting this rule, the supreme court intends to better protect the privacy and dignity interests of crime victims. It requires appellate briefs, petitions for review, and responses to petitions for review to identify crime victims by use of identifiers, as specified in sub. (4), unless there is good cause for noncompliance. The rule protects the identity of victims in appellate briefs, petitions for review, and responses to petitions for review that the courts make available online.</p> <p>(2) Applicability. This section applies to appeals in the following types of cases:</p> <ul style="list-style-type: none"> (a) Section 971.17 proceedings. (b) Criminal cases. (c) Chapter 938 cases. (d) Chapter 980 cases. (e) Certiorari review of decisions or orders entered by the department of corrections, the department of health services, or the parole commission in a proceeding or case specified in pars. (a) to (d). (f) Collateral challenges to judgments or orders entered in a proceeding or case specified in pars. (a) to (e). <p>...</p> <p>(4) Briefs, Petitions for Review, and Responses to Petitions for Review. In an appeal specified under sub. (2), the briefs of the parties, petitions for review, and responses to</p>	<p>Wis. Stat. Ann. § 809.86(1), (4), (5)..</p>

<p>petitions for review shall not, without good cause, identify a victim by any part of his or her name but may identify a victim by one or more initials or other appropriate pseudonym or designation.</p> <p>(5) Protective Order. For good cause, the court may make any order necessary to protect the identity of a victim or other person, or to excuse compliance with this section.</p> <p> Wis. Stat. Ann. § 809.86(3) 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>Domestic Abuse Restraining Orders and Injunctions.</p> <p>(2) Commencement of action and response.</p> <p>(a) No action under this section may be commenced by complaint and summons. An action under this section may be commenced only by a petition described under sub. (5)(a). The action commences with service of the petition upon the respondent if a copy of the petition is filed before service or promptly after service. If the judge or a circuit court commissioner extends the time for a hearing under sub. (3)(c) and the petitioner files an affidavit with the court stating that personal service by the sheriff or a private server under s. 801.11(1)(a) or (b) was unsuccessful because the respondent is avoiding service by concealment or otherwise, the judge or circuit court commissioner shall inform the petitioner that he or she may serve the respondent by publication of a summary of the petition as a class 1 notice, under ch. 985, and by mailing or sending a facsimile if the respondent’s post-office address or facsimile number is known or can with due diligence be ascertained. The mailing or sending of a facsimile may be omitted if the post-office address or facsimile number cannot be ascertained with due diligence. A summary of the petition published as a class 1 notice shall include the name of the respondent and of the petitioner, notice of the temporary restraining order, and notice of the date, time, and place of the hearing regarding the injunction. The court shall inform the petitioner in writing that, if the petitioner chooses to have the documents in the action served by the sheriff, the petitioner should contact the sheriff to verify the proof of service of the petition.</p>	<p>Wis. Stat. Ann. § 813.12(2)–(9).</p>

(b) A petition may be filed in conjunction with an action affecting the family commenced under ch. 767, but commencement of an action affecting the family or any other action is not necessary for the filing of a petition or the issuance of a temporary restraining order or an injunction. A judge or circuit court commissioner may not make findings or issue orders under s. 767.225 or 767.41 while granting relief requested only under this section. Section 813.06 does not apply to an action under this section. The respondent may respond to the petition either in writing before or at the hearing on the issuance of the injunction or orally at that hearing.

(c) When the respondent is served with the petition under this subsection, the person who serves the respondent shall also provide the respondent all of the following information:

1. Notice of the requirements and penalties under s. 941.29 and notice of any similar applicable federal laws and penalties.
2. An explanation of s. 813.1285, including the procedures for surrendering a firearm and the circumstances listed under s. 813.1285 under which a respondent must appear at a hearing to surrender firearms.
3. A firearm possession form developed under s. 813.1285(5)(a), with instructions for completing and returning the form.

(2m) Two-part procedure. Procedure for an action under this section is in 2 parts. First, if the petitioner requests a temporary restraining order the court shall issue or refuse to issue that order. Second, the court shall hold a hearing under sub. (4) on whether to issue an injunction, which is the final relief. If the court issues a temporary restraining order, the order shall set forth the date for the hearing on an injunction. If the court does not issue a temporary restraining order, the date for the hearing shall be set upon motion by either party.

(3) Temporary restraining order.

(a) A judge or circuit court commissioner shall issue a temporary restraining order ordering the respondent to refrain from committing acts of domestic abuse against the petitioner, to avoid the petitioner's residence, except as provided in par. (am), or any other location temporarily occupied by the petitioner or both, or to avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the petitioner unless the petitioner consents in writing, to refrain from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet, to allow the petitioner or a family member or

household member of the petitioner acting on his or her behalf to retrieve a household pet, or any combination of these remedies requested in the petition, or any other appropriate remedy not inconsistent with the remedies requested in the petition, if all of the following occur:

1. The petitioner submits to the judge or circuit court commissioner a petition alleging the elements set forth under sub. (5)(a).

2. The judge or circuit court commissioner finds reasonable grounds to believe that the respondent has engaged in, or based on prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner.

(aj) In determining whether to issue a temporary restraining order, the judge or circuit court commissioner shall consider the potential danger posed to the petitioner and the pattern of abusive conduct of the respondent but may not base his or her decision solely on the length of time since the last domestic abuse or the length of time since the relationship ended. The judge or circuit court commissioner may grant only the remedies requested or approved by the petitioner. The judge or circuit court commissioner may not dismiss or deny granting a temporary restraining order because of the existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

(am) If the petitioner and the respondent are not married, the respondent owns the premises where the petitioner resides and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under par. (a) the judge or circuit court commissioner may order the respondent to avoid the premises for a reasonable time until the petitioner relocates and shall order the respondent to avoid the new residence for the duration of the order.

(b) Notice need not be given to the respondent before issuing a temporary restraining order under this subsection. A temporary restraining order may be entered only against the respondent named in the petition.

(c) The temporary restraining order is in effect until a hearing is held on issuance of an injunction under sub. (4), except that the court may extend the temporary restraining order under s. 813.1285. The temporary restraining order is not voided if the respondent is admitted into a dwelling that the order directs him or her to avoid. A judge or circuit court commissioner shall hold a hearing on issuance of an injunction within 14 days after the temporary restraining order is issued, unless the time is extended upon the written consent

of the parties, extended under s. 801.58(2m), or extended once for 14 days upon a finding that the respondent has not been served with a copy of the temporary restraining order although the petitioner has exercised due diligence. A judge or court commissioner may not extend the temporary restraining order in lieu of ruling on the issuance of an injunction.

(d) The judge or circuit court commissioner shall advise the petitioner of the right to serve the respondent the petition by published notice if with due diligence the respondent cannot be served as provided under s. 801.11(1)(a) or (b). The clerk of circuit court shall assist the petitioner with the preparation of the notice and filing of the affidavit of printing.

(4) Injunction. (a) A judge or circuit court commissioner may grant an injunction ordering the respondent to refrain from committing acts of domestic abuse against the petitioner, to avoid the petitioner's residence, except as provided in par. (am), or any other location temporarily occupied by the petitioner or both, or to avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the petitioner unless the petitioner consents to that contact in writing, to refrain from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet, to allow the petitioner or a family member or household member of the petitioner acting on his or her behalf to retrieve a household pet, or any combination of these remedies requested in the petition, or any other appropriate remedy not inconsistent with the remedies requested in the petition, if all of the following occur:

1. The petitioner files a petition alleging the elements set forth under sub. (5)(a).
2. The petitioner serves upon the respondent a copy or summary of the petition and notice of the time for hearing on the issuance of the injunction, or the respondent serves upon the petitioner notice of the time for hearing on the issuance of the injunction.
3. After hearing, the judge or circuit court commissioner finds reasonable grounds to believe that the respondent has engaged in, or based upon prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner.

(aj) In determining whether to issue an injunction, the judge or circuit court commissioner shall consider the potential danger posed to the petitioner and the pattern of abusive conduct of the respondent but may not base his or her decision solely on the length of time since the last domestic abuse or the length of time since the relationship ended. The judge or circuit court commissioner may grant only the remedies requested by the petitioner. The judge or circuit court commissioner may not dismiss or deny granting an injunction because of the

existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

(am) If the petitioner and the respondent are not married, the respondent owns the premises where the petitioner resides and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under par. (a) the judge or circuit court commissioner may order the respondent to avoid the premises for a reasonable time until the petitioner relocates and shall order the respondent to avoid the new residence for the duration of the order.

(b) The judge or circuit court commissioner may enter an injunction only against the respondent named in the petition. No injunction may be issued under this subsection under the same case number against the person petitioning for the injunction. The judge or circuit court commissioner may not modify an order restraining the respondent based solely on the request of the respondent.

(c)1. An injunction under this subsection is effective according to its terms, for the period of time that the petitioner requests, but not more than 4 years, except as provided in par. (d). An injunction granted under this subsection is not voided if the petitioner allows or initiates contact with the respondent or by the admittance of the respondent into a dwelling that the injunction directs him or her to avoid.

2. When an injunction expires, the court shall extend the injunction if the petitioner states that an extension is necessary to protect him or her. This extension shall remain in effect until 4 years after the date the court first entered the injunction, except as provided in par.

(d).

4. Notice need not be given to the respondent before extending an injunction under subd. 2. The clerk of courts shall notify the respondent after the court extends an injunction under subd. 2.

(d)1. A judge or circuit court commissioner may, upon issuing an injunction or granting an extension of an injunction issued under this subsection, order that the injunction is in effect for not more than 10 years, if the court finds, by a preponderance of the evidence stated on the record, that any of the following is true:

a. There is a substantial risk that the respondent may commit first-degree intentional homicide under s. 940.01, or 2nd-degree intentional homicide under s. 940.05, against the petitioner.

b. There is a substantial risk that the respondent may commit sexual assault under s.

940.225(1), (2), or (3), or under s. 948.02(1) or (2), against the petitioner.

2. This paragraph does not prohibit a petitioner from requesting a new temporary restraining order under sub. (3) or injunction under this subsection before or at the expiration of a previously entered order or injunction.

(4g) Order; telephone services. (a) Unless a condition described in par. (b) exists, a judge or circuit court commissioner who issues an injunction under sub. (4) may, upon request by the petitioner, order a wireless telephone service provider to transfer to the petitioner the right to continue to use a telephone number or numbers indicated by the petitioner and the financial responsibility associated with the number or numbers, as set forth in par. (c). The petitioner may request transfer of each telephone number he or she, or a minor child in his or her custody, uses. The order shall contain all of the following:

1. The name and billing telephone number of the account holder.
2. Each telephone number that will be transferred.
3. A statement that the provider transfers to the petitioner all financial responsibility for and right to the use of any telephone number transferred under this subsection. In this subdivision, "financial responsibility" includes monthly service costs and costs associated with any mobile device associated with the number.

(b) A wireless telephone service provider shall terminate the respondent's use of, and shall transfer to the petitioner use of, the telephone number or numbers indicated in par. (a) unless it notifies the petitioner, within 72 hours after it receives the order, that one of the following applies:

1. The account holder named in the order has terminated the account.
2. A difference in network technology would prevent or impair the functionality of a device on a network if the transfer occurs.
3. The transfer would cause a geographic or other limitation on network or service provision to the petitioner.
4. Another technological or operational issue would prevent or impair the use of the telephone number if the transfer occurs.

(c) The petitioner assumes all financial responsibility for and right to the use of any telephone number transferred under this subsection. In this paragraph, "financial responsibility" includes monthly service costs and costs associated with any mobile device associated with the number.

(d) A wireless telephone service provider may apply to the petitioner its routine and customary requirements for establishing an account or transferring a number, including requiring the petitioner to provide proof of identification, financial information, and customer preferences.

(e) A wireless telephone service provider is immune from civil liability for its actions taken in compliance with a court order issued under this subsection.

(4m) Notice of restriction on firearm possession; surrender of firearms. (a) An injunction issued under sub. (4) shall do all of the following:

1. Inform the respondent named in the petition of the requirements and penalties under s. 941.29 and any similar applicable federal laws and penalties.

2. Except as provided in par. (ag), require in writing the respondent to surrender any firearms that he or she owns or has in his or her possession to the sheriff of the county in which the action under this section was commenced, to the sheriff of the county in which the respondent resides or to another person designated by the respondent and approved by the judge or circuit court commissioner, in accordance with s. 813.1285.

(ag) If the respondent is a peace officer, an injunction issued under sub. (4) may not require the respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty.

(5) Petition. (a) The petition shall allege facts sufficient to show the following:

1. The name of the petitioner and that the petitioner is the alleged victim.

2. The name of the respondent and that the respondent is an adult.

3. That the respondent engaged in, or based on prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner.

4. If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, any of the following that are known by the petitioner:

a. The name or type of the court proceeding.

b. The date of the court proceeding.

c. The types of provisions regarding contact between the petitioner and respondent.

(am) The petition shall request that the respondent be restrained from committing acts of domestic abuse against the petitioner, that the respondent be ordered to avoid the petitioner's

residence, or that the respondent be ordered to avoid contacting the petitioner or causing any person other than the respondent's attorney to contact the petitioner unless the petitioner consents to the contact in writing, or any combination of these requests.

(b) The clerk of circuit court shall provide the simplified forms provided under s. 49.165(3)(c) to help a person file a petition.

(c) A judge or circuit court commissioner shall accept any legible petition for a temporary restraining order or injunction.

(d) A petition may be prepared and filed by the person who alleges that he or she has been the subject of domestic abuse or by the guardian of an individual adjudicated incompetent in this state who has been the subject of domestic abuse.

(5g) Stipulation. If the parties enter into a stipulation to convert a petition under this section to a petition for a temporary restraining order or injunction under s. 813.125, the court may not approve that stipulation unless all of the following occur:

(a) Either or both parties submit an oral request on the record for the conversion explaining why the conversion of the petition is requested.

(b) The court addresses the petitioner personally and determines that the petitioner entered into the stipulation voluntarily and with an understanding of the differences between the orders issued under subs. (4) and (4m) and s. 813.125(4) and (4m).

(5m) Confidentiality of victim's address. The petition under sub. (5) and the court order under sub. (3), (4), or (4g) may not disclose the address of the alleged victim. The petitioner shall provide the clerk of circuit court with the petitioner's address when he or she files a petition under this section. The clerk shall maintain the petitioner's address in a confidential manner.

(6) Enforcement assistance. (a) If an order is issued under this section, upon request by the petitioner the court or circuit court commissioner shall order the sheriff to accompany the petitioner and assist in placing him or her in physical possession of his or her residence.

(ag)1. The clerk of the circuit court shall forward to the sheriff any temporary restraining order, injunction, or other document or notice that must be served on the respondent under this section and the sheriff shall assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner

may, at his or her expense, elect to use a private server to effect service.

2. If the petitioner elects service by the sheriff, the clerk of circuit court shall provide a form supplied by the sheriff to the petitioner that allows the petitioner to provide information about the respondent that may be useful to the sheriff in effecting service. The clerk shall forward the completed form to the sheriff. The clerk shall maintain the form provided under this subdivision in a confidential manner.

(am)1. If an injunction is issued or extended under sub. (4) or if a tribal injunction is filed under s. 813.128(3g), the clerk of the circuit court shall notify the department of justice of the injunction and shall provide the department of justice with information concerning the period during which the injunction is in effect and information necessary to identify the respondent for purposes of responding to a request under s. 165.63 or for purposes of a firearms restrictions record search under s. 175.35(2g)(c) or a background check under s. 175.60(9g)(a).

2. Except as provided in subd. 3., the department of justice may disclose information that it receives under subd. 1. only to respond to a request under s. 165.63 or as part of a firearms restrictions record search under s. 175.35(2g)(c) or a background check under s. 175.60(9g)(a).

3. The department of justice shall disclose any information that it receives under subd. 1. to a law enforcement agency when the information is needed for law enforcement purposes.

(b) Within one business day after an order or injunction is issued, extended, modified or vacated under this section, the clerk of the circuit court shall send a copy of the order or injunction, or of the order extending, modifying or vacating an order or injunction, to the sheriff or to any other local law enforcement agency which is the central repository for orders and injunctions and which has jurisdiction over the petitioner's premises.

(c) No later than 24 hours after receiving the information under par. (b), the sheriff or other appropriate local law enforcement agency under par. (b) shall enter the information concerning an order or injunction issued, extended, modified or vacated under this section into the transaction information for management of enforcement system. The sheriff or other appropriate local law enforcement agency shall also make available to other law enforcement agencies, through a verification system, information on the existence and status of any order or injunction issued under this section. The information need not be maintained after the order or injunction is no longer in effect.

(d) The issuance of an order under s. 813.12(3) or (4) is enforceable despite the existence of

any other criminal or civil order restricting or prohibiting contact.

(e) A law enforcement agency and a clerk of circuit court may use electronic transmission to facilitate the exchange of documents under this section. Any person who uses electronic transmission shall ensure that the electronic transmission does not allow unauthorized disclosure of the documents transmitted.

(7) Arrest.

(am) A law enforcement officer shall arrest and take a person into custody if all of the following occur:

1. A petitioner under sub. (5) presents the law enforcement officer with a copy of a court order issued under sub. (3) or (4), or the law enforcement officer determines that such an order exists through communication with appropriate authorities.
2. The law enforcement officer has probable cause to believe that the person has violated the court order issued under sub. (3) or (4) by any circuit court in this state.

(c) A respondent who does not appear at a hearing at which the court orders an injunction under sub. (4) but who has been served with a copy of the petition and notice of the time for hearing under sub. (4)(a)2. has constructive knowledge of the existence of the injunction and shall be arrested for violation of the injunction regardless of whether he or she has been served with a copy of the injunction.

(7m) Transcripts. The judge or circuit court commissioner shall record the temporary restraining order or injunction hearing upon the request of the petitioner.

(8) Penalty. (a) Whoever knowingly violates a temporary restraining order or injunction issued under sub. (3) or (4) shall be fined not more than \$10,000 or imprisoned for not more than 9 months or both. (b) The petitioner does not violate the court order under sub. (3) or (4) if he or she admits into his or her residence a person ordered under sub. (3) or (4) to avoid that residence.

(9) Notice of full faith and credit. An order or injunction issued under sub. (3) or (4) shall include a statement that the order or injunction may be accorded full faith and credit in every civil or criminal court of the United States, civil or criminal courts of any other state and Indian tribal courts to the extent that such courts may have personal jurisdiction over

<p>nontribal members.</p> <p> Wis. Stat. Ann. § 813.12(1) defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Child Abuse Restraining Orders and Injunctions.</p> <p>(2) Commencement of action and response.</p> <p>(a) No action under this section may be commenced by complaint and summons. An action under this section may be commenced only by a petition described under sub. (6)(a). The action commences with service of the petition upon the respondent if a copy of the petition is filed before service or promptly after service. Notwithstanding s. 803.01(3)(a), the child victim or a parent, stepparent or legal guardian of the child victim may be a petitioner under this section. Section 813.06 does not apply to an action under this section. The respondent may respond to the petition either in writing before or at the hearing on the issuance of the injunction or orally at that hearing. The court shall inform the petitioner in writing that, if the petitioner chooses to have the documents in the action served by the sheriff, the petitioner should contact the sheriff to verify the proof of service of the petition.</p> <p>(b) When the respondent is served with the petition under this subsection, the person who serves the respondent shall also provide the respondent with all of the following information:</p> <ol style="list-style-type: none"> 1. Notice of the requirements and penalties under s. 941.29 and notice of any similar applicable federal laws and penalties. 2. An explanation of s. 813.1285, including the procedures for surrendering a firearm and the circumstances listed under s. 813.1285 under which a respondent must appear at a hearing to surrender firearms. 3. A firearm possession form developed under s. 813.1285(5)(a), with instructions for completing and returning the form. <p>(3) General procedure.</p> <p>(a) Procedure for an action under this section is in 2 parts. First, if the petitioner requests a temporary restraining order, the court or circuit court commissioner shall issue or refuse to issue that order. Second, the court shall hold a hearing under sub. (5) on whether to issue an</p>	<p>Wis. Stat. Ann. § 813.122(2)–(12).</p>

injunction, which is the final relief. If the court or circuit court commissioner issues a temporary restraining order, the order shall set forth the date for the hearing on an injunction. If the court or circuit court commissioner does not issue a temporary restraining order, the date for the hearing shall be set upon motion by either party.

(b) 1m. Except as provided in subd. 2m., the court or circuit court commissioner, on its or his or her own motion or the motion of any party, may order that a guardian ad litem be appointed for the child victim in accordance with s. 48.235.

2m. The court or circuit court commissioner shall appoint a guardian ad litem if the respondent is a parent of the child.

(bp) All persons, other than the parties, their attorneys, witnesses, child victim advocates, service representatives, as defined in s. 895.45(1)(c), court personnel and any guardian ad litem, shall be excluded from any hearing under this section.

(bq) Any record of an action under this section is confidential and is available only to the parties, their attorneys, any guardian ad litem, court personnel, the child victim, law enforcement, and any applicable court upon appeal, except that a record may be available to any other person as required by law, as necessary to effect service, or upon a court order for good cause shown.

(c) An action under this section may pertain to more than one child victim.

(4) Temporary restraining order.

(a) A judge or circuit court commissioner shall issue a temporary restraining order ordering the respondent to avoid the child victim's residence or any premises temporarily occupied by the child victim or both, to avoid contacting or causing any person other than a party's attorney to contact the child victim unless the petitioner consents in writing and the judge or circuit court commissioner agrees that the contact is in the best interests of the child victim, to refrain from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet, and to allow the petitioner or a family member or household member of the petitioner acting on his or her behalf to retrieve a household pet, if all of the following occur:

1. The petitioner submits to the judge or circuit court commissioner a petition alleging the elements set forth under sub. (6)(a).

2. The judge or circuit court commissioner finds reasonable grounds to believe that the respondent has engaged in, or based on prior conduct of the child victim and the respondent may engage in, abuse of the child victim.

(b) Notice need not be given to the respondent before issuing a temporary restraining order under this subsection. A temporary restraining order may be entered only against the respondent named in the petition.

(c) The temporary restraining order is in effect until a hearing is held on issuance of an injunction under sub. (5), except that the court may extend the temporary restraining order under s. 813.1285. A judge shall hold a hearing on issuance of an injunction within 14 days after the temporary restraining order is issued, unless the time is extended upon the written consent of the parties, extended under s. 801.58(2m), or extended once for 14 days upon a finding that the respondent has not been served with a copy of the temporary restraining order although the petitioner has exercised due diligence. A judge or court commissioner may not extend the temporary restraining order in lieu of ruling on the issuance of an injunction.

(5) Injunction.

(a) A judge may grant an injunction ordering the respondent to avoid the child victim's residence or any premises temporarily occupied by the child victim or both, to avoid contacting or causing any person other than a party's attorney to contact the child victim unless the petitioner consents to that contact in writing and the judge agrees that the contact is in the best interests of the child victim, to refrain from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet, and to allow the petitioner or a family member or household member of the petitioner acting on his or her behalf to retrieve a household pet, if all of the following occur:

1. The petitioner files a petition alleging the elements set forth under sub. (6)(a).
2. The petitioner serves upon the respondent a copy of the petition and notice of the time for hearing on the issuance of the injunction, or the respondent serves upon the petitioner notice of the time for hearing on the issuance of the injunction.
3. After hearing, the judge finds reasonable grounds to believe that the respondent has engaged in, or based upon prior conduct of the child victim and the respondent may engage in, abuse of the child victim.

(b) If the respondent is the parent of the child victim, the judge shall modify the order under par. (a) to provide the parent reasonable visitation rights, unless the judge finds that visitation would endanger the child's physical, mental or emotional health. The judge may provide that any authorized visitation be supervised.

<p>(c) The injunction may be entered only against the respondent named in the petition.</p> <p>(d)1. An injunction under this subsection is effective according to its terms, but, except as provided in par. (dm), for not more than 2 years or until the child victim attains 18 years of age, whichever occurs first.</p> <p>2. When an injunction expires, the court shall extend the injunction if the petitioner states that an extension is necessary to protect the child victim. This extension shall remain in effect until 6 months after the date the court first entered the injunction or until the child attains 18 years of age, whichever occurs first, except as provided in par. (dm).</p> <p>3. If the petitioner states that an extension is necessary to protect the child victim, the court may extend the injunction for not more than 2 years or until the child attains 18 years of age, whichever occurs first, except as provided in par. (dm).</p> <p>4. Notice need not be given to the respondent before extending an injunction under subd. 2. or 3. The clerk of courts shall notify the respondent after the court extends an injunction under subd. 2. or 3.</p> <p>(dm)1. A judge may, upon issuing an injunction or granting an extension of an injunction issued under this subsection, order that the injunction is in effect for not more than 5 years, if the court finds, by a preponderance of the evidence stated on the record, that any of the following is true:</p> <p>a. There is a substantial risk that the respondent may commit first-degree intentional homicide under s. 940.01, or 2nd-degree intentional homicide under s. 940.05, against the child victim.</p> <p>b. There is a substantial risk that the respondent may commit sexual assault under s. 940.225(1), (2), or (3), or under s. 948.02(1) or (2), against the child victim.</p> <p>2. This paragraph does not prohibit a petitioner from requesting a new temporary restraining order under sub. (4) or injunction under this subsection before or at the expiration of a previously entered order or injunction.</p> <p>(e) An injunction under this section may direct the payment of child support using a method of calculation authorized under s. 767.511.</p> <p>(5c) Order; telephone services.</p> <p>(a) Unless a condition described in par. (b) exists, a judge or circuit court commissioner who issues an injunction under sub. (5) may, upon request by the petitioner, order a wireless telephone service provider to transfer to the petitioner the right to continue to use a telephone</p>	
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<p>number or numbers indicated by the petitioner and the financial responsibility associated with the number or numbers, as set forth in par. (c). The petitioner may request transfer of each telephone number he or she, or a minor child in his or her custody, uses. The order shall contain all of the following:</p> <ol style="list-style-type: none"> 1. The name and billing telephone number of the account holder. 2. Each telephone number that will be transferred. 3. A statement that the provider transfers to the petitioner all financial responsibility for and right to the use of any telephone number transferred under this subsection. In this subdivision, "financial responsibility" includes monthly service costs and costs associated with any mobile device associated with the number. <p>(b) A wireless telephone service provider shall terminate the respondent's use of, and shall transfer to the petitioner use of, the telephone number or numbers indicated in par. (a) unless it notifies the petitioner, within 72 hours after it receives the order, that one of the following applies:</p> <ol style="list-style-type: none"> 1. The account holder named in the order has terminated the account. 2. A difference in network technology would prevent or impair the functionality of a device on a network if the transfer occurs. 3. The transfer would cause a geographic or other limitation on network or service provision to the petitioner. 4. Another technological or operational issue would prevent or impair the use of the telephone number if the transfer occurs. <p>(c) The petitioner assumes all financial responsibility for and right to the use of any telephone number transferred under this subsection. In this paragraph, "financial responsibility" includes monthly service costs and costs associated with any mobile device associated with the number.</p> <p>(d) A wireless telephone service provider may apply to the petitioner its routine and customary requirements for establishing an account or transferring a number, including requiring the petitioner to provide proof of identification, financial information, and customer preferences.</p> <p>(e) A wireless telephone service provider is immune from civil liability for its actions taken in compliance with a court order issued under this subsection.</p> <p>(5g) Confidentiality of addresses. The petition under sub. (6) and the court order under sub.</p>	
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(4) , (5), or (5c) may not disclose the address of the petitioner or of the alleged child victim. The petitioner shall provide the clerk of circuit court with the address of the petitioner and of the alleged child victim when he or she files a petition under this section. The clerk shall maintain the addresses in a confidential manner.

(5m) Notice of restriction on firearm possession; surrender of firearms. (a) An injunction issued under sub. (5) shall do all of the following:

1. Inform the respondent named in the petition of the requirements and penalties under s. 941.29 and any similar applicable federal laws and penalties.
2. Except as provided in par. (ag), require in writing the respondent to surrender any firearms that he or she owns or has in his or her possession to the sheriff of the county in which the action under this section was commenced, to the sheriff of the county in which the respondent resides or to another person designated by the respondent and approved by the judge or circuit court commissioner, in accordance with s. 813.1285.

(ag) If the respondent is a peace officer, an injunction issued under sub. (5) may not require the respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty.

(6) Petition.

(a) The petition shall allege facts sufficient to show the following:

1. The name of the petitioner and the child victim.
2. The name of the respondent.
3. That the respondent engaged in, or based on prior conduct of the respondent and the child victim may engage in, abuse of the child victim.
4. If the payment of child support is requested, that the payment of child support is reasonable or necessary based on criteria provided under s. 767.511.
5. If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, any of the following that are known by the petitioner:
 - a. The name or type of the court proceeding.
 - b. The date of the court proceeding.
 - c. The types of provisions regarding contact between the petitioner and respondent.

(b) Upon request, the clerk of circuit court shall provide, without cost, the simplified forms

obtained under s. 48.47(7)(d) to a petitioner.

(7) Contact. Any order under this section directing a person to avoid contact with a child victim prohibits the person from knowingly touching, meeting, communicating or being in visual or audio contact with the child victim, except as provided in any modifications of the order under sub. (5)(b).

(9) Enforcement assistance.

(a)1. The clerk of the circuit court shall forward to the sheriff any temporary restraining order, injunction, or other document or notice that must be served on the respondent under this section and the sheriff shall assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.

2. If the petitioner elects service by the sheriff, the clerk of circuit court shall provide a form supplied by the sheriff to the petitioner that allows the petitioner to provide information about the respondent that may be useful to the sheriff in effecting service. The clerk shall forward the completed form to the sheriff. The clerk shall maintain the form provided under this subdivision in a confidential manner.

(am)1. If an injunction is issued or extended under sub. (5), the clerk of the circuit court shall notify the department of justice of the injunction and shall provide the department of justice with information concerning the period during which the injunction is in effect and information necessary to identify the respondent for purposes of responding to a request under s. 165.63 or for purposes of a firearms restrictions record search under s. 175.35(2g)(c) or a background check under s. 175.60(9g)(a).

2. Except as provided in subd. 3., the department of justice may disclose information that it receives under subd. 1. only to respond to a request under s. 165.63 or as part of a firearms restrictions record search under s. 175.35(2g)(c) or a background check under s. 175.60(9g)(a).

3. The department of justice shall disclose any information that it receives under subd. 1. to a law enforcement agency when the information is needed for law enforcement purposes.

(b) Within one business day after an order or injunction is issued, extended, modified or vacated under this section, the clerk of the circuit court shall send a copy of the order or injunction, or of the order extending, modifying or vacating an order or injunction, to the

sheriff or to any other local law enforcement agency which is the central repository for orders and injunctions and which has jurisdiction over the child victim's premises.

(c) The sheriff or other appropriate local law enforcement agency under par. (b) shall enter the information received under par. (b) concerning an order or injunction issued, extended, modified or vacated under this section into the transaction information for management of enforcement system no later than 24 hours after receiving the information and shall make available to other law enforcement agencies, through a verification system, information on the existence and status of any order or injunction issued under this section. The information need not be maintained after the order or injunction is no longer in effect.

(d) A law enforcement agency and a clerk of circuit court may use electronic transmission to facilitate the exchange of documents under this section. Any person who uses electronic transmission shall ensure that the electronic transmission does not allow unauthorized disclosure of the documents transmitted.

(10) Arrest.

(am) A law enforcement officer shall arrest and take a person into custody if all of the following occur:

1. A petitioner under sub. (6)(a) presents the law enforcement officer with a copy of an order issued under sub. (4) or (5), or the law enforcement officer determines that such an order exists through communication with appropriate authorities.

2. The law enforcement officer has probable cause to believe that the person has violated the order issued under sub. (4) or (5).

(c) A respondent who does not appear at a hearing at which the court orders an injunction under sub. (5) but who has been served with a copy of the petition and notice of the time for hearing under sub. (5)(a)2. has constructive knowledge of the existence of the injunction and shall be arrested for violation of the injunction regardless of whether he or she has been served with a copy of the injunction.

(11) Penalty. Whoever knowingly violates a temporary restraining order or injunction issued under this section shall be fined not more than \$1,000 or imprisoned for not more than 9 months or both.

(12) Notice of full faith and credit. An order or injunction issued under sub. (4) or (5) shall

<p>include a statement that the order or injunction may be accorded full faith and credit in every civil or criminal court of the United States, civil or criminal courts of any other state and Indian tribal courts to the extent that such courts may have personal jurisdiction over nontribal members.</p> <p> Wis. Stat. Ann. § 813.122(1) defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Restraining Orders and Injunctions for Individuals at Risk.</p> <p>(2) Commencement of action and response.</p> <p>(a) No action under this section may be commenced by complaint and summons. An action under this section may be commenced only by a petition described under sub. (6). The action commences with service of the petition upon the respondent if a copy of the petition is filed before service or promptly after service. The individual at risk, any person acting on behalf of an individual at risk, an elder-adult-at-risk agency, or an adult-at-risk agency may be a petitioner under this section. If the petition is filed by a person other than the individual at risk, the petitioner shall serve a copy of the petition on the individual at risk. Section 813.06 does not apply to an action under this section. The respondent may respond to the petition either in writing before or at the hearing on the issuance of the injunction or orally at that hearing. The court shall inform the petitioner in writing that, if the petitioner chooses to have the documents in the action served by the sheriff, the petitioner should contact the sheriff to verify the proof of service of the petition.</p> <p>(b) The court may go forward with a petition filed under sub. (6) if the individual at risk has been adjudicated incompetent under ch. 880, 2003 stats., or ch. 54, notwithstanding an objection by an individual at risk who is the subject of the petition, or an objection by the guardian of the individual at risk.</p> <p>(3) General procedure.</p> <p>(a) Procedure for an action under this section is in 2 parts. First, if the petitioner requests a temporary restraining order, the court or circuit court commissioner shall issue or refuse to issue that order. Second, the court shall hold a hearing under sub. (5) on whether to issue an</p>	<p>Wis. Stat. Ann. § 813.123(2)–(12).</p>

injunction, which is the final relief. If the court or circuit court commissioner issues a temporary restraining order, the order shall set forth the date for the hearing on an injunction. If the court or circuit court commissioner does not issue a temporary restraining order, the date for the hearing shall be set upon motion by either party.

(b) The court or circuit court commissioner, on its or his or her own motion or the motion of any party, shall order that a guardian ad litem be appointed for the individual at risk, if the petition under sub. (6) was filed by a person other than the individual at risk, and may order that a guardian ad litem be appointed in other instances when justice so requires.

(c) The court or circuit court commissioner, on its or his or her own motion or the motion of any party, may order any of the following:

1. That all persons, other than the individual at risk, the parties, their attorneys, a representative of the adult-at-risk agency or elder-adult-at-risk agency, witnesses, court personnel, and any guardian or any guardian ad litem, be excluded from any hearing under this section.

2. That access to any record of an action under this section be available only to the individual at risk, the parties, their attorneys, any guardian or any guardian ad litem, the adult-at-risk agency or elder-adult-at-risk agency, court personnel, and, upon appeal, any applicable court.

(4) Temporary restraining order.

(a) Unless the individual at risk, guardian, or guardian ad litem consents in writing and the judge or circuit court commissioner agrees that the contact is in the best interests of the individual at risk, a judge or circuit court commissioner shall issue a temporary restraining order, as specified in par. (ar), if all of the following occur:

1. The petitioner submits to the judge or circuit court commissioner a petition alleging the elements set forth under sub. (6).

2. The judge or circuit court commissioner finds reasonable grounds to believe any of the following:

a. That the respondent has interfered with or, based on prior conduct of the respondent, may interfere with an investigation of the individual at risk, the delivery of protective services to or a protective placement of the individual at risk under ch. 55, or the delivery of services to an elder adult at risk under s. 46.90(5m); and that the interference complained of, if continued, would make it difficult to determine whether abuse, financial exploitation,

neglect, or self-neglect has occurred, is occurring, or may recur.

b. That the respondent engaged in or threatened to engage in the abuse, financial exploitation, neglect, harassment, or stalking of an individual at risk or the mistreatment of an animal.

(ar) A temporary restraining order issued under par. (a) shall order the respondent to do one or more of the following:

1. Avoid interference with an investigation of the elder adult at risk under s. 46.90 or the adult at risk under s. 55.043, the delivery of protective services to or a protective placement of the individual at risk under ch. 55, or the delivery of services to the elder adult at risk under s. 46.90(5m).
2. Cease engaging in or threatening to engage in the abuse, financial exploitation, neglect, harassment, or stalking of an individual at risk or mistreatment of an animal.

2m. Refrain from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet and allow the individual at risk or a guardian, guardian ad litem, family member, or household member of the individual at risk acting on his or her behalf to retrieve a household pet.

3. Avoid the residence of the individual at risk or any other location temporarily occupied by the individual at risk, or both.
4. Avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the individual at risk.
5. Engage in any other appropriate remedy not inconsistent with the remedies requested in the petition.

(b) Notice need not be given to the respondent before issuing a temporary restraining order under this subsection. A temporary restraining order may be entered only against the respondent named in the petition.

(c) The temporary restraining order is in effect until a hearing is held on issuance of an injunction under sub. (5), except that the court may extend the temporary restraining order under s. 813.1285. A judge shall hold a hearing on issuance of an injunction within 14 days after the temporary restraining order is issued, unless the time is extended upon the written consent of the parties, extended under s. 801.58(2m), or extended once for 14 days upon a finding that the respondent has not been served with a copy of the temporary restraining order although the petitioner has exercised due diligence. A judge or court commissioner may not extend the temporary restraining order in lieu of ruling on the issuance of an injunction.

(5) Injunction. (a) Unless the individual at risk, guardian, or guardian ad litem consents in writing to a contact and the judge agrees that the contact is in the best interests of the individual at risk, a judge may grant an injunction ordering the respondent as specified in par. (ar), if all of the following occur:

1. The petitioner files a petition alleging the elements set forth under sub. (6).
2. The petitioner serves upon the respondent a copy of the petition and notice of the time for hearing on the issuance of the injunction, or the respondent serves upon the petitioner notice of the time for hearing on the issuance of the injunction. The notice served under this subdivision shall inform the respondent that, if the judge or circuit court commissioner issues an injunction, the judge or circuit court commissioner may also order the respondent not to possess a firearm while the injunction is in effect. The person who serves the respondent with the notice shall also provide the respondent with all of the following information:
 - a. Notice of the requirements and penalties under s. 941.29 and notice of any similar applicable federal laws and penalties.
 - b. An explanation of s. 813.1285, including the procedures for surrendering a firearm and the circumstances listed under s. 813.1285 under which a respondent must appear at a hearing to surrender firearms.
 - c. A firearm possession form developed under s. 813.1285(5)(a), with instructions for completing and returning the form.
3. After hearing, the judge finds reasonable cause to believe any of the following:
 - a. That the respondent has interfered with or, based upon prior conduct of the respondent, may interfere with an investigation of the elder adult at risk under s. 46.90 or the adult at risk under s. 55.043 and that the interference complained of, if continued, would make it difficult to determine if abuse, financial exploitation, neglect, harassment, or stalking of an individual at risk or mistreatment of an animal is occurring or may recur.
 - b. That the respondent has interfered with the delivery of protective services to or a protective placement of the individual at risk under ch. 55 after the offer of protective services or protective placement has been made and the individual at risk or his or her guardian, if any, has consented to receipt of the protective services or protective placement; or that the respondent has interfered with the delivery of services to an elder adult at risk under s. 46.90(5m).
 - c. That the respondent has engaged in or threatened to engage in the abuse, financial

exploitation, neglect, harassment, or stalking of an individual at risk or the mistreatment of an animal.

(ar) An injunction granted under par. (a) shall order the respondent to do one or more of the following:

1. Avoid interference with an investigation of the elder adult at risk under s. 46.90 or the adult at risk under s. 55.043, the delivery of protective services to or a protective placement of the individual at risk under ch. 55, or the delivery of services to the elder adult at risk under s. 46.90(5m).

2. Cease engaging in or threatening to engage in the abuse, financial exploitation, neglect, harassment, or stalking of an individual at risk or the mistreatment of an animal.

2m. Refrain from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet and allow the individual at risk or a guardian, guardian ad litem, family member, or household member of the individual at risk acting on his or her behalf to retrieve a household pet.

3. Avoid the residence of the individual at risk or any other location temporarily occupied by the individual at risk, or both.

4. Avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the individual at risk.

5. Any other appropriate remedy not inconsistent with the remedies requested in the petition.

(b) The injunction may be entered only against the respondent named in the petition.

(c)1. An injunction under this subsection is effective according to its terms, but for not more than 4 years, except as provided in par. (d).

2. When an injunction expires, the court shall extend the injunction if the petitioner states that an extension is necessary to protect the individual at risk. This extension shall remain in effect until 6 months after the date on which the court first entered the injunction, except as provided in par. (d).

3. If the petitioner states that an extension is necessary to protect the individual at risk, the court may extend the injunction for not more than 2 years, except as provided in par. (d).

4. Notice need not be given to the respondent before extending an injunction under subd. 2. or 3. The clerk of courts shall notify the respondent after the court extends an injunction under subd. 2. or 3.

(d)1. A judge may, upon issuing an injunction or granting an extension of an injunction issued under this subsection, order that the injunction is in effect for not more than 10 years,

if the court finds, by a preponderance of the evidence stated on the record, that any of the following is true:

a. There is a substantial risk that the respondent may commit first-degree intentional homicide under s. 940.01, or 2nd-degree intentional homicide under s. 940.05, against the person at risk.

b. There is a substantial risk that the respondent may commit sexual assault under s. 940.225(1), (2), or (3), or under s. 948.02(1) or (2), against the person at risk.

2. This paragraph does not prohibit a petitioner from requesting a new temporary restraining order under sub. (4) or injunction under this subsection before or at the expiration of a previously entered order or injunction.

(5c) Order; telephone services. (a) Unless a condition described in par. (b) exists, a judge or circuit court commissioner who issues an injunction under sub. (5) may, upon request by the petitioner, order a wireless telephone service provider to transfer to the petitioner the right to continue to use a telephone number or numbers indicated by the petitioner and the financial responsibility associated with the number or numbers, as set forth in par. (c). The petitioner may request transfer of each telephone number he or she, or a minor child in his or her custody, uses. The order shall contain all of the following:

1. The name and billing telephone number of the account holder.

2. Each telephone number that will be transferred.

3. A statement that the provider transfers to the petitioner all financial responsibility for and right to the use of any telephone number transferred under this subsection. In this subdivision, "financial responsibility" includes monthly service costs and costs associated with any mobile device associated with the number.

(b) A wireless telephone service provider shall terminate the respondent's use of, and shall transfer to the petitioner use of, the telephone number or numbers indicated in par. (a) unless it notifies the petitioner, within 72 hours after it receives the order, that one of the following applies:

1. The account holder named in the order has terminated the account.

2. A difference in network technology would prevent or impair the functionality of a device on a network if the transfer occurs.

3. The transfer would cause a geographic or other limitation on network or service provision to the petitioner.

4. Another technological or operational issue would prevent or impair the use of the telephone number if the transfer occurs.

(c) The petitioner assumes all financial responsibility for and right to the use of any telephone number transferred under this subsection. In this paragraph, "financial responsibility" includes monthly service costs and costs associated with any mobile device associated with the number.

(d) A wireless telephone service provider may apply to the petitioner its routine and customary requirements for establishing an account or transferring a number, including requiring the petitioner to provide proof of identification, financial information, and customer preferences.

(e) A wireless telephone service provider is immune from civil liability for its actions taken in compliance with a court order issued under this subsection.

(5g) Confidentiality of addresses. The petition under sub. (6) and the court order under sub. (4) , (5), or (5c) may not disclose the address of the petitioner or of the individual at risk. The petitioner shall provide the clerk of circuit court with the address of the petitioner and of the individual at risk when he or she files a petition under this section. The clerk shall maintain the addresses in a confidential manner.

(5m) Restriction on firearm possession; surrender of firearms.

(a) If a judge or circuit court commissioner issues an injunction under sub. (5) and the judge or circuit court commissioner determines, based on clear and convincing evidence presented at the hearing on the issuance of the injunction, that the respondent may use a firearm to cause physical harm to another or to endanger public safety, the judge or circuit court commissioner may prohibit the respondent from possessing a firearm.

(b) An order prohibiting a respondent from possessing a firearm issued under par. (a) remains in effect until the expiration of the injunction issued under sub. (5).

(c) An order issued under par. (a) that prohibits a respondent from possessing a firearm shall do all of the following:

1. Inform the respondent named in the petition of the requirements and penalties under s. 941.29 and any similar applicable federal laws and penalties.
2. Except as provided in par. (d), require in writing the respondent to surrender any firearms that he or she owns or has in his or her possession to the sheriff of the county in which the

action under this section was commenced, to the sheriff of the county in which the respondent resides, or to another person designated by the respondent and approved by the judge or circuit court commissioner, in accordance with s. 813.1285.

(d) If the respondent is a peace officer, an order issued under par. (a) may not require the respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty.

(6) Petition. The petition shall allege facts sufficient to show the following:

(a) The name of the petitioner and the individual at risk.

(b) The name of the respondent and that the respondent is an adult.

(c) That the respondent interfered with or, based on prior conduct of the respondent, may interfere with an investigation of the elder adult at risk under s. 46.90(5), an investigation of the adult at risk under s. 55.043, the delivery of protective services to or a protective placement of the individual at risk under ch. 55, or the delivery of services to the elder adult at risk under s. 46.90(5m); or that the respondent engaged in, or threatened to engage in, the abuse, financial exploitation, neglect, stalking, or harassment of an individual at risk or mistreatment of an animal.

(d) If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, any of the following that are known by the petitioner:

1. The name or type of the court proceeding.

2. The date of the court proceeding.

3. The type of provisions regarding contact between the petitioner and respondent.

(7) Interference order. Any order under sub. (4)(ar)1. or 2. or (5)(ar)1. or 2. also shall prohibit the respondent from intentionally preventing a representative or employee of the county protective services agency from meeting, communicating, or being in visual or audio contact with the adult at risk, except as provided in the order.

(8) Enforcement assistance.

(a)1. The clerk of the circuit court shall forward to the sheriff any temporary restraining order, injunction, or other document or notice that must be served on the respondent under this section and the sheriff shall assist the petitioner in executing or serving the temporary

restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.

2. If the petitioner elects service by the sheriff, the clerk of circuit court shall provide a form supplied by the sheriff to the petitioner that allows the petitioner to provide information about the respondent that may be useful to the sheriff in effecting service. The clerk shall forward the completed form to the sheriff. The clerk shall maintain the form provided under this subdivision in a confidential manner.

(b) Within one business day after an order or injunction is issued, extended, modified or vacated under this section, the clerk of circuit court shall send a copy of the order or injunction, or of the order extending, modifying or vacating an order or injunction, to the sheriff or to any other local law enforcement agency which is the central repository for orders and injunctions and which has jurisdiction over the vulnerable adult's premises.

(c) The sheriff or other appropriate local law enforcement agency under par. (b) shall enter the information received under par. (b) concerning an order or injunction issued, extended, modified or vacated under this section into the transaction information for management of enforcement system no later than 24 hours after receiving the information and shall make available to other law enforcement agencies, through a verification system, information on the existence and status of any order or injunction issued under this section. The information need not be maintained after the order or injunction is no longer in effect.

(d) A law enforcement agency and a clerk of circuit court may use electronic transmission to facilitate the exchange of documents under this section. Any person who uses electronic transmission shall ensure that the electronic transmission does not allow unauthorized disclosure of the documents transmitted.

(8m) Notice to department of justice.

(a) If an order prohibiting a respondent from possessing a firearm is issued under sub. (5m), the clerk of the circuit court shall notify the department of justice of the existence of the order prohibiting a respondent from possessing a firearm and shall provide the department of justice with information concerning the period during which the order is in effect and information necessary to identify the respondent for purposes of responding to a request under s. 165.63 or for purposes of a firearms restrictions record search under s. 175.35(2g)(c) or a background check under s. 175.60(9g)(a).

(b) Except as provided in par. (c), the department of justice may disclose information that it

receives under par. (a) only to respond to a request under s. 165.63 or as part of a firearms restrictions record search under s. 175.35(2g)(c) or a background check under s. 175.60(9g)(a).

(c) The department of justice shall disclose any information that it receives under par. (a) to a law enforcement agency when the information is needed for law enforcement purposes.

(9) Arrest.

(am) A law enforcement officer shall arrest and take a person into custody if all of the following occur:

1. A petitioner presents the law enforcement officer with a copy of an order issued under sub. (4) or an injunction issued under sub. (5), or the law enforcement officer determines that such an order exists through communication with appropriate authorities.
2. The law enforcement officer has probable cause to believe that the person has violated the order issued under sub. (4) or the injunction issued under sub. (5).

(c) A respondent who does not appear at a hearing at which the court orders an injunction under sub. (5) but who has been served with a copy of the petition and notice of the time for hearing under sub. (5)(a)2. that includes the information required under sub. (5)(a)2. a., b., and c. has constructive knowledge of the existence of the injunction and may be arrested for violation of the injunction regardless of whether he or she has been served with a copy of the injunction.

(10) Penalty. Whoever intentionally violates a temporary restraining order or injunction issued under this section shall be fined not more than \$1,000 or imprisoned for not more than 9 months or both.

(12) Notice of full faith and credit. An order or injunction issued under sub. (4) or (5) shall include a statement that the order or injunction may be accorded full faith and credit in every civil or criminal court of the United States, civil or criminal courts of any other state and Indian tribal courts to the extent that such courts may have personal jurisdiction over nontribal members.



Wis. Stat. Ann. § 813.123(1) defines the terms used in this statutory provision. These

<p>definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Harassment Restraining Orders and Injunctions.</p> <p>(2) Commencement of action. (a) An action under this section may be commenced by filing a petition described under sub. (5)(a). No action under this section may be commenced by service of summons. The action commences with service of the petition upon the respondent if a copy of the petition is filed before service or promptly after service. If the judge or a circuit court commissioner extends the time for a hearing under sub. (3)(c) and the petitioner files an affidavit with the court stating that personal service by the sheriff or a private server under s. 801.11(1)(a) or (b) was unsuccessful because the respondent is avoiding service by concealment or otherwise, the judge or circuit court commissioner shall inform the petitioner that he or she may serve the respondent by publication of a summary of the petition as a class 1 notice, under ch. 985, and by mailing or sending a facsimile if the respondent’s post-office address or facsimile number is known or can with due diligence be ascertained. The mailing or sending of a facsimile may be omitted if the post-office address or facsimile number cannot be ascertained with due diligence. A summary of the petition published as a class 1 notice shall include the name of the respondent and of the petitioner, notice of the temporary restraining order, and notice of the date, time, and place of the hearing regarding the injunction. The court shall inform the petitioner in writing that, if the petitioner chooses to have the documents in the action served by the sheriff, the petitioner should contact the sheriff to verify the proof of service of the petition. Section 813.06 does not apply to an action under this section.</p> <p>(b) Notwithstanding s. 803.01(3)(a), a child, as defined in s. 813.122(1)(b), or a parent, stepparent, or legal guardian of a child may be a petitioner under this section.</p> <p>(2g) Appointment of guardian ad litem. The court or circuit court commissioner, on its or his or her own motion, or on the motion of any party, may appoint a guardian ad litem for a child who is a party under this section when justice so requires.</p> <p>(2m) Two-part procedure. If the fee under s. 814.61(1) for filing a petition under this section is waived under s. 814.61(1)(e), the procedure for an action under this section is in 2 parts.</p>	<p>Wis. Stat. Ann. § 813.125(2)–(8).</p>

First, if the petitioner requests a temporary restraining order the court shall issue or refuse to issue that order. Second, the court shall hold a hearing under sub. (4) on whether to issue an injunction, which is the final relief. If the court issues a temporary restraining order, the order shall set forth the date for the hearing on an injunction. If the court does not issue a temporary restraining order, the date for the hearing shall be set upon motion by either party.

(3) Temporary restraining order. (a) A judge or circuit court commissioner may issue a temporary restraining order ordering the respondent to avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the petitioner without the petitioner's written consent; to cease or avoid the harassment of another person; to avoid the petitioner's residence, except as provided in par. (am), or any premises temporarily occupied by the petitioner or both; to refrain from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet; to allow the petitioner or a family member or household member of the petitioner acting on his or her behalf to retrieve a household pet; or any combination of these remedies requested in the petition, if all of the following occur:

1. The petitioner files a petition alleging the elements set forth under sub. (5)(a).
2. The judge or circuit court commissioner finds reasonable grounds to believe that the respondent has engaged in harassment with intent to harass or intimidate the petitioner.

(am) If the petitioner and the respondent are not married, and the respondent owns the premises where the petitioner resides, and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under par. (a) the judge or circuit court commissioner may order the respondent to avoid the premises for a reasonable time until the petitioner relocates and shall order the respondent to avoid the new residence for the duration of the order.

(b) Notice need not be given to the respondent before issuing a temporary restraining order under this subsection. A temporary restraining order may be entered only against the respondent named in the petition.

(c) The temporary restraining order is in effect until a hearing is held on issuance of an injunction under sub. (4), except that the court may extend the temporary restraining order under s. 813.1285. A judge or circuit court commissioner shall hold a hearing on issuance of an injunction within 14 days after the temporary restraining order is issued, unless the time is extended upon the written consent of the parties, extended under s. 801.58(2m), or

extended once for 14 days upon a finding that the respondent has not been served with a copy of the temporary restraining order although the petitioner has exercised due diligence. A judge or court commissioner may not extend the temporary restraining order in lieu of ruling on the issuance of an injunction.

(d) The judge or circuit court commissioner shall advise the petitioner of the right to serve the respondent the petition by published notice if with due diligence the respondent cannot be served as provided under s. 801.11(1)(a) or (b). The clerk of circuit court shall assist the petitioner with the preparation of the notice and filing of the affidavit of printing.

(e) The judge or circuit court commissioner may not dismiss or deny granting a temporary restraining order because of the existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

(4) Injunction.

(a) A judge or circuit court commissioner may grant an injunction ordering the respondent to avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the petitioner without the petitioner's written consent; to cease or avoid the harassment of another person; to avoid the petitioner's residence, except as provided in par. (am), or any premises temporarily occupied by the petitioner or both; to refrain from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet; to allow the petitioner or a family member or household member of the petitioner acting on his or her behalf to retrieve a household pet; or any combination of these remedies requested in the petition, if all of the following occur:

1. The petitioner has filed a petition alleging the elements set forth under sub. (5)(a).
2. The petitioner serves upon the respondent a copy of a restraining order obtained under sub. (3) and notice of the time for the hearing on the issuance of the injunction under sub. (3)(c). The restraining order or notice of hearing served under this subdivision shall inform the respondent that, if the judge or circuit court commissioner issues an injunction, the judge or circuit court commissioner may also order the respondent not to possess a firearm while the injunction is in effect. The person who serves the respondent with the order or notice shall also provide the respondent with all of the following information:
 - a. Notice of the requirements and penalties under s. 941.29 and notice of any similar applicable federal laws and penalties.

b. An explanation of s. 813.1285, including the procedures for surrendering a firearm and the circumstances listed under s. 813.1285 under which a respondent must appear at a hearing to surrender firearms.

c. A firearm possession form developed under s. 813.1285(5)(a), with instructions for completing and returning the form.

3. After hearing, the judge or circuit court commissioner finds reasonable grounds to believe that the respondent has engaged in harassment with intent to harass or intimidate the petitioner.

(aj) The judge or circuit court commissioner may not dismiss or deny granting an injunction because of the existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

(am) If the petitioner and the respondent are not married, and the respondent owns the premises where the petitioner resides, and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under par. (a) the judge or circuit court commissioner may order the respondent to avoid the premises for a reasonable time until the petitioner relocates and shall order the respondent to avoid the new residence for the duration of the order.

(b) The injunction may be entered only against the respondent named in the petition.

(c) An injunction under this subsection is effective according to its terms, but for not more than 4 years, except as provided in par. (d).

(d)1. A judge or circuit court commissioner may, upon issuing an injunction or granting an extension of an injunction issued under this subsection, order that the injunction is in effect for not more than 10 years, if the court finds, by a preponderance of the evidence stated on the record, that any of the following is true:

a. There is a substantial risk that the respondent may commit first-degree intentional homicide under s. 940.01, or 2nd-degree intentional homicide under s. 940.05, against the petitioner.

b. There is a substantial risk that the respondent may commit sexual assault under s. 940.225(1), (2), or (3), or under s. 948.02(1) or (2), against the petitioner.

2. This paragraph does not prohibit a petitioner from requesting a new temporary restraining order under sub. (3) or injunction under this subsection before or at the expiration of a previously entered order or injunction.

<p>(4g) Order; telephone services.</p> <p>(a) Unless a condition described in par. (b) exists, a judge or circuit court commissioner who issues an injunction under sub. (4) may, upon request by the petitioner, order a wireless telephone service provider to transfer to the petitioner the right to continue to use a telephone number or numbers indicated by the petitioner and the financial responsibility associated with the number or numbers, as set forth in par. (c). The petitioner may request transfer of each telephone number he or she, or a minor child in his or her custody, uses. The order shall contain all of the following:</p> <ol style="list-style-type: none"> 1. The name and billing telephone number of the account holder. 2. Each telephone number that will be transferred. 3. A statement that the provider transfers to the petitioner all financial responsibility for and right to the use of any telephone number transferred under this subsection. In this subdivision, “financial responsibility” includes monthly service costs and costs associated with any mobile device associated with the number. <p>(b) A wireless telephone service provider shall terminate the respondent’s use of, and shall transfer to the petitioner use of, the telephone number or numbers indicated in par. (a) unless it notifies the petitioner, within 72 hours after it receives the order, that one of the following applies:</p> <ol style="list-style-type: none"> 1. The account holder named in the order has terminated the account. 2. A difference in network technology would prevent or impair the functionality of a device on a network if the transfer occurs. 3. The transfer would cause a geographic or other limitation on network or service provision to the petitioner. 4. Another technological or operational issue would prevent or impair the use of the telephone number if the transfer occurs. <p>(c) The petitioner assumes all financial responsibility for and right to the use of any telephone number transferred under this subsection. In this paragraph, “financial responsibility” includes monthly service costs and costs associated with any mobile device associated with the number.</p> <p>(d) A wireless telephone service provider may apply to the petitioner its routine and customary requirements for establishing an account or transferring a number, including requiring the petitioner to provide proof of identification, financial information, and customer preferences.</p>	
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(e) A wireless telephone service provider is immune from civil liability for its actions taken in compliance with a court order issued under this subsection.

(4m) Restriction on firearm possession; surrender of firearms. (a) If a judge or circuit court commissioner issues an injunction under sub. (4) and the judge or circuit court commissioner determines, based on clear and convincing evidence presented at the hearing on the issuance of the injunction, that the respondent may use a firearm to cause physical harm to another or to endanger public safety, the judge or circuit court commissioner may prohibit the respondent from possessing a firearm.

(b) An order prohibiting a respondent from possessing a firearm issued under par. (a) remains in effect until the expiration of the injunction issued under sub. (4).

(c) An order issued under par. (a) that prohibits a respondent from possessing a firearm shall do all of the following:

1. Inform the respondent named in the petition of the requirements and penalties under s. 941.29 and any similar applicable federal laws and penalties.

2. Except as provided in par. (cg), require in writing the respondent to surrender any firearms that he or she owns or has in his or her possession to the sheriff of the county in which the action under this section was commenced, to the sheriff of the county in which the respondent resides or to another person designated by the respondent and approved by the judge or circuit court commissioner, in accordance with s. 813.1285.

(cg) If the respondent is a peace officer, an order issued under par. (a) may not require the respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty.

(5) Petition. (a) The petition shall allege facts sufficient to show the following:

1. The name of the person who is the alleged victim.

2. The name of the respondent.

3. That the respondent has engaged in harassment with intent to harass or intimidate the petitioner.

4. If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, any of the following that are known by the petitioner:

a. The name or type of the court proceeding.

<p>b. The date of the court proceeding.</p> <p>c. The type of provisions regarding contact between the petitioner and respondent.</p> <p>(am) The petition shall inform the respondent that, if the judge or circuit court commissioner issues an injunction, the judge or circuit court commissioner may also order the respondent not to possess a firearm while the injunction is in effect.</p> <p>(b) The clerk of circuit court shall provide simplified forms.</p> <p>(5g) Enforcement assistance. (a) Within one business day after an order or injunction is issued, extended, modified or vacated under this section, the clerk of the circuit court shall send a copy of the order or injunction, or of the order extending, modifying or vacating an order or injunction, to the sheriff or to any local law enforcement agency which is the central repository for orders and injunctions and which has jurisdiction over the petitioner's premises.</p> <p>(b) The sheriff or other appropriate local law enforcement agency under par. (a) shall enter the information received under par. (a) concerning an order or injunction issued, extended, modified or vacated under this section into the transaction information for management of enforcement system no later than 24 hours after receiving the information and shall make available to other law enforcement agencies, through a verification system, information on the existence and status of any order or injunction issued under this section. The information need not be maintained after the order or injunction is no longer in effect.</p> <p>(c) If an order is issued under this section, upon request by the petitioner the court or circuit court commissioner shall order the sheriff to accompany the petitioner and assist in placing him or her in physical possession of his or her residence.</p> <p>(cm)1. The clerk of the circuit court shall forward to the sheriff any temporary restraining order, injunction, or other document or notice that must be served on the respondent under this section and the sheriff shall assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.</p> <p>2. If the petitioner elects service by the sheriff, the clerk of circuit court shall provide a form supplied by the sheriff to the petitioner that allows the petitioner to provide information about the respondent that may be useful to the sheriff in effecting service. The clerk shall forward the completed form to the sheriff. The clerk shall maintain the form provided under this subdivision in a confidential manner. If a service fee is required by the sheriff under s.</p>	
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<p>814.70(1), the petitioner shall pay the fee directly to the sheriff.</p> <p>(d) The issuance of an order or injunction under sub. (3) or (4) is enforceable despite the existence of any other criminal or civil order restricting or prohibiting contact.</p> <p>(e) A law enforcement agency and a clerk of circuit court may use electronic transmission to facilitate the exchange of documents under this section. Any person who uses electronic transmission shall ensure that the electronic transmission does not allow unauthorized disclosure of the documents transmitted.</p> <p>(5m) Confidentiality of victim's address. The petition under sub. (5) and the court order under sub. (3), (4), or (4g) may not disclose the address of the alleged victim. The petitioner shall provide the clerk of circuit court with the petitioner's address when he or she files a petition under this section. The clerk shall maintain the petitioner's address in a confidential manner.</p> <p>(5r) Notice to department of justice. (a) If an order prohibiting a respondent from possessing a firearm is issued under sub. (4m), the clerk of the circuit court shall notify the department of justice of the existence of the order prohibiting a respondent from possessing a firearm and shall provide the department of justice with information concerning the period during which the order is in effect and information necessary to identify the respondent for purposes of responding to a request under s. 165.63 or for purposes of a firearms restrictions record search under s. 175.35(2g)(c) or a background check under s. 175.60(9g)(a).</p> <p>(b) Except as provided in par. (c), the department of justice may disclose information that it receives under par. (a) only to respond to a request under s. 165.63 or as part of a firearms restrictions record search under s. 175.35(2g)(c) or a background check under s. 175.60(9g)(a).</p> <p>(c) The department of justice shall disclose any information that it receives under par. (a) to a law enforcement agency when the information is needed for law enforcement purposes.</p> <p>(6) Arrest. (am) A law enforcement officer shall arrest and take a person into custody if all of the following occur:</p> <ol style="list-style-type: none"> 1. A person named in a petition under sub. (5) presents the law enforcement officer with a copy of a court order issued under sub. (3) or (4), or the law enforcement officer determines that such an order exists through communication with appropriate authorities. 	
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<p>2. The law enforcement officer has probable cause to believe that the person has violated the court order issued under sub. (3) or (4).</p> <p>(c) A respondent who does not appear at a hearing at which the court orders an injunction under sub. (4) but who has been served with a copy of the petition and notice of the time for hearing under sub. (4)(a)2. that includes the information required under sub. (4)(a)2. a., b., and c. has constructive knowledge of the existence of the injunction and shall be arrested for violation of the injunction regardless of whether he or she has been served with a copy of the injunction.</p> <p>(7) Penalty. Whoever violates a temporary restraining order or injunction issued under this section shall be fined not more than \$10,000 or imprisoned not more than 9 months or both.</p> <p>(8) Notice of full faith and credit. An order or injunction issued under sub. (3) or (4) shall include a statement that the order or injunction may be accorded full faith and credit in every civil or criminal court of the United States, civil or criminal courts of any other state and Indian tribal courts to the extent that such courts may have personal jurisdiction over nontribal members.</p> <p> Wis. Stat. Ann. § 813.125(1) defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Evidentiary Protections: Relevance of Information Concerning Crime Victims.</p> <p>In any action or proceeding under ch. 938 or chs. 967 to 979, evidence of the address of an alleged crime victim or any family member of an alleged crime victim or evidence of the name and address of any place of employment of an alleged crime victim or any family member of an alleged crime victim is relevant only if it meets the criteria under s. 904.01. District attorneys shall make appropriate objections if they believe that evidence of this information, which is being elicited by any party, is not relevant in the action or proceeding.</p> <p> Wis. Stat. Ann. § § 904.13(1) defines the terms used in this statutory provision. These</p>	<p>Wis. Stat. Ann. § 904.13(2).</p>

<p>definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p>	
<p>Domestic Violence or Sexual Assault Advocate-Victim Privilege.</p> <p>(2) General rule of privilege. A victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made or information obtained or disseminated among the victim, a victim advocate who is acting in the scope of his or her duties as a victim advocate, and persons who are participating in providing counseling, assistance, or support services under the direction of a victim advocate, if the communication was made or the information was obtained or disseminated for the purpose of providing counseling, assistance, or support services to the victim.</p> <p>(3) Who may claim the privilege. The privilege may be claimed by the victim, by the victim’s guardian or conservator, or by the victim’s personal representative if the victim is deceased. The victim advocate may claim the privilege on behalf of the victim. The victim advocate’s authority to do so is presumed in the absence of evidence to the contrary.</p> <p>(4) Exceptions. Subsection (2) does not apply to any report concerning child abuse that a victim advocate is required to make under s. 48.981 or concerning a threat of violence in or targeted at a school that a victim advocate is required to make under s. 175.32.</p> <p>(5) Relationship to s. 905.04. If a communication or information that is privileged under sub. (2) is also a communication or information that is privileged under s. 905.04(2), the provisions of s. 905.04 supersede this section with respect to that communication or information.</p> <p> Wis. Stat. Ann. § 905.045(1) defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 905.04 establishes the physician-patient, registered nurse-patient, chiropractor-patient, psychologist-patient, social worker-patient, marriage and family</p>	<p>Wis. Stat. Ann. § 905.045(2)–(5).</p>

<p>therapist-patient, podiatrist-patient and professional counselor-patient privilege.</p>	
<p>Depositions in Criminal Proceedings: When Victims' Deposition Testimony May Be Used in Lieu of Live Testimony; Depositions of Child Victims.</p> <p>(1) If it appears that a prospective witness may be unable to attend or prevented from attending a criminal trial or hearing, that the prospective witness's testimony is material and that it is necessary to take the prospective witness's deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment or information may upon motion and notice to the parties order that the prospective witness's testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place. If a witness is committed pursuant to s. 969.01(3), the court shall direct that the witness's deposition be taken upon notice to the parties. After the deposition has been subscribed, the court shall discharge the witness.</p> <p>(2) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, the court for cause shown may extend or shorten the time. Upon request of all defendants, unless good cause to the contrary is shown, the court may order that a deposition under this section be taken on the record by telephone or live audiovisual means.</p> <p>(3) A deposition shall be taken as provided in civil actions. At the request of a party, the court may direct that a deposition be taken on written interrogatories as provided in civil actions.</p> <p>(4)(a) If the state or a witness procures such an order, the notice shall inform the defendant that the defendant is required to personally attend at the taking of the deposition and that the defendant's failure so to do is a waiver of the defendant's right to face the witness whose deposition is to be taken. Failure to attend shall constitute a waiver unless the defendant was physically unable to attend.</p> <p>(b) If the defendant is not in custody, the defendant shall be paid witness fees for travel and</p>	<p>Wis. Stat. Ann. § 967.04.</p>

attendance. If the defendant is in custody, the defendant's custodian shall, at county expense, produce the defendant at the taking of the deposition. If the defendant is in custody, leave to take a deposition on motion of the state shall not be granted unless all states which the custodian will enter with the defendant in going to the place the deposition is to be taken have conferred upon the officers of this state the right to convey prisoners in and through them.

(5)(a) At the trial or upon any hearing, a part or all of a deposition, so far as it is otherwise admissible under the rules of evidence, may be used if any of the following conditions appears to have been met:

1. The witness is dead.
2. The witness is out of state, unless it appears that the absence of the witness was procured by the party offering the deposition.
3. The witness is unable to attend or testify because of sickness or infirmity.
4. The party offering the deposition has been unable to procure the attendance of the witness by subpoena.

(b) Any deposition may also be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness. If only part of a deposition is offered in evidence by a party, an adverse party may require the offering party to offer all of it which is relevant to the part offered and any party may offer other parts.

(6) Objections to receiving in evidence a deposition may be made as in civil actions.

(7)(a) In any criminal prosecution or any proceeding under ch. 48 or 938, any party may move the court to order that a deposition of a child who has been or is likely to be called as a witness be taken by audiovisual means. Upon notice and hearing, the court may issue an order for such a deposition if the trial or hearing in which the child may be called will commence:

1. Prior to the child's 12th birthday; or
2. Prior to the child's 16th birthday and the court finds that the interests of justice warrant that the child's testimony be prerecorded for use at the trial or hearing under par. (b).

(b) Among the factors which the court may consider in determining the interests of justice are any of the following:

1. The child's chronological age, level of development and capacity to comprehend the significance of the events and to verbalize about them.
 2. The child's general physical and mental health.
 3. Whether the events about which the child will testify constituted criminal or antisocial conduct against the child or a person with whom the child had a close emotional relationship and, if the conduct constituted a battery or a sexual assault, its duration and the extent of physical or emotional injury thereby caused.
 4. The child's custodial situation and the attitude of other household members to the events about which the child will testify and to the underlying proceeding.
 5. The child's familial or emotional relationship to those involved in the underlying proceeding.
 6. The child's behavior at or reaction to previous interviews concerning the events involved.
 7. Whether the child blames himself or herself for the events involved or has ever been told by any person not to disclose them; whether the child's prior reports to associates or authorities of the events have been disbelieved or not acted upon; and the child's subjective belief regarding what consequences to himself or herself, or persons with whom the child has a close emotional relationship, will ensue from providing testimony.
 8. Whether the child manifests or has manifested symptoms associated with posttraumatic stress disorder or other mental disorders, including, without limitation, reexperiencing the events, fear of their repetition, withdrawal, regression, guilt, anxiety, stress, nightmares, enuresis, lack of self-esteem, mood changes, compulsive behaviors, school problems, delinquent or antisocial behavior, phobias or changes in interpersonal relationships.
 9. The number of separate investigative, administrative and judicial proceedings at which the child's testimony may be required, the likely length of time until the last such proceeding, and the mental or emotional strain associated with keeping the child's recollection of the events witnessed fresh for that period of time.
 10. Whether the use of a recorded deposition would reduce the mental or emotional strain of testifying and whether the deposition could be used to reduce the number of times the child will be required to testify.
- (8)(a) If the court orders a deposition under sub. (7), the judge shall preside at the taking of the deposition and enforce compliance with the applicable provisions of ss. 885.44 to 885.47. Notwithstanding s. 885.44(5), counsel may make objections and the judge shall make rulings thereon as at trial. The clerk of court shall keep the certified original recording of a

deposition taken under sub. (7) in a secure place. No person may inspect or copy the deposition except by order of the court upon a showing that inspection or copying is required for editing under s. 885.44(12) or for the investigation, prosecution or defense of the action in which it was authorized or the provision of services to the child.

(b) If the court orders that a deposition be taken by audiovisual means under sub. (7), the court shall do all of the following:

1. Schedule the deposition on a date when the child's recollection is likely to be fresh and at a time of day when the child's energy and attention span are likely to be greatest.
2. Schedule the deposition in a room which provides adequate privacy, freedom from distractions, informality and comfort appropriate to the child's developmental level.
3. Order a recess whenever the energy, comfort or attention span of the child or other circumstances so warrant.
4. Determine that the child understands that it is wrong to tell a lie and will testify truthfully if the child's developmental level or verbal skills are such that administration of an oath or affirmation in the usual form would be inappropriate.
5. Before questioning by the parties begins, attempt to place the child at ease, explain to the child the purpose of the deposition and identify all persons attending.
6. Allow any questioner to have an adviser to assist the questioner, and upon permission of the judge, to conduct the questioning.
7. Supervise the spatial arrangements of the room and the location, movement, and deportment of all persons in attendance.
8. Allow the child to testify while sitting on the floor, on a platform, on an appropriately sized chair, or on the lap of a trusted adult, or while moving about the room within range of the visual and audio recording equipment.
9. Permit the defendant to be in a position from which the defendant can communicate privately and conveniently with counsel.
10. Upon request, make appropriate orders for the discovery and examination by the defendant of documents and other evidence in the possession of the state which are relevant to the issues to be covered at the deposition at a reasonable time prior thereto.
11. Bar or terminate the attendance of any person whose presence is not necessary to the taking of the deposition, or whose behavior is disruptive of the deposition or unduly stressful to the child. A reasonable number of persons deemed by the court supportive of the child or any defendant may be considered necessary to the taking of the deposition under this

paragraph.

(9) In any criminal prosecution or juvenile fact-finding hearing under s. 48.31 or 938.31, the court may admit into evidence a recorded deposition taken under subs. (7) and (8) without an additional hearing under s. 908.08. In any proceeding under s. 302.113(9)(am), 302.114(9)(am), 304.06(3), or 973.10(2), the hearing examiner may order that a deposition be taken by audiovisual means and preside at the taking of the deposition using the procedure provided in subs. (7) and (8) and may admit the recorded deposition into evidence without an additional hearing under s. 908.08.

(10) If a court or hearing examiner admits a recorded deposition into evidence under sub. (9), the child may not be called as a witness at the proceeding in which it was admitted unless the court or hearing examiner so orders upon a showing that additional testimony by the child is required in the interest of fairness for reasons neither known nor with reasonable diligence discoverable at the time of the deposition by the party seeking to call the child. The testimony of a child who is required to testify under this subsection may be taken in accordance with s. 972.11(2m), if applicable.



Wis. Stat. Ann. § 950.055(2)(b) encourages counties to provide assistance to the court regarding determinations concerning the taking of depositions of child victims. This statutory provision is included above.



Wis. Stat. Ann. § 950.04(1v)(er) affords victims the right to not be compelled to submit to a pretrial interview or deposition by a defendant or defense counsel, as provided under § 971.23(6c). Wis. Stat. Ann. § 971.23(6c) states that “[e]xcept as provided in s. 967.04, the defendant or his or her attorney may not compel a victim of a crime to submit to a pretrial interview or deposition.” Section 950.04(1v)(er) is included below.

<p>County’s Duty to Provide Separate Waiting Area for Victims to Use During Court Proceedings.</p> <p>If an area is available and use of the area is practical, a county shall provide a waiting area for a victim or witness to use during court proceedings that is separate from any area used by the defendant, the defendant’s relatives and defense witnesses. If a separate waiting area is not available or its use is not practical, a county shall provide other means to minimize the contact between the victim or witness and the defendant, the defendant’s relatives and defense witnesses during court proceedings.</p> <p> Wis. Stat. Ann. § 950.02(4) 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> Wis. Stat. Ann. § 950.04(1v)(e) affords victims the right to be provided with a waiting area under this statute. This statutory provision is included above.</p> <p> Although this law is directed at court proceedings, the same concept can and should be applied to law enforcement agencies when interacting with victims, victims’ families, victims’ witnesses and the defendant, the defendants’ families and defense witnesses.</p>	<p>Wis. Stat. Ann. § 967.10(2).</p>
<p>Domestic Abuse Victims’ Rights; Law Enforcement’s Duties Regarding Domestic Abuse Incidents; Arrests and Prosecutions.</p> <p>(2) Circumstances requiring arrest; presumption against certain arrests. (a) Notwithstanding s. 968.07(1) and except as provided in pars. (am) and (b), a law enforcement officer shall arrest and take a person into custody if: 1. The officer has reasonable grounds to believe that the person is committing or has committed domestic abuse and that the person’s actions constitute the commission of a</p>	<p>Wis. Stat. Ann. § 968.075(2)–(9).</p>

<p>crime; and</p> <p>2. Any of the following apply:</p> <p>a. The officer has a reasonable basis for believing that continued domestic abuse against the alleged victim is likely.</p> <p>b. There is evidence of physical injury to the alleged victim.</p> <p>c. The person is the predominant aggressor.</p> <p>(am) Notwithstanding s. 968.07(1), unless the person's arrest is required under s. 813.12(7), 813.122(10), 813.125(6), or 813.128(3g)(b) or sub. (5)(e), if a law enforcement officer identifies the predominant aggressor, it is generally not appropriate for a law enforcement officer to arrest anyone under par. (a) other than the predominant aggressor.</p> <p>(ar) In order to protect victims from continuing domestic abuse, a law enforcement officer shall consider all of the following in identifying the predominant aggressor:</p> <ol style="list-style-type: none"> 1. The history of domestic abuse between the parties, if it can be reasonably ascertained by the officer, and any information provided by witnesses regarding that history. 2. Statements made by witnesses. 3. The relative degree of injury inflicted on the parties. 4. The extent to which each person present appears to fear any party. 5. Whether any party is threatening or has threatened future harm against another party or another family or household member. 6. Whether either party acted in self-defense or in defense of any other person under the circumstances described in s. 939.48. <p>(b) If the officer's reasonable grounds for belief under par. (a)1 are based on a report of an alleged domestic abuse incident, the officer is required to make an arrest under par. (a) only if the report is received, within 28 days after the day the incident is alleged to have occurred, by the officer or the law enforcement agency that employs the officer.</p> <p>(2m) Immediate release prohibited. Unless s. 968.08 applies, a law enforcement officer may not release a person whose arrest was required under sub. (2) until the person posts bail under s. 969.07 or appears before a judge under s. 970.01(1).</p> <p>(3) Law enforcement policies.</p> <p>(a) Each law enforcement agency shall develop, adopt, and implement written policies regarding procedures for domestic abuse incidents. The policies shall include, but not be</p>	
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limited to, the following:

1. a. A statement emphasizing that in most circumstances, other than those under sub. (2), a law enforcement officer should arrest and take a person into custody if the officer has reasonable grounds to believe that the person is committing or has committed domestic abuse and that the person's actions constitute the commission of a crime.
 - b. A policy reflecting the requirements of subs. (2) and (2m).
 - c. A statement emphasizing that a law enforcement officer's decision as to whether or not to arrest under this section may not be based on the consent of the victim to any subsequent prosecution or on the relationship of the parties.
 - d. A statement emphasizing that a law enforcement officer's decision not to arrest under this section may not be based solely upon the absence of visible indications of injury or impairment.
 - e. A statement discouraging, but not prohibiting, the arrest of more than one party.
 - f. A statement emphasizing that a law enforcement officer, in determining whether to arrest a party, should consider whether he or she acted in self-defense or in defense of another person.
 2. A procedure for the written report and referral required under sub. (4).
 3. A procedure for notifying the alleged victim of the incident of the provisions in sub. (5), the procedure for releasing the arrested person and the likelihood and probable time of the arrested person's release.
 4. A procedure that requires a law enforcement officer, if the law enforcement officer has reasonable grounds to believe that a person is committing or has committed domestic abuse, to inform the victim of the availability of shelters and services in his or her community, including using lists available under ss. 49.165(4)(b) and 165.93(4)(b); to give notice of legal rights and remedies available to him or her; and to provide him or her with a statement that reads substantially as follows: "If you are the victim of domestic abuse, you may contact a domestic violence victim service provider to plan for your safety and take steps to protect yourself, including filing a petition under s. 813.12 of the Wisconsin statutes for a domestic abuse injunction or under s. 813.125 of the Wisconsin statutes for a harassment injunction."
- (am) The policies under par. (a) may provide that the law enforcement agency will share information with organizations that are eligible to receive grants under s. 49.165(2) or 165.93(2).
- (b) In the development of these policies, each law enforcement agency is encouraged to

consult with community organizations and other law enforcement agencies with expertise in the recognition and handling of domestic abuse incidents.

(c) This subsection does not limit the authority of a law enforcement agency to establish policies that require arrests under more circumstances than those set forth in sub. (2), but the policies may not conflict with the presumption under sub. (2)(am).

(4) Report required where no arrest. If a law enforcement officer does not make an arrest under this section when the officer has reasonable grounds to believe that a person is committing or has committed domestic abuse and that person's acts constitute the commission of a crime, the officer shall prepare a written report stating why the person was not arrested. The report shall be sent to the district attorney's office, in the county where the acts took place, immediately after investigation of the incident has been completed. The district attorney shall review the report to determine whether the person involved in the incident should be charged with the commission of a crime.

(5) Contact prohibition.

(a)1. Unless there is a waiver under par. (c), during the 72 hours immediately following an arrest for a domestic abuse incident, the arrested person shall avoid the residence of the alleged victim of the domestic abuse incident and, if applicable, any premises temporarily occupied by the alleged victim, and avoid contacting or causing any person, other than law enforcement officers and attorneys for the arrested person and alleged victim, to contact the alleged victim.

2. An arrested person who intentionally violates this paragraph may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

(b)1. Unless there is a waiver under par. (c), a law enforcement officer or other person who releases a person arrested for a domestic abuse incident from custody less than 72 hours after the arrest shall inform the arrested person orally and in writing of the requirements under par. (a), the consequences of violating the requirements and the provisions of s. 939.621. The arrested person shall sign an acknowledgment on the written notice that he or she has received notice of, and understands the requirements, the consequences of violating the requirements and the provisions of s. 939.621. If the arrested person refuses to sign the notice, he or she may not be released from custody.

2. If there is a waiver under par. (c) and the person is released under subd. 1, the law

enforcement officer or other person who releases the arrested person shall inform the arrested person orally and in writing of the waiver and the provisions of s. 939.621.

3. Failure to comply with the notice requirement under subd. 1 regarding a person who is lawfully released from custody bars a prosecution under par. (a), but does not affect the application of s. 939.621 in any criminal prosecution.

(c) At any time during the 72-hour period specified in par. (a), the alleged victim may sign a written waiver of the requirements in par. (a). The law enforcement agency shall have a waiver form available.

(d) The law enforcement agency responsible for the arrest of a person for a domestic abuse incident shall notify the alleged victim of the requirements under par. (a) and the possibility of, procedure for and effect of a waiver under par. (c).

(e) Notwithstanding s. 968.07(1), a law enforcement officer shall arrest and take a person into custody if the officer has reasonable grounds to believe that the person has violated par. (a).

(6) Conditional release. A person arrested and taken into custody for a domestic abuse incident is eligible for conditional release. Unless there is a waiver under sub. (5)(c), as part of the conditions of any such release that occurs during the 72 hours immediately following such an arrest, the person shall be required to comply with the requirements under sub. (5)(a) and to sign the acknowledgment under sub. (5)(b). The arrested person's release shall be conditioned upon his or her signed agreement to refrain from any threats or acts of domestic abuse against the alleged victim or other person.

(6m) Officer immunity. A law enforcement officer is immune from civil and criminal liability arising out of a decision by the officer to arrest or not arrest an alleged offender, if the decision is made in a good faith effort to comply with this section.

(7) Prosecution policies. Each district attorney's office shall develop, adopt and implement written policies encouraging the prosecution of domestic abuse offenses. The policies shall include, but not be limited to, the following:

(a) A policy indicating that a prosecutor's decision not to prosecute a domestic abuse incident should not be based:

1. Solely upon the absence of visible indications of injury or impairment;

<p>2. Upon the victim’s consent to any subsequent prosecution of the other person involved in the incident; or</p> <p>3. Upon the relationship of the persons involved in the incident.</p> <p>(b) A policy indicating that when any domestic abuse incident is reported to the district attorney’s office, including a report made under sub. (4), a charging decision by the district attorney should, absent extraordinary circumstances, be made not later than 2 weeks after the district attorney has received notice of the incident.</p> <p>(8) Education and training. Any education and training by the law enforcement agency relating to the handling of domestic abuse complaints shall stress enforcement of criminal laws in domestic abuse incidents and protection of the alleged victim. Law enforcement agencies and community organizations with expertise in the recognition and handling of domestic abuse incidents shall cooperate in all aspects of the training.</p> <p>(9) Annual report. (a) Each district attorney shall submit an annual report to the department of justice listing all of the following:</p> <ol style="list-style-type: none"> 1. The number of arrests for domestic abuse incidents in his or her county as compiled and furnished by the law enforcement agencies within the county. <ol style="list-style-type: none"> 1m. The number of responses law enforcement made that involved a domestic abuse incident that did not result in an arrest. 2. The number of subsequent prosecutions and convictions of the persons arrested for domestic abuse incidents. <p>(b) The listing of the number of arrests, prosecutions and convictions under par. (a) shall include categories by statutory reference to the offense involved and include totals for all categories.</p> <p> Wis. Stat. Ann. § 968.075(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 for the procedure required under subsection (3)(a)(4) regarding the information about victims’ legal rights and remedies to take into account how to best provide victims with meaningful access to this information. Consideration should be given</p>	
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<p>to providing this information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p>Prohibition on Law Enforcement or District Attorney Subjecting Sexual Assault Victims to Lie Detectors.</p> <p>(1) In this section, “lie detector” has the meaning given in s. 111.37(1)(b).</p> <p>(2) If a person reports to a law enforcement officer that he or she was the victim of an offense under s. 940.22(2), 940.225, 948.02(1) or (2), or 948.085, no law enforcement officer may in connection with the report order, request, or suggest that the person submit to a test using a lie detector, or provide the person information regarding tests using lie detectors unless the person requests information regarding tests using lie detectors.</p> <p>(3) If a person reports to a district attorney that he or she was the victim of an offense under s. 940.22(2), 940.225, 948.02(1) or (2), or 948.085, no district attorney may do any of the following in connection with the report:</p> <p>(a) Order that the person submit to a test using a lie detector.</p> <p>(b) Suggest or request that the person submit to a test using a lie detector without first providing the person with notice and an explanation of his or her right not to submit to such a test.</p> <p> Wis. Stat. Ann. § 111.37(1)(b) defines “lie detector” for the purposes of this statutory provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v)(dL) affords sex offense victims the right to not be subjected to a lie detector. This statutory provision is included above.</p> <p> A promising practice is to ensure that officers who work with victims of sexual offenses</p>	<p>Wis. Stat. Ann. § 968.265.</p>

<p>are aware that victims cannot be subjected to truth-telling examinations.</p>	
<p>Testing for HIV Infection and Certain Communicable Diseases: District Attorney's Duty to Apply to Court for Testing; Victim's Right to Request Testing; Hearing; Test Results.</p> <p>(2) In a criminal action under s. 940.225, 948.02, 948.025, 948.05, 948.06, 948.085, or 948.095, if all of the following apply, the district attorney shall apply to the circuit court for his or her county to order the defendant to submit to an HIV test and to a test or a series of tests to detect the presence of a sexually transmitted disease, each of which tests shall be administered by a health care professional, and to disclose the results of the test or tests as specified in sub. (4)(a) to (c):</p> <p>(a) The district attorney has probable cause to believe that the alleged victim or victim has had contact with body fluid of the defendant that constitutes a significant exposure. If the defendant is convicted or found not guilty by reason of mental disease or defect, this paragraph does not apply. (b) The alleged victim or victim who is not a minor or the parent or guardian of the alleged victim or victim who is a minor requests the district attorney to so apply for an order.</p> <p>(2m) In a criminal action under s. 946.43(2m), the district attorney shall apply to the circuit court for his or her county for an order requiring the defendant to submit to a test or a series of tests administered by a health care professional to detect the presence of communicable diseases and to disclose the results of the test or tests as specified in sub. (5)(a) to (c), if all of the following apply:</p> <p>(a) The district attorney has probable cause to believe that the act or alleged act of the defendant that constitutes a violation of s. 946.43(2m) carried a potential for transmitting a communicable disease to the victim or alleged victim and involved the defendant's blood, semen, vomit, saliva, urine or feces or other bodily substance of the defendant.</p> <p>(b) The alleged victim or victim who is not a minor or the parent or guardian of the alleged victim or victim who is a minor requests the district attorney to apply for an order.</p> <p>(3) The district attorney may apply under sub. (2) or (2m) for an order at any of the following</p>	<p>Wis. Stat. Ann. § 968.38(2)–(5).</p>

times, and, within those times, shall do so as soon as possible so as to enable the court to provide timely notice:

- (a) At or after the initial appearance and prior to the preliminary examination.
- (b) If the defendant waives the preliminary examination, at any time after the court binds the defendant over for trial and before a verdict is rendered.
- (c) At any time after the defendant is convicted or is found not guilty by reason of mental disease or defect.
- (d) If the court has determined that the defendant is not competent to proceed under s. 971.14(4) and suspended the criminal proceedings, at any time after the determination that the defendant is not competent to proceed.

(4) The court shall set a time for a hearing on the matter under sub. (2) during the preliminary examination, if sub. (3)(a) applies; after the defendant is bound over for trial and before a verdict is rendered, if sub. (3)(b) applies; after conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3)(c) applies; or, subject to s. 971.13(4), after the determination that the defendant is not competent, if sub. (3)(d) applies. The court shall give the district attorney and the defendant notice of the hearing at least 72 hours prior to the hearing. The defendant may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable cause to believe that the victim or alleged victim has had contact with body fluid of the defendant that constitutes a significant exposure, the court shall order the defendant to submit to an HIV test and to a test or a series of tests to detect the presence of a sexually transmitted disease. The tests shall be performed by a health care professional. The court shall require the health care professional who performs the test to disclose the test results to the defendant, to refrain from making the test results part of the defendant's permanent medical record, and to disclose the results of the test to any of the following:

- (a) The alleged victim or victim, if the alleged victim or victim is not a minor.
- (b) The parent or guardian of the alleged victim or victim, if the alleged victim or victim is a minor.
- (c) The health care professional who provides care to the alleged victim or victim, upon request by the alleged victim or victim or, if the alleged victim or victim is a minor, by the parent or guardian of the alleged victim or victim.

(5) The court shall set a time for a hearing on the matter under sub. (2m) during the preliminary examination, if sub. (3)(a) applies; after the defendant is bound over for trial and before a verdict is rendered, if sub. (3)(b) applies; after conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3)(c) applies; or, subject to s. 971.13(4), after the determination that the defendant is not competent, if sub. (3)(d) applies. The court shall give the district attorney and the defendant notice of the hearing at least 72 hours prior to the hearing. The defendant may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable cause to believe that the act or alleged act of the defendant that constitutes a violation of s. 946.43(2m) carried a potential for transmitting a communicable disease to the victim or alleged victim and involved the defendant's blood, semen, vomit, saliva, urine or feces or other bodily substance of the defendant, the court shall order the defendant to submit to a test or a series of tests administered by a health care professional to detect the presence of any communicable disease that was potentially transmitted by the act or alleged act of the defendant. The court shall require the health care professional who performs the test to disclose the test results to the defendant. The court shall require the health care professional who performs the test to refrain from making the test results part of the defendant's permanent medical record and to disclose the results of the test to any of the following:

- (a) The alleged victim or victim, if the alleged victim or victim is not a minor.
- (b) The parent or guardian of the alleged victim or victim, if the alleged victim or victim is a minor.
- (c) The health care professional who provides care to the alleged victim or victim, upon request by the alleged victim or victim or, if the alleged victim or victim is a minor, by the parent or guardian of the alleged victim or victim.

 Wis. Stat. Ann. § 968.38(1) defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."

 Wis. Stat. Ann. § 950.04(1v)(d) affords victims the right to request an order for, and to be given the results of, testing to determine the presence of a communicable disease under this statute. This statutory provision is included above.

 A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.	
<p>Sex Offense Victims’ Rights at a Preliminary Examination: Courtroom Closure.</p> <p>(a) If the defendant is accused of a crime under s. 940.225, 948.02, 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, or under s. 940.302(2), if the court finds that the crime was sexually motivated, as defined in s. 980.01(5), the court may exclude from the hearing all persons who are not officers of the court, members of the complainant’s or defendant’s families or others considered by the court to be supportive of the complainant or defendant, the service representative, as defined in s. 895.45(1)(c), or other persons required to attend, if the court finds that the state or the defendant has established a compelling interest that would likely be prejudiced if the persons were not excluded. The court may consider as a compelling interest, among others, the need to protect a complainant from undue embarrassment and emotional trauma.</p> <p>(b) In making its order under this subsection, the court shall set forth specific findings sufficient to support the closure order. In making these findings, the court shall consider, and give substantial weight to, the desires, if any, of the complainant. Additional factors that the court may consider in making these findings include, but are not limited to, the complainant’s age, psychological maturity and understanding; the nature of the crime; and the desires of the complainant’s family.</p> <p>(c) The court shall make its closure order under this subsection no broader than is necessary to protect the compelling interest under par. (a) and shall consider any reasonable alternatives to full closure of the entire hearing.</p>	<p>Wis. Stat. Ann. § 970.03(4).</p>
<p>Child Victims’ Rights at a Preliminary Examination: Use of Audiovisual Recording.</p> <p>(a) In this subsection, “child” means a person who is younger than 16 years old when the</p>	<p>Wis. Stat. Ann. § 970.03(14).</p>

<p>preliminary examination commences.</p> <p>(b) At any preliminary examination, the court shall admit an audiovisual recording of a statement under s. 908.08 upon making the findings required under s. 908.08(3). The child who makes the statement need not be called as a witness and, under the circumstances specified in s. 908.08(5)(b), may not be compelled to undergo cross-examination.</p>	
<p>District Attorney’s Duty to Confer with Crime Victims.</p> <p>(2) In any case in which a defendant has been charged with a crime, the district attorney shall, as soon as practicable, offer all of the victims in the case who have requested the opportunity an opportunity to confer with the district attorney concerning the prosecution of the case and the possible outcomes of the prosecution, including potential plea agreements and sentencing recommendations. The duty to confer under this subsection does not limit the obligation of the district attorney to exercise his or her discretion concerning the handling of any criminal charge against the defendant.</p> <p>(3) At the request of a victim, a district attorney shall make a reasonable attempt to provide the victim with notice of the date, time and place of scheduled court proceedings in a case involving the prosecution of a crime of which he or she is a victim and any changes in the date, time or place of a scheduled court proceeding for which the victim has received notice. This subsection does not apply to a proceeding held before the initial appearance to set conditions of release under ch. 969.</p> <p>(4) If a person is arrested for a crime but the district attorney decides not to charge the person with a crime, the district attorney shall make a reasonable attempt to inform all of the victims of the act for which the person was arrested that the person will not be charged with a crime at that time.</p> <p>(5) If a person is charged with committing a crime and the charge against the person is subsequently dismissed, the district attorney shall make a reasonable attempt to inform all of the victims of the crime with which the person was charged that the charge has been</p>	<p>Wis. Stat. Ann. § 971.095(2)–(6).</p>

<p>dismissed.</p> <p>(6) A district attorney shall make a reasonable attempt to provide information concerning the disposition of a case involving a crime to any victim of the crime who requests the information.</p> <p> Wis. Stat. Ann. § 950.02(4) 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> Wis. Const. art. I, § 9m(2)(h) affords victims the right to confer with the prosecutor. This provision is included above.</p> <p> Wis. Stat. Ann. § 950.04(1v)(j) affords victims the right to confer with the prosecution in a criminal case under this statute. This statutory provision is included above.</p> <p> A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt” by the district attorney to afford victims their rights.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	
<p>Court and District Attorney’s Duty to Take Appropriate Action to Ensure Speedy Trial to Minimize Stress for Child Victims.</p> <p>In all criminal and delinquency cases, juvenile fact-finding hearings under s. 48.31 and juvenile dispositional hearings involving a child victim or witness, as defined in s. 950.02, the court and the district attorney shall take appropriate action to ensure a speedy trial in</p>	<p>Wis. Stat. Ann. § 971.105.</p>

<p>order to minimize the length of time the child must endure the stress of the child's involvement in the proceeding. In ruling on any motion or other request for a delay or continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.</p> <p> Wis. Stat. Ann. § 950.02 defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."</p> <p> Wis. Stat. Ann. § 950.055(2)(b) encourages counties to provide assistance to the court regarding their duty to expedite proceedings to minimize stress on child victims. Wis. Stat. Ann. § 950.04(1v)(ar) affords crime victims the right to have courts consider victims' interests when deciding whether to grant a continuance. Wis. Stat. Ann. § 950.04(1v)(k) affords crime victims the right to a speedy disposition. These statutory provisions are included above.</p> <p> Wis. Const. art. I, § 9m(2)(c) grants victims the right "[t]o proceedings free from unreasonable delay" and Wis. Const. art. I, § 9m(2)(d) grants victims the right "[t]o timely disposition of the case, free from unreasonable delay." These provisions are included above.</p>	
<p>District Attorney's Duty to Provide Victims with Notice of a Petition for Conditional Release by Offender Committed to Institutional Care Upon Being Found Not Guilty by Reason of Mental Disease or Mental Defect.</p> <p>(b) If the court conditionally releases a defendant under this section, the district attorney shall do all of the following in accordance with par. (c):</p> <ol style="list-style-type: none"> 1. Make a reasonable attempt to notify the victim of the crime committed by the defendant or, if the victim died as a result of the crime, an adult member of the victim's family or, if the victim is younger than 18 years old, the victim's parent or legal guardian. 2. Notify the department of corrections. <p>(c) The notice under par. (b) shall inform the department of corrections and the person under</p>	<p>Wis. Stat. Ann. § 971.17(4m)(b)–(c).</p>

<p>par. (b)1. of the defendant’s name and conditional release date. The district attorney shall send the notice, postmarked no later than 7 days after the court orders the conditional release under this section, to the department of corrections and to the last-known address of the person under par. (b)1.</p> <p>(d) Upon request, the department of health services shall assist district attorneys in obtaining information regarding persons specified in par. (b)1.</p> <p> Wis. Stat. Ann. § 971.17(4m)(a) defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v)(um) affords victims the right to notice regarding conditional release. This statutory provision is included above.</p> <p> A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt” by the district attorney to afford victims their rights.</p>	
<p>District Attorney’s Duty to Provide Victims with Notice of Orders of Termination or Discharge Relating to an Offender’s Commitment to Institutional Care.</p> <p>(b) If the court orders that the defendant’s commitment is terminated under sub. (5) or that the defendant be discharged under sub. (6), the department of health services shall do all of the following in accordance with par. (c):</p> <ol style="list-style-type: none"> 1. If the person has submitted a card under par. (d) requesting notification, make a reasonable attempt to notify the victim of the crime committed by the defendant, or, if the victim died as a result of the crime, an adult member of the victim’s family or, if the victim is younger than 18 years old, the victim’s parent or legal guardian. 2. Notify the department of corrections. <p>(c) The notice under par. (b) shall inform the department of corrections and the person under</p>	<p>Wis. Stat. Ann. § 971.17(6m)(b)–(d).</p>

par. (b)1. of the defendant's name and termination or discharge date. The department of health services shall send the notice, postmarked at least 7 days before the defendant's termination or discharge date, to the department of corrections and to the last-known address of the person under par. (b)1.

(d) The department of health services shall design and prepare cards for persons specified in par. (b)1. to send to the department. The cards shall have space for these persons to provide their names and addresses, the name of the applicable defendant and any other information the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in par. (b)1. These persons may send completed cards to the department. All departmental records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35(1), except as needed to comply with a request under sub. (4m)(d) or s. 301.46(3)(d).

 Wis. Stat. Ann. § 971.17(6m)(a) defines the terms used in this statutory provision. These definitions are included below in the section "State Victims' Rights: Select Definitions."

 Wis. Stat. Ann. § 950.04(1v)(x) affords victims the right to have the department of health services make a reasonable attempt to notify the victim under § 971.17(6m) regarding a termination or discharge order. This statutory provision is included above.

 A promising practice is to have a policy and procedure outlining what constitutes "a reasonable attempt" by the district attorney to afford victims their rights.

 A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with

<p>relevant agencies.</p>	
<p>Prohibition on Courts Ordering Sexual Assault Victims Submit to Psychological Examinations to Assess Credibility.</p> <p>In a prosecution of s. 940.225, 948.02, or 948.025 or of any other crime if the court determines that the underlying conduct was sexually motivated, as defined in s. 980.01(5), the court may not order any witness or victim, as a condition of allowing testimony, to submit to a psychiatric or psychological examination to assess his or her credibility.</p>	<p>Wis. Stat. Ann. § 971.23(5c).</p>
<p>Prohibition on Defendant or Defense Counsel Compelling Victims to Submit to Pretrial Interviews or Depositions.</p> <p>Except as provided in s. 967.04, the defendant or his or her attorney may not compel a victim of a crime to submit to a pretrial interview or deposition.</p> <p> Wis. Stat. Ann. § 950.04(1v)(er) affords victims the right to refuse pretrial defense interviews and depositions. Wis. Stat. Ann. § 967.04 governs the circumstances under which courts may order the deposition of a witness. These statutory provisions are included above.</p>	<p>Wis. Stat. Ann. § 971.23(6c).</p>
<p>Court’s Duty to Determine Whether Victim Wants to Give a Statement at Sentencing; District Attorney’s Duty to Provide Victims with Notice Regarding their Right to Give a Statement.</p> <p>(2m) Before pronouncing sentence, the court shall inquire of the district attorney whether he or she has complied with s. 971.095(2) and with sub. (3)(b), whether any of the victims of a crime considered at sentencing requested notice of the date, time and place of the sentencing hearing and, if so, whether the district attorney provided to the victim notice of the date, time and place of the sentencing hearing.</p>	<p>Wis. Stat. Ann. § 972.14(2m)–(3).</p>

(3)(a) Before pronouncing sentence, the court shall determine whether a victim of a crime considered at sentencing wants to make a statement to the court. If a victim wants to make a statement, the court shall allow the victim to make a statement in court or to submit a written statement to be read in court. The court may allow any other person to make or submit a statement under this paragraph. Any statement under this paragraph must be relevant to the sentence.

(b) After a conviction, if the district attorney knows of a victim of a crime to be considered at sentencing, the district attorney shall make a reasonable attempt to contact that person to inform him or her of the right to make or provide a statement under par. (a). Any failure to comply with this paragraph is not a ground for an appeal of a judgment of conviction or for any court to reverse or modify a judgment of conviction.

 Wis. Stat. Ann. § 971.095(2) provides that the district attorney must confer with all victims who have requested the opportunity to do so about the prosecution and its possible outcomes, including plea agreements and sentencing recommendations.

 Wis. Stat. Ann. § 950.02(4) defines the term “victim” for the purposes of this statutory provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”

 Wis. Stat. Ann. § 971.095(1)(ag) defines “crime considered at sentencing,” for the purposes of this statutory provision, to mean “any crime for which the defendant was convicted and any read-in crime, as defined in s. 973.20 (1g)(b).”

 A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt” by the district attorney to afford victims their rights.

<p>Victims' Rights Related to Presentence Investigations After Felony Convictions; Duties of Person Preparing Presentence Investigation.</p> <p>(2m) The person preparing the presentence investigation report shall make a reasonable attempt to contact the victim to determine the economic, physical and psychological effect of the crime on the victim. The person preparing the report may ask any appropriate person for information. This subsection does not preclude the person who prepares the report from including any information for the court concerning the impact of a crime on the victim.</p> <p>...</p> <p>(3) The judge may conceal the identity of any person who provided information in the presentence investigation report.</p> <p>(4) Except as provided in sub. (4m), (4r), (5), or (6), after sentencing the presentence investigation report shall be confidential and shall not be made available to any person except upon specific authorization of the court.</p> <p>(4m) The district attorney, the defendant's attorney, and, following a conviction for a felony in which an assistant attorney general has original jurisdiction, served at the request of a district attorney under s. 978.05(8)(b), or served as a special prosecutor under s. 978.045, the assistant attorney general are entitled to have and keep a copy of the presentence investigation report. If the defendant is not represented by counsel, the defendant is entitled to view the presentence investigation report but may not keep a copy of the report. Except as provided in s. 950.04(1v)(p), a district attorney, the defendant's attorney, or an assistant attorney general who receives a copy of the report shall keep it confidential. A defendant who views the contents of a presentence investigation report shall keep the information in the report confidential.</p> <p>(4r) The victim of the crime is entitled to view all sentencing recommendations included in the presentence investigation report, including any recommendations under sub. (2b) or (2c), and any portion of the presentence investigation report that contains information pertaining</p>	<p>Wis. Stat. Ann. § 972.15(2m), (3), (4), (4m), (4r).</p>
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<p>to the victim that was obtained pursuant to sub. (2m). A victim who views any contents of a presentence investigation report may not keep a copy of any portion of the report and shall keep the information he or she views confidential.</p> <p> Wis. Stat. Ann. § 950.04(1v)(pd) affords victims the right, subject to the limitation set forth in Wis. Stat. Ann. § 972.15(4r) to view portions of a presentence investigation report. Wis. Stat. Ann. § 950.04(1v)(p) affords victims the right to have the person preparing a presentence investigation make a reasonable attempt to contact them and to view the sentence recommendation and any victim information included on the presentence investigation report. These statutory provisions are included above.</p> <p> A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt” to contact the victim.</p>	
<p>Victims’ Restitution Rights Related to Probation.</p> <p>(1)(b) If the court places the person on probation, the court shall order the person to pay restitution under s. 973.20, unless the court finds there is substantial reason not to order restitution as a condition of probation. If the court does not require restitution to be paid to a victim, the court shall state its reason on the record. If the court does require restitution, it shall notify the department of justice of its decision if the victim may be eligible for compensation under subch. I of ch. 949.</p> <p>...</p> <p>(3)(b) The department shall notify the sentencing court, any person to whom unpaid restitution is owed and the district attorney of the status of the ordered restitution payments unpaid at least 90 days before the probation expiration date. If payment as ordered has not been made, the court shall hold a probation review hearing prior to the expiration date, unless the hearing is voluntarily waived by the probationer with the knowledge that waiver may result in an extension of the probation period or in a revocation of probation. If the court</p>	<p>Wis. Stat. Ann. § 973.09(1)(b), (3)(b).</p>

<p>does not extend probation, it shall issue a judgment for the unpaid restitution and direct the clerk of circuit court to file and enter the judgment in the judgment and lien docket, without fee, unless it finds that the victim has already recovered a judgment against the probationer for the damages covered by the restitution order. If the court issues a judgment for the unpaid restitution, the court shall send to the person at his or her last-known address written notification that a civil judgment has been issued for the unpaid restitution. The judgment has the same force and effect as judgments entered under s. 806.10.</p> <p> A promising practice, when informing victims about their right to restitution, is to notify victims that they should collect and organize all documentation relating to their losses. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p>Clerk of the Circuit Court’s Duty to Notify Victims of Probation Hearing and Right to Give Statement at Hearing.</p> <p>(a) In this subsection, “victim” has the meaning given in s. 950.02(4).</p> <p>(b) When a court receives a petition under sub. (3)(d), the clerk of the circuit court shall send a notice of hearing to the victim of the crime committed by the probationer, if the victim has submitted a card under par. (c) requesting notification. The notice shall inform the victim that he or she may appear at any hearing scheduled under sub. (3)(d) and shall inform the victim of the manner in which he or she may provide a statement concerning the modification of the probationer’s term of probation. The clerk of the circuit court shall make a reasonable attempt to send the notice of hearing to the last-known address of the victim, postmarked at least 10 days before the date of the hearing.</p> <p>(c) The director of state courts shall design and prepare cards for a victim to send to the clerk of the circuit court for the county in which the probationer was convicted and sentenced. The cards shall have space for a victim to provide his or her name and address, the name of the applicable probationer, and any other information that the director of state courts determines is necessary. The director of state courts shall provide the cards, without charge,</p>	<p>Wis. Stat. Ann. § 973.09(3m).</p>

to clerks of circuit court. Clerks of circuit court shall provide the cards, without charge, to victims. Victims may send completed cards to the clerk of the circuit court for the county in which the probationer was convicted and sentenced. All court records or portions of records that relate to mailing addresses of victims are not subject to inspection or copying under s. 19.35(1).

 Wis. Stat. Ann. § 950.02(4) defines the term “victim” for the purposes of this statutory provision. This definition is included below in the section “State Victims’ Rights: Select Definitions.”

 Wis. Stat. Ann. § 950.04(1v)(gm) affords victims the right to have reasonable attempts made to notify them of petitions for sentence adjustment, pursuant to § 973.09(3m). Wis. Stat. Ann. § 950.04(1v)(nx) affords victims the right to attend a hearing on a petition for modification of a term of probation and to provide a statement at such a hearing, pursuant to §§ 973.09(3)(d) and (3m). These statutory provisions are included above.

 A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt” to provide victims with notice of a probation hearing.

 A promising practice is for victims to be provided with notification cards in an easily understood format. Consideration should be given to providing this information in the primary language of the victim, as well as in a form accessible to those with vision impairment.

 A promising practice is for the circuit court clerk to have a policy and procedure to ensure that victims are provided with notification cards in a timely manner.

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

<p>carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>District Attorney’s Duty to Notify Victims of Certain Sex Offenses When an Inmates Petition for an Adjusted Sentence; Victims’ Right to Object to Petition; Court’s Duty to Reject Objected to Petition.</p> <p>(d) If the sentence for which the inmate seeks adjustment is for an offense under s. 940.225(2) or (3), 948.02(2), 948.08, or 948.085, and the district attorney does not object to the petition within 10 days of receiving notice under par. (c), the district attorney shall notify the victim, as defined under s. 950.02(4), of the inmate’s petition. The notice to the victim shall include information on the sentence adjustment petition process under this subsection, including information on how to object to the inmate’s petition. If the victim objects to adjustment of the inmate’s sentence within 45 days of the date on which the district attorney received notice under par. (c), the court shall deny the inmate’s petition.</p> <p>(e) Notwithstanding the confidentiality of victim address information obtained under s. 302.113(9g)(g)3., a district attorney who is required to send notice to a victim under par. (d) may obtain from the clerk of the circuit court victim address information that the victim provided to the clerk under s. 302.113(9g)(g)3.</p> <p> Wis. Stat. Ann. § 950.02(4) 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> Wis. Stat. Ann. § 302.113(9g)(g)3 provides that the director of state courts should design and prepare cards for victims to send to the county clerk where an inmate was convicted and sentenced. The cards contain the victim’s contact information and records related to the victim’s mailing address are not subject to inspection or copying under the state’s open</p>	<p>Wis. Stat. Ann. § 973.195(1r)(d)–(e).</p>

<p>records law. This statutory provision is included below.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
<p>Victims’ Right to Restitution: Restitution-Related Procedures; Mandatory and Discretionary Restitution.</p> <p>(1r) When imposing sentence or ordering probation for any crime, other than a crime involving conduct that constitutes domestic abuse under s. 813.12(1)(a) or 968.075(1)(a), for which the defendant was convicted, the court, in addition to any other penalty authorized by law, shall order the defendant to make full or partial restitution under this section to any victim of a crime considered at sentencing or, if the victim is deceased, to his or her estate, unless the court finds substantial reason not to do so and states the reason on the record. When imposing sentence or ordering probation for a crime involving conduct that constitutes domestic abuse under s. 813.12(1)(a) or 968.075(1)(a) for which the defendant was convicted or that was considered at sentencing, the court, in addition to any other penalty authorized by law, shall order the defendant to make full or partial restitution under this section to any victim of a crime or, if the victim is deceased, to his or her estate, unless the court finds that imposing full or partial restitution will create an undue hardship on the defendant or victim and describes the undue hardship on the record. Restitution ordered under this section is a condition of probation, extended supervision, or parole served by the defendant for a crime for which the defendant was convicted. After the termination of probation, extended supervision, or parole, or if the defendant is not placed on probation, extended supervision, or parole, restitution ordered under this section is enforceable in the same manner as a judgment in a civil action by the victim named in the order to receive restitution or enforced under ch. 785.</p>	<p>Wis. Stat. Ann. § 973.20(1r)–(15).</p>

(2)(am) If a crime considered at sentencing resulted in damage to or loss or destruction of property, the restitution order may require that the defendant:

1. Return the property to the owner or owner's designee; or
2. If return of the property under par. (a) is impossible, impractical or inadequate, pay the owner or owner's designee the reasonable repair or replacement cost or the greater of:
 - a. The value of the property on the date of its damage, loss or destruction; or
 - b. The value of the property on the date of sentencing, less the value of any part of the property returned, as of the date of its return. The value of retail merchandise shall be its retail value.

(bm) The restitution order may require the department of employee trust funds to withhold the amount determined under par. (am) from any payment of the defendant's annuity or lump sum under s. 40.08(1t) and to deliver any amount withheld from the defendant's annuity or lump sum in accordance with sub. (11) if the crime considered at sentencing satisfies all of the following:

1. The crime was a violation of ss. 943.20 and 946.12.
2. The crime resulted in loss of property for the defendant's employer that participates in the Wisconsin Retirement System.
3. The value of the property described in subd. 2. exceeds \$2,500.

(3) If a crime considered at sentencing resulted in bodily injury, the restitution order may require that the defendant do one or more of the following:

- (a) Pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric and psychological care and treatment.
- (b) Pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation.
- (c) Reimburse the injured person for income lost as a result of a crime considered at sentencing.
- (d) If the injured person's sole employment at the time of the injury was performing the duties of a homemaker, pay an amount sufficient to ensure that the duties are continued until the person is able to resume performance of the duties.

(4) If a crime considered at sentencing resulted in death, the restitution order may also require that the defendant pay an amount equal to the cost of necessary funeral and related

services under s. 895.04(5).

(4m) If the defendant violated s. 940.225, 948.02, 948.025, 948.05, 948.051, 948.06, 948.07, 948.08, or 948.085, or s. 940.302(2), if the court finds that the crime was sexually motivated, as defined in s. 980.01(5), and sub. (3)(a) does not apply, the restitution order may require that the defendant pay an amount, not to exceed \$10,000, equal to the cost of necessary professional services relating to psychiatric and psychological care and treatment. The \$10,000 limit under this subsection does not apply to the amount of any restitution ordered under sub. (3) or (5) for the cost of necessary professional services relating to psychiatric and psychological care and treatment.

(4o) If the defendant violated s. 940.302(2) or 948.051, and sub. (2) or (3) does not apply, the restitution order may require that the defendant pay an amount equal to any of the following:

- (a) The costs of necessary transportation, housing, and child care for the victim.
- (b) The greater of the following:
 - 1. The gross income gained by the defendant due to the services of the victim.
 - 2. The value of the victim's services as provided under the state minimum wage.
- (c) Any expenses incurred by the victim if relocation for personal safety is determined to be necessary by the district attorney.
- (d) The costs of relocating the victim to his or her city, state, or country of origin.

(5) In any case, the restitution order may require that the defendant do one or more of the following:

- (a) Pay all special damages, but not general damages, substantiated by evidence in the record, which could be recovered in a civil action against the defendant for his or her conduct in the commission of a crime considered at sentencing.
- (b) Pay an amount equal to the income lost, and reasonable out-of-pocket expenses incurred, by the person against whom a crime considered at sentencing was committed resulting from the filing of charges or cooperating in the investigation and prosecution of the crime.
- (c) Reimburse any person or agency for amounts paid as rewards for information leading to the apprehension or successful prosecution of the defendant for a crime for which the defendant was convicted or to the apprehension or prosecution of the defendant for a read-

in crime.

(d) If justice so requires, reimburse any insurer, surety or other person who has compensated a victim for a loss otherwise compensable under this section.

(6) Any order under sub. (5)(c) or (d) shall require that all restitution to victims under the order be paid before restitution to other persons.

(7) If the court orders that restitution be paid to more than one person, the court may direct the sequence in which payments are to be transferred under sub. (11)(a). If more than one defendant is ordered to make payments to the same person, the court may apportion liability between the defendants or specify joint and several liability. If the court specifies that 2 or more defendants are jointly and severally liable, the department or the clerk to whom payments are made under sub. (11)(a) shall distribute any overpayments so that each defendant, as closely as possible, pays the same proportion of the ordered restitution.

(8) Restitution ordered under this section does not limit or impair the right of a victim to sue and recover damages from the defendant in a civil action. The facts that restitution was required or paid are not admissible as evidence in a civil action and have no legal effect on the merits of a civil action. Any restitution made by payment or community service shall be set off against any judgment in favor of the victim in a civil action arising out of the facts or events which were the basis for the restitution. The court trying the civil action shall hold a separate hearing to determine the validity and amount of any setoff asserted by the defendant.

(9)(a) If a crime victim is paid an award under subch. I of ch. 949 for any loss arising out of a criminal act, the state is subrogated to the rights of the victim to any restitution required by the court. The rights of the state are subordinate to the claims of victims who have suffered a loss arising out of the offenses or any transaction which is part of the same continuous scheme of criminal activity.

(b) When restitution is ordered, the court shall inquire to see if an award has been made under subch. I of ch. 949 and if the department of justice is subrogated to the cause of action under s. 949.15. If the restitution ordered is less than or equal to the award under subch. I of ch. 949, the restitution shall be credited to the appropriation account under s. 20.455(5)(hh). If the restitution ordered is greater than the award under subch. I of ch. 949,

an amount equal to the award under subch. I of ch. 949 shall be credited to the appropriation account under s. 20.455(5)(hh) and the balance shall be paid to the victim.

(9m) When restitution is ordered, the court shall inquire to see if recompense has been made under s. 969.13(5)(a). If recompense has been made and the restitution ordered is less than or equal to the recompense, the restitution shall be applied to the payment of costs and, if any restitution remains after the payment of costs, to the payment of the judgment. If recompense has been made and the restitution ordered is greater than the recompense, the victim shall receive an amount equal to the amount of restitution less the amount of recompense and the balance shall be applied to the payment of costs and, if any restitution remains after the payment of costs, to the payment of the judgment. This subsection applies without regard to whether the person who paid the recompense is the person who is convicted of the crime.

(10)(a) The court may require that restitution be paid immediately, within a specified period or in specified installments. If the defendant is placed on probation or sentenced to imprisonment, the end of a specified period shall not be later than the end of any period of probation, extended supervision or parole. If the defendant is sentenced to the intensive sanctions program, the end of a specified period shall not be later than the end of the sentence under s. 973.032 (3) (a).

(b) The department or the clerk of court may certify an amount owed under par. (a) to the department of revenue if any of the following apply:

1. The court required that restitution be paid immediately and more than 30 days have passed since the order was entered.
2. The court required that restitution be paid within a specified period and more than 30 days have passed since the expiration of that period.
3. The court required that restitution be paid in specified installments and the defendant is delinquent in making any of those payments.

(11)(a) Except as otherwise provided in this paragraph, the restitution order shall require the defendant to deliver the amount of money or property due as restitution to the department for transfer to the victim or other person to be compensated by a restitution order under this section. If the defendant is not placed on probation or sentenced to prison, the court may

order that restitution be paid to the clerk of court for transfer to the appropriate person. The court shall impose on the defendant a restitution surcharge under ch. 814 equal to 5 percent of the total amount of any restitution, costs, attorney fees, court fees, fines, and surcharges ordered under s. 973.05(1) and imposed under ch. 814, which shall be paid to the department or the clerk of court for administrative expenses under this section.

(b) The department shall establish a separate account for each person in its custody or under its supervision ordered to make restitution for the collection and disbursement of funds. A portion of each payment constitutes the surcharge for administrative expenses under par. (a).

(c) If a defendant who is in a state prison or who is sentenced to a state prison is ordered to pay restitution, the court order shall require the defendant to authorize the department to collect, from the defendant's wages and from other moneys held in the defendant's prisoner's account, an amount or a percentage the department determines is reasonable for payment to victims.

(d) Each clerk of court who collects restitution under this section shall notify the department when a defendant has satisfied an order for restitution.

(e) The department and each clerk of court that collects restitution under this section shall annually submit a report to the legislature under s. 13.172(2) that specifies, for each fiscal year, the total amounts of restitution ordered for the department and each clerk of court to collect, the administrative fee the department and each clerk of court collects under par. (a), and the amounts of restitution collected by the department and by the clerk of court and dispersed to victims.

(f) If an inmate in a state prison or a person sentenced to a state prison has not paid, at the time of his or her death, restitution ordered under this section, the department shall assess, collect, and disburse the amount owed from the inmate's wages or other moneys.

(12)(a) If the court orders restitution in addition to the payment of fines, costs, fees, and surcharges under ss. 973.05 and 973.06 and ch. 814, it shall set the amount of fines, costs, fees, and surcharges in conjunction with the amount of restitution and issue a single order, signed by the judge, covering all of the payments and any amounts due under s. 304.074. If the costs for legal representation by a private attorney appointed under s. 977.08 or the fees due under s. 304.074 are not established at the time of issuance of the order, the court may revise the order to include those costs at a later time.

(b) Except as provided in par. (c), payments shall be applied first to satisfy the ordered

restitution in full, then to pay any fines or surcharges under s. 973.05, then to pay costs, fees, and surcharges under ch. 814 other than attorney fees and finally to reimburse county or state costs of legal representation.

(c) If a defendant is subject to more than one order under this section and the financial obligations under any order total \$50 or less, the department or the clerk of court, whichever is applicable under sub. (11)(a), may pay these obligations first.

(13)(a) The court, in determining whether to order restitution and the amount thereof, shall consider all of the following:

1. The amount of loss suffered by any victim as a result of a crime considered at sentencing.
2. The financial resources of the defendant.
3. The present and future earning ability of the defendant.
4. The needs and earning ability of the defendant's dependents.
5. Any other factors which the court deems appropriate.

(b) The district attorney shall attempt to obtain from the victim prior to sentencing information pertaining to the factor specified in par. (a)1. Law enforcement agencies, the department of corrections and any agency providing services under ch. 950 shall extend full cooperation and assistance to the district attorney in discharging this responsibility. The department of justice shall provide technical assistance to district attorneys in this regard and develop model forms and procedures for collecting and documenting this information.

(c) The court, before imposing sentence or ordering probation, shall inquire of the district attorney regarding the amount of restitution, if any, that the victim claims. The court shall give the defendant the opportunity to stipulate to the restitution claimed by the victim and to present evidence and arguments on the factors specified in par. (a). If the defendant stipulates to the restitution claimed by the victim or if any restitution dispute can be fairly heard at the sentencing proceeding, the court shall determine the amount of restitution before imposing sentence or ordering probation. In other cases, the court may do any of the following:

1. Order restitution of amounts not in dispute as part of the sentence or probation order imposed and direct the appropriate agency to file a proposed restitution order with the court within 90 days thereafter, and mail or deliver copies of the proposed order to the victim, district attorney, defendant and defense counsel.
2. Adjourn the sentencing proceeding for up to 60 days pending resolution of the amount of restitution by the court, referee or arbitrator.

3. With the consent of the defendant, refer the disputed restitution issues to an arbitrator acceptable to all parties, whose determination of the amount of restitution shall be filed with the court within 60 days after the date of referral and incorporated into the court's sentence or probation order.

4. Refer the disputed restitution issues to a circuit court commissioner or other appropriate referee, who shall conduct a hearing on the matter and submit the record thereof, together with proposed findings of fact and conclusions of law, to the court within 60 days of the date of referral. Within 30 days after the referee's report is filed, the court shall determine the amount of restitution on the basis of the record submitted by the referee and incorporate it into the sentence or probation order imposed. The judge may direct that hearings under this subdivision be recorded either by audio recorder or by a court reporter. A transcript is not required unless ordered by the judge.

(14) At any hearing under sub. (13), all of the following apply:

(a) The burden of demonstrating by the preponderance of the evidence the amount of loss sustained by a victim as a result of a crime considered at sentencing is on the victim. The district attorney is not required to represent any victim unless the hearing is held at or prior to the sentencing proceeding or the court so orders.

(b) The burden of demonstrating, by the preponderance of the evidence, the financial resources of the defendant, the present and future earning ability of the defendant and the needs and earning ability of the defendant's dependents is on the defendant. The defendant may assert any defense that he or she could raise in a civil action for the loss sought to be compensated. The office of the state public defender is not required to represent any indigent defendant unless the hearing is held at or prior to the sentencing proceeding, the defendant is incarcerated when the hearing is held or the court so orders.

(c) The burden of demonstrating, by the preponderance of the evidence, such other matters as the court deems appropriate is on the party designated by the court, as justice requires.

(d) All parties interested in the matter shall have an opportunity to be heard, personally or through counsel, to present evidence and to cross-examine witnesses called by other parties. The court, arbitrator or referee shall conduct the proceeding so as to do substantial justice between the parties according to the rules of substantive law and may waive the rules of practice, procedure, pleading or evidence, except provisions relating to privileged communications and personal transactions or communication with a decedent or mentally ill

person or to admissibility under s. 901.05. Discovery is not available except for good cause shown. If the defendant is incarcerated, he or she may participate by telephone under s. 807.13 unless the court issues a writ or subpoena compelling the defendant to appear in person.

(15) If misappropriation, from a cemetery, of an object that indicates that a deceased was a veteran, as described in s. 45.001, is a crime considered at sentencing, the restitution order shall require that the defendant reimburse an individual, organization, or governmental entity for the cost of replacing the object.



Wis. Stat. Ann. § 973.20(1g) defines the terms used in this statutory provision. These definitions are included below in the section “State Victims’ Rights: Select Definitions.”



Wis. Const. art. I, § 9m(2)(m) guarantees victims the right “[t]o full restitution from any person who has been ordered to pay restitution to the victim and to be provided with assistance collecting restitution.” This provision is included above.



Wis. Stat. Ann. § 950.04(1v)(q) affords victims the right to restitution, as provided under 938.245 (2)(a)5., 938.32 (1t), 938.34 (5), 938.345, 943.212, 943.23 (6), 943.245, 943.51 and 973.20. Wis. Stat. Ann. §§ 938.245(2)(a)(5), 938.32 (1t), 938.34 (5), 938.345 govern restitution in the juvenile justice system. Wis. Stat. Ann. §§ 943.212, 943.23(6), 943.245, 943.51 and 973.20 govern restitution in the criminal justice system. Relevant portions from some of these statutory provisions are included below.



A promising practice, when informing victims about their right to restitution, is to notify victims that they should collect and organize all documentation relating to their losses. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.

Department of Health Services' Duty to Victims of Notice of Supervised Release or Discharge.

Wis. Stat. Ann. § 980.11(2)–(4).

(2) If the court places a person on supervised release under s. 980.08(4) or discharges a person under s. 980.09(4), the department [of health services] shall do all of the following:

(am) Make a reasonable attempt to notify whichever of the following persons is appropriate, if he or she can be found, in accordance with sub. (3):

1. The victim of the act of sexual violence.
2. An adult member of the victim's family, if the victim died as a result of the act of sexual violence.
3. The victim's parent or legal guardian, if the victim is younger than 18 years old.

(bm) Notify the department of corrections.

(3) The notice under sub. (2) shall inform the department of corrections and the person under sub. (2) (am) of the name of the person committed under this chapter and the date the person is placed on supervised release or discharged. The department shall send the notice, postmarked at least 7 days before the date the person committed under this chapter is placed on supervised release or discharged, to the department of corrections and to the last-known address of the person under sub. (2) (am).

(4) The department shall design and prepare cards for persons specified in sub. (2)(am) to send to the department. The cards shall have space for these persons to provide their names and addresses, the name of the person committed under this chapter and any other information the department determines is necessary. The department shall provide the cards, without charge, to the department of justice and district attorneys. The department of justice and district attorneys shall provide the cards, without charge, to persons specified in sub. (2)(am). These persons may send completed cards to the department of health services. All records or portions of records of the department of health services that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35(1), except as needed to comply with a request by the department of corrections under s. 301.46(3)(d).



Wis. Stat. Ann. § 980.11(1) defines the terms used in this statutory provision. These

<p>definitions are included below in the section “State Victims’ Rights: Select Definitions.”</p> <p> Wis. Stat. Ann. § 950.04(1v)(xm), which is included above, affords victims the right to notice of supervised release and discharge of sexually violent persons from mental health facilities, pursuant to this statutory provision.</p> <p> A promising practice is to have a policy and procedure outlining what constitutes “a reasonable attempt to provide to the victim” with notice.</p> <p> A promising practice is for victims to be provided with notification cards in an easily understood format. Consideration should be given to providing this information in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p> <p> A promising practice is for the department of justice and district attorneys to have a policy and procedure to ensure that victims are provided with notification cards in a timely manner.</p> <p> A promising practice is to have a policy and procedure in place to notify victims, at the first opportunity, that victims must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights. Victims who wish to receive the type of notice identified here should be reminded, throughout their participation in the justice system, that their contact information must be kept current with relevant agencies.</p>	
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<p>STATE VICTIMS' RIGHTS: SELECT DEFINITIONS</p>	<p>Wisconsin Constitutional Provisions and Statutes</p>
<p>Victims of Crime Constitutional Rights Definition of “Victim”.</p> <p>(a) In this section, notwithstanding any statutory right, privilege, or protection, “victim” means any of the following:</p> <ol style="list-style-type: none"> 1. A person against whom an act is committed that would constitute a crime if committed by a competent adult. 2. If the person under subd. 1. is deceased or is physically or emotionally unable to exercise his or her rights under this section, the person’s spouse, parent or legal guardian, sibling, child, person who resided with the deceased at the time of death, or other lawful representative. 3. If the person under subd. 1. is a minor, the person’s parent, legal guardian or custodian, or other lawful representative. 4. If the person under subd. 1. is adjudicated incompetent, the person’s legal guardian or other lawful representative. <p>(b) “Victim” does not include the accused or a person who the court finds would not act in the best interests of a victim who is deceased, incompetent, a minor, or physically or emotionally unable to exercise his or her rights under this section.</p> <p> This definition applies to Wisconsin’s constitutional victims’ rights provisions contained in Wis. Const. art I, § 9m. The provisions are included above in the section “Select Crime Victims’ Rights.”</p>	<p>Wis. Const. art. I, § 9m(1).</p>
<p>Rights of Victims and Witnesses of Crime Definitions.</p> <p>In this chapter:</p>	<p>Wis. Stat. Ann. § 950.02.</p>

<p>(1) Except in sub. (3), “child” means a person who is less than 18 years of age.</p> <p>(1m) “Crime” means an act committed in this state which, if committed by a competent adult, would constitute a crime, as defined in s. 939.12.</p> <p>(1t) “Custodial agency” means any person authorized to arrest or take into actual physical custody an individual who is alleged to have committed a crime. “Custodial agency” includes a law enforcement agency, a sheriff, superintendent or other keeper of a jail and a person authorized to take custody of a juvenile under s. 938.19 or 938.20 (4).</p> <p>(2) “Department” means the department of justice.</p> <p>(2m) “District attorney” means any of the following:</p> <p>(a) The district attorney or other person authorized to prosecute a criminal case or a delinquency proceeding under ch. 938.</p> <p>(b) A person designated by a person specified in par. (a) to perform the district attorney’s duties under this chapter.</p> <p>(3) “Family member” means spouse, minor child, adult child, sibling, parent, or legal guardian.</p> <p>(3m) “Law enforcement agency” has the meaning given in s. 165.83 (1)(b).</p> <p>(4)(a) “Victim” means any of the following:</p> <ol style="list-style-type: none"> 1. A person against whom a crime has been committed. 2. If the person specified in subd. 1. is a child, a parent, guardian or legal custodian of the child. 3. If a person specified in subd. 1. is physically or emotionally unable to exercise the rights granted under s. 950.04 or article I, section 9m, of the Wisconsin constitution, a person designated by the person specified in subd. 1. or a family member of the person specified in subd. 1. 4. If a person specified in subd. 1. is deceased, any of the following: <ol style="list-style-type: none"> a. A family member of the person who is deceased. b. A person who resided with the person who is deceased. 	
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<p>5. If a person specified in subd. 1. has been adjudicated incompetent in this state, the guardian of the person appointed for him or her.</p> <p>(b) “Victim” does not include the person charged with or alleged to have committed the crime.</p> <p>(4g) “Victim advocate” has the meaning given in s. 905.045(1)(e).</p> <p>(4m) “Victim and witness office” means an organization or program that provides services for which the county receives reimbursement under this chapter.</p> <p>(5) “Witness” means any person who has been or is expected to be summoned to testify for the prosecution, or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet been commenced.</p> <p> These definitions apply to Wisconsin’s victims’ rights statutes, Wis. Stat. Ann. §§ 950.01 through 950.11. Other statutes that touch upon victims’ rights and interests also rely on definitions from this statutory provision. Where a statute relies on these definitions, it is noted below in the section “State Victims’ Rights: Select Crime Victims’ Rights.”</p>	
<p>Sex Offense Victims’ Right to Not Be Subjected to a Lie Detector Test Definition.</p> <p>“Lie detector” means a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator or other similar device, whether mechanical or electrical, that is used, or the results of which are used, to render a diagnostic opinion about the honesty or dishonesty of an individual.</p> <p> Wis. Stat. Ann. § 950.04(1v)(dL) and Wis. Stat. Ann. § 968.265 rely on this definition in affording sex offense victims the right to not be subjected to a lie detector test. These statutory provisions are included below.</p>	<p>Wis. Stat. Ann. § 111.37(1)(b).</p>

Address Confidentiality Program Definitions.

In this section:

(a) "Abuse" means an act or threat of any of the following:

1. Child abuse under ss. 813.122(1)(a) or 948.02 to 948.11.
2. Domestic abuse, as defined in s. 813.12(1)(am).
3. Sexual abuse, as defined in s. 103.10(1m)(b)6.
4. Stalking under s. 940.32.
5. Trafficking under s. 940.302.

(b) "Actual address" means the residential street address, school address, or work address, or any portion thereof, of a program participant.

(c) "Assigned address" means an address designated by the department and assigned to a program participant.

(d) "Department" means the department of justice.

(e) "Mail" means first class letters and flats delivered by the United States Postal Service, including priority, express, and certified mail. "Mail" does not include a package, parcel, periodical, or catalogue unless it is clearly identifiable as being sent by a state or local agency or unit of government or is clearly identifiable as containing a pharmaceutical or medical item.

(f) "Program assistant" means an individual designated by the department to assist a program participant. The department may designate as a program assistant an employee of the department or of a state or local agency that provides counseling, assistance, or support services to victims, or an employee of or a volunteer for an organization that provides counseling, assistance, or support services free of charge to victims.

Wis. Stat. Ann. § 165.68(1).

<p>(g) “Program participant” means a person who is certified by the department to participate in the confidentiality program established in this section.</p> <p> These definitions apply to Wis. Stat. Ann. § 165.68(2)–(7). This statutory provision is included above in the section “State Victims’ Rights: Select Crime Victims’ Rights.”</p>	
<p>Department of Correction’s Duty to Notify Certain Sex Offense Victims of Community Residential Confinement Definitions.</p> <p>1. “Member of the family” means spouse, domestic partner under ch. 770, child, sibling, parent or legal guardian.</p> <p>2. “Victim” means a person against whom a crime has been committed.</p> <p> These definitions apply to Wis. Stat. Ann. § 301.046(4)(b)–(f). This statutory provision is included above in the section “State Victims’ Rights: Select Crime Victims’ Rights.”</p>	<p>Wis. Stat. Ann. § 301.046(4)(a).</p>
<p>Department of Correction’s Duty to Notify Victims of Revocation of Parole or Extended Supervision Definitions.</p> <p>(a) “Inmate” means the person who was convicted of an offense against the victim.</p> <p>(b) “Victim” has the meaning given in s. 950.02(4).</p> <p> These definitions apply to Wis. Stat. Ann. § 302.107. This statutory provision is included above in the section “Select Crime Victims’ Rights.”</p>	<p>Wis. Stat. Ann. § 302.107(1).</p>

<p>Department of Correction's Duty to Notify Victims of Release of or Extended Supervision for Felony Offenders Not Serving Life Sentences Definitions.</p> <p>(a) In this subsection:</p> <ol style="list-style-type: none"> 1. "Extraordinary health condition" means a condition afflicting a person, such as advanced age, infirmity, or disability of the person or a need for medical treatment or services not available within a correctional institution. 2. "Program review committee" means the committee at a correctional institution that reviews the security classifications, institution assignments, and correctional programming assignments of inmates confined in the institution. <p>...</p> <p>(g)1. In this paragraph, "victim" has the meaning given in s. 950.02(4).</p> <p> These definitions apply to Wis. Stat. Ann. § 302.113(9g). This statutory provision is included above in the section "Select Crime Victims' Rights."</p>	<p>Wis. Stat. Ann. § 302.113(9g)(a), (g)1.</p>
<p>Department of Correction's Duty to Notify Victims of Leave for Qualified Inmates Definitions.</p> <ol style="list-style-type: none"> 1. "Member of the family" means spouse, child, sibling, parent or legal guardian. 2. "Victim" means a person against whom a crime has been committed. <p> These definitions apply to Wis. Stat. Ann. § 303.068(4m). This statutory provision is included above in the section "Select Crime Victims' Rights."</p>	<p>Wis. Stat. Ann. § 303.068(4m)(a).</p>

<p>Parole Commission’s Duties to Victims Regarding Parole Definitions.</p> <p>1. “Member of the family” means spouse, domestic partner under ch. 770, child, sibling, parent or legal guardian.</p> <p>2. “Victim” means a person against whom a crime has been committed.</p> <p> These definitions apply to Wis. Stat. Ann. § 304.06(1). This statutory provision is included above in the section “Select Crime Victims’ Rights.”</p>	<p>Wis. Stat. Ann. § 304.06(1)(a).</p>
<p>Court Rule Regarding Identification of Victims and Others in Criminal Appellate Briefing, Petitions for Review and Responses for Petitions for Review Definition.</p> <p>In this section, “victim” means a natural person against whom a crime, other than a homicide, has been committed or alleged to have been committed in the appeal or proceeding. “Victim” does not include the person convicted of or alleged to have committed a crime at issue in the appeal or proceeding.</p> <p> This definition applies to Wis. Stat. Ann. § 809.86. This statutory provision is included above in the section “Select Crime Victims’ Rights.”</p>	<p>Wis. Stat. Ann. § 809.86(3).</p>
<p>Domestic Abuse Restraining Orders and Injunctions Definitions.</p> <p>(ad) “Caregiver” means an individual who is a provider of in-home or community care to an individual through regular and direct contact.</p> <p>(ag) “Dating relationship” means a romantic or intimate social relationship between 2 adult individuals but “dating relationship” does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context. A court shall determine</p>	<p>Wis. Stat. Ann. § 813.12(1).</p>

if a dating relationship existed by considering the length of the relationship, the type of the relationship, and the frequency of the interaction between the adult individuals involved in the relationship.

(am) "Domestic abuse" means any of the following engaged in by an adult family member or adult household member against another adult family member or adult household member, by an adult caregiver against an adult who is under the caregiver's care, by an adult against his or her adult former spouse, by an adult against an adult with whom the individual has or had a dating relationship, or by an adult against an adult with whom the person has a child in common:

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. A violation of s. 940.225(1), (2) or (3).
4. A violation of s. 940.32.
5. A violation of s. 943.01, involving property that belongs to the individual.
6. A threat to engage in the conduct under subd. 1., 2., 3., 4., or 5.

(b) "Family member" means a spouse, a parent, a child or a person related by blood or adoption to another person.

(c) "Household member" means a person currently or formerly residing in a place of abode with another person.

(ce) "Household pet" means a domestic animal that is not a farm animal, as defined in s. 951.01(3), that is kept, owned, or cared for by the petitioner or by a family member or a household member of the petitioner.

(cg) "Reasonable grounds" means more likely than not that a specific event has occurred or will occur.

(cj) "Regular and direct contact" means face-to-face physical proximity to an individual that is planned, scheduled, expected, or periodic.

<p>(d) “Tribal court” means a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin.</p> <p>(e) “Tribal order or injunction” means a temporary restraining order or injunction issued by a tribal court under a tribal domestic abuse ordinance adopted in conformity with this section.</p> <p> These definitions apply to Wis. Stat. Ann § 813.12. This statutory provision is included above in the section “Select Crime Victims’ Rights.”</p>	
<p>Child Abuse Restraining Orders and Injunctions Definitions.</p> <p>(a) “Abuse” has the meaning given in s. 48.02(1) (a) and (b) to (gm) and, in addition, includes a threat to engage in any conduct under s. 48.02 (1), other than conduct under s. 48.02 (1) (am).</p> <p>(b) “Child” means any person under 18 years of age.</p> <p>(c) “Child victim” means the child who is the victim or the alleged victim of abuse.</p> <p>(d) “Child victim advocate” means any person who counsels child victims, assists child victims in coping with the impact of the crime or otherwise acts in support of child victims.</p> <p>(e) “Household pet” means a domestic animal that is not a farm animal, as defined in s. 951.01(3), that is kept, owned, or cared for by a child victim or by a family member or a household member of a child victim.</p> <p> These definitions apply to Wis. Stat. Ann § 813.122. This statutory provision is included above in the section “Select Crime Victims’ Rights.”</p>	<p>Wis. Stat. Ann. § 813.122(1).</p>

<p>Restraining Orders and Injunctions for Individuals at Risk Definitions.</p> <p>In this section:</p> <p>(a) “Abuse” has the meaning given in s. 46.90(1)(a).</p> <p>(ae) “Adult at risk” has the meaning given in s. 55.01(1e).</p> <p>(am) “Adult-at-risk agency” has the meaning given in s. 55.01(1f).</p> <p>(b) “Bodily harm” has the meaning given in s. 46.90(1)(aj).</p> <p>(br) “Caregiver” has the meaning given in s. 46.90(1)(an).</p> <p>(cg) “Elder adult at risk” has the meaning given in s. 46.90(1)(br).</p> <p>(d) “False representation” includes promise that is made with the intent not to fulfill the promise.</p> <p>(dm) “Financial exploitation” has the meaning given in s. 46.90(1)(ed).</p> <p>(e) “Great bodily harm” has the meaning given in s. 939.22(14).</p> <p>(eg) “Harassment” has the meaning given in s. 813.125(1)(am).</p> <p>(ek) “Household pet” means a domestic animal that is not a farm animal, as defined in s. 951.01(3), that is kept, owned, or cared for by an individual at risk or an elder adult at risk or by a family member or a household member of an individual at risk or an elder adult at risk.</p> <p>(ep) “Individual at risk” means an elder adult at risk or an adult at risk.</p>	<p>Wis. Stat. Ann. § 813.123(1).</p>
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<p>(fm) “Mistreatment of an animal” means cruel treatment of any animal owned by or in service to an individual at risk.</p> <p>(g) “Neglect” has the meaning given in s. 46.90(1)(f).</p> <p>(gr) “Self-neglect” has the meaning given in s. 46.90(1)(g).</p> <p>(gs) “Stalking” means engaging in a course of conduct, as defined in s. 940.32(1)(a).</p> <p> These definitions apply to Wis. Stat. Ann § 813.123. This statutory provision is included above in the section “Select Crime Victims’ Rights.”</p>	
<p>Harassment Restraining Orders and Injunctions Definitions.</p> <p>(am) In this section, “harassment” means any of the following:</p> <ol style="list-style-type: none"> 1. Striking, shoving, kicking or otherwise subjecting another person to physical contact; engaging in an act that would constitute abuse under s. 48.02(1), sexual assault under s. 940.225, or stalking under s. 940.32; or attempting or threatening to do the same. 2. Engaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose. <p>(bm) In subs. (3) and (4), “household pet” means a domestic animal that is not a farm animal, as defined in s. 951.01(3), that is kept, owned, or cared for by the petitioner or by a family member or a household member of the petitioner.</p> <p> These definitions apply to Wis. Stat. Ann § 813.125(1). This statutory provision is included above in the section “Select Crime Victims’ Rights.”</p>	<p>Wis. Stat. Ann. § 813.125(1).</p>

<p>Evidentiary Protections: Information Concerning Crime Victims Definitions.</p> <p>In this section:</p> <p>(a) “Crime” has the meaning described in s. 950.02(1m).</p> <p>(b) “Family member” has the meaning described in s. 950.02(3).</p> <p>(c) “Victim” has the meaning described in s. 950.02(4).</p> <p> These definitions depend upon Wis. Stat. § 950.02, which is included above in this section.</p> <p> These definitions apply to Wis. Stat. Ann § 904.13. This statutory provision is included above in the section “Select Crime Victims’ Rights.”</p>	<p>Wis. Stat. Ann. § 904.13(1).</p>
<p>Domestic Violence or Sexual Assault Advocate-Victim Privilege Definitions.</p> <p>(a) “Abusive conduct” means abuse, as defined in s. 813.122(1)(a), of a child, as defined in s. 813.122(1)(b), interspousal battery, as described under s. 940.19 or 940.20(1m), domestic abuse, as defined in s. 813.12(1)(am), sexual exploitation by a therapist under s. 940.22, sexual assault under s. 940.225, human trafficking involving a commercial sex act under s. 940.302, or child sexual abuse under s. 948.02, 948.025, or 948.05 to 948.11.</p> <p>(c) A communication or information is “confidential” if not intended to be disclosed to 3rd persons other than persons present to further the interest of the person receiving counseling, assistance, or support services, persons reasonably necessary for the transmission of the communication or information, and persons who are participating in providing counseling, assistance, or support services under the direction of a victim advocate, including family members of the person receiving counseling, assistance, or support services and members of</p>	<p>Wis. Stat. Ann. § 905.045.</p>

<p>any group of individuals with whom the person receives counseling, assistance, or support services.</p> <p>(d) “Victim” means an individual who has been the subject of abusive conduct or who alleges that he or she has been the subject of abusive conduct. It is immaterial that the abusive conduct has not been reported to any government agency.</p> <p>(e) “Victim advocate” means an individual who is an employee of or a volunteer for an organization the purpose of which is to provide counseling, assistance, or support services free of charge to a victim.</p> <p> These definitions apply to Wis. Stat. Ann § 905.045. This evidentiary privilege is included above in the section “Select Crime Victims’ Rights.”</p>	
<p>Domestic Abuse Victims’ Rights Definitions.</p> <p>In this section:</p> <p>(a) “Domestic abuse” means any of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:</p> <ol style="list-style-type: none"> 1. Intentional infliction of physical pain, physical injury or illness. 2. Intentional impairment of physical condition. 3. A violation of s. 940.225(1), (2) or (3). 4. A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under subd. 1, 2 or 3. <p>(b) “Law enforcement agency” has the meaning specified in s. 165.83(1)(b).</p> <p>(d) “Party” means a person involved in a domestic abuse incident.</p>	<p>Wis. Stat. Ann. § 968.075(1).</p>

<p>(e) “Predominant aggressor” means the most significant, but not necessarily the first, aggressor in a domestic abuse incident.</p> <p> These definitions apply to Wis. Stat. Ann. § 968.075. This statutory provision is included above in the section “Select Crime Victims’ Rights.”</p>	
<p>Testing for HIV Infection and Certain Communicable Diseases Definitions.</p> <p>In this section:</p> <p>(a) “Health care professional” means a physician or a registered nurse or licensed practical nurse who is licensed under ch. 441.</p> <p>(b) “HIV” means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.</p> <p>(bc) “HIV test” has the meaning given in s. 252.01(2m).</p> <p>(bm) “Physician” has the meaning given in s. 448.01(5).</p> <p>(c) “Sexually transmitted disease” has the meaning given in s. 252.11(1).</p> <p>(d) “Significant exposure” has the meaning given in s. 252.15(1)(em).</p> <p> These definitions apply to Wis. Stat. Ann. § 968.38(2)–(4). These statutory provisions are included above in the section “Select Crime Victims’ Rights.”</p>	<p>Wis. Stat. Ann. § 968.38(1).</p>

<p>District Attorney’s Duty to Provide Victims with Notice of a Petition for Conditional Release by Offender Committed to Institutional Care Upon Being Found Not Guilty by Reason of Mental Disease or Mental Defect Definitions.</p> <ol style="list-style-type: none"> 1. “Crime” has the meaning designated in s. 949.01(1). 2. “Member of the family” means spouse, domestic partner under ch. 770, child, sibling, parent or legal guardian. 3. “Victim” means a person against whom a crime has been committed. <p> These definitions apply to Wis. Stat. Ann. § 971.17(4m). This statutory provision is included above in the section “Select Crime Victims’ Rights.”</p>	<p>Wis. Stat. Ann. § 971.17(4m)(a).</p>
<p>District Attorney’s Duty to Provide Victims with Notice of Orders of Termination or Discharge Relating to an Offender’s Commitment to Institutional Care Definitions.</p> <p>In this subsection:</p> <ol style="list-style-type: none"> 1. “Crime” has the meaning designated in s. 949.01(1). 2. “Member of the family” means spouse, domestic partner under ch. 770, child, sibling, parent or legal guardian. 3. “Victim” means a person against whom a crime has been committed. <p> These definitions apply to Wis. Stat. Ann. § 971.17(6m). This statutory provision is included above in the section “Select Crime Victims’ Rights.”</p>	<p>Wis. Stat. Ann. § 971.17(6m).</p>

<p>Restitution Definitions.</p> <p>(a) “Crime considered at sentencing” means any crime for which the defendant was convicted and any read-in crime.</p> <p>(b) “Read-in crime” means any crime that is uncharged or that is dismissed as part of a plea agreement, that the defendant agrees to be considered by the court at the time of sentencing and that the court considers at the time of sentencing the defendant for the crime for which the defendant was convicted.</p> <p> These definitions apply to Wisconsin’s restitution statute, Wis. Stat. Ann. § 973.20(1r)–(15). This statute is included above in the section “Select Crime Victims’ Rights.”</p>	<p>Wis. Stat. Ann. § 973.20(1g).</p>
<p>Department of Health Services’ Duty to Victims of Supervised Release or Discharge Definitions.</p> <p>(a) “Act of sexual violence” means an act or attempted act that is a basis for an allegation made in a petition under s. 980.02(2)(a).</p> <p>(b) “Member of the family” means spouse, domestic partner under ch. 770, child, sibling, parent or legal guardian.</p> <p>(c) “Victim” means a person against whom an act of sexual violence has been committed.</p> <p> These definitions apply to § 980.11(2)–(4). These statutory provisions are included above in the section “Select Crime Victims’ Rights.”</p>	<p>Wis. Stat. Ann. § 980.11(1).</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.