



RECOMMENDATIONS
FOR PRACTICE

Post- Conviction Victims' Rights & Services

Prepared by the National Crime Victim Law Institute

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BACKGROUND

Victim advocacy over the past few decades has resulted in the increased understanding of, and compliance with, crime victims' statutory and constitutional rights, as well as improved victim services such that the criminal justice system can be more responsive to victims' needs. The majority of these efforts, however, have focused on pretrial and trial phases of criminal justice. This despite the fact that crime victim involvement with the justice system continues long after trial and often requires victims to navigate a complex maze of post-conviction processes. For instance, offenders can challenge a conviction through direct appeal, post-conviction relief, and habeas corpus review. They may seek to have a conviction expunged. Governors or other executive agencies may have authority to pardon or grant clemency to an offender. Agencies such as jails, corrections, parole boards, and community corrections may each be involved in supervision and control of an offender at various times post-conviction. Restitution collection may require victims to navigate civil proceedings. Throughout each of these post-conviction moments, victims have legal rights in constitution, statute, and rule. These are rights that include information, notification, protection, restitution, privacy and participation. Unfortunately, best practices in affording victims these rights are often hindered by lack of robust or clear laws, agency silos, lack of knowledge about enforceability of the rights, concern and confusion over permissibility of information sharing, uncertainty regarding how to weigh victims' and offenders' respective rights, and lack of sufficient funding for victim advocacy and legal services post-conviction.

Recognition that the post-conviction victims' rights landscape is complex and that victims' rights compliance is inconsistent is not new. *New Directions from the Field: Victims' Rights and Services for the 21st Century*, published in 1998, dedicated a chapter to corrections. Notably, however, the recommendations in *New Directions* primarily focused on improved information and communications, with minimal attention paid to the legal rights of victims. The lack of focus on victims' legal rights in *New Directions* is attributable, in part, to the lack of court interpretation of the meaning and scope of victims' rights at the time. By 2013, victims' rights had advanced and an OVC initiative, *Vision 21: Transforming Victim Services*, that included an in-depth look at the organizations that serve crime victims' role in the overall response to crime and delinquency in the United States, produced a final report recognizing the need to include legal services within the victim services field to make victims' rights meaningful. See U.S. Dept. of Justice, *Vision 21 Transforming Victim Services Final Report*, May 2013, https://ovc.ncjrs.gov/vision21/pdfs/Vision21_Report.pdf.

At the intersection of these two publications lays the possibility of articulating a new horizon of post-conviction victims' rights and services to help make victims' rights more meaningful.

In 2017, the National Institute of Corrections issued a Post-Conviction Victim Service Legal Issues solicitation to delve into the current post-conviction landscape and identify the gaps and opportunities related to interagency collaboration in order to improve victims' rights compliance and enforcement post-conviction. The National Crime Victim Law Institute applied for and was awarded the project. The project design brought together a multi-disciplinary group of experts to analyze existing rights and services, identify gaps and opportunities for interagency collaboration, and draft a set of recommendations to assist jurisdictions in the development of systems to improve rights compliance and implementation of integrated trauma-informed services post-conviction. This paper is the product of project efforts.

PROJECT METHODOLOGY

Because each jurisdiction has unique post-conviction rights and systems, articulating a detailed, uniform set of national practices was not feasible during the project. Consequently, the project's goal was to identify recommendations that any jurisdiction could leverage to analyze local practice, identify gaps, and pinpoint opportunities for improving victims' rights and services. The following components informed the project:

- [Field Input](#). A wide range of experts involved in post-conviction processes and victim services participated by invitation in the project. Those who were involved represented a diversity of profession, geography, and justice system component. There were two levels of participation: stakeholders and an expanded partner group, with the former being regularly involved to guide and participate in project conversations, and the latter being involved periodically to review draft products. The names of stakeholders, together with an overview of expanded partnership group membership, is in appendix A.
- [Literature, Materials and Practice Review](#). The project team developed and deployed a research plan to identify existing post-conviction victims' rights and services resources. The plan consisted of conducting outreach to the field and reviewing legal and social science databases and governmental organizations' websites. Pursuant to this plan, a literature, materials and practice review was completed. It included numerous state and federal materials (e.g., brochures, reports, and organizational policies) that articulate existing and promising practices together with state and federal laws and policies that implicate victims' rights post-conviction. The review is in appendix B.
- [Map of Post-Conviction Victim Service Processes](#). Over the course of the project, participants analyzed victims' rights and experiences across possible post-conviction paths on which victims may find themselves. Through this work, the project

identified legal and service gaps related to victims' rights, interagency collaboration, and information access. This work informed the creation of a Model Post-Conviction Victim Process Map (Model Map) to assist jurisdictions in analyzing their processes. This Model Map is in appendix C.

Over the course of the project, nine technology-assisted meetings and one in-person meeting occurred. In total, 50 individuals from 19 states, consisting of system- and community-based advocates, attorneys, researchers, and academics were involved. These individuals represented prosecution, juvenile justice, community justice, corrections, and community supervision. Of these, 26 individuals—14 stakeholders, eight guests from six federal agencies, and four project team members—attended the in-person meeting. Discussions across meetings included analysis of current law and practice and identification of gaps and promising practices. Meeting agendas as well as key materials reviewed at each meeting are in appendix D. Throughout these discussions, current practices in post-conviction victims' rights and services were juxtaposed with the envisioned model of post-conviction victims' rights and services. This paper's findings and recommendations are drawn from this work.

GENERAL FINDINGS

Stakeholders collaboratively envisioned a model of trauma-informed post-conviction systems, processes, laws, and policies that were responsive to the rights, needs, and recovery of victims while holding offenders accountable and promoting safe communities. Stakeholders identified the following obstacles to achieving this vision:

- Uncertainty of Law. A general lack of understanding regarding the meaning and scope of victims' rights as well as how these rights co-exist with system obligations and offender rights (attributable in part to a lack of court decisions regarding victims' rights in post-conviction settings) impedes consistent rights compliance.
- Dispersed Information and Differing Interpretations. Even within a single jurisdiction, information regarding victims' rights, defendants' rights, and agency obligations is often scattered across a variety of sources, including the criminal code, administrative rules, and organizational policies, which impedes a cohesive approach to victims' rights and services. Further, within a single jurisdiction the legal interpretation of the meaning of each right varies in light of the dearth of binding legal guidance.
- Siloed Systems. Pre- and post-conviction agencies are often entirely separated and maintain separate data systems with little cross-sharing of victims' rights assertions and related information. This siloing negatively affects continuity and consistency of victim

services and rights compliance post-conviction, which contributes to the re-traumatization of victims.

- [Lack of Trauma-Informed Training](#). Too few pre- or post-conviction personnel are well-trained on the effects of trauma or on how to provide trauma-informed services, which contributes to the risk of re-traumatizing victims during post-conviction interactions with system personnel.
- [Insufficient Cross-Jurisdictional Promising Practice Exchange](#). Too few opportunities exist for studying and sharing successful practices for rights compliance and trauma-informed post-conviction services across jurisdictions.
- [Pre-Conviction Bias](#). A cultural misapprehension that the moment of conviction is the end of the criminal justice system has led to an over-focus on pre-conviction victims' rights, needs, and services and has allowed victim needs during post-conviction to be overlooked to the detriment of victims.
- [Inadequate Access to Legal Services](#). Referrals and access to victims' rights attorneys are rare, which leaves victims without the legal services necessary to help them meaningfully understand and evaluate their rights, which impedes assertion, compliance, and enforcement of rights as well as development of legal precedent necessary to clarify the law.

The following recommendations respond to these findings and aim to move post-conviction services and systems toward consistently affording victims their rights—including the rights to be treated with fairness, dignity, and respect—and recognizing victims as integral actors in, and consumers of, meaningful and effective post-conviction systems.

RECOMMENDATIONS

Eight recommendations follow. Each is marked with icons to identify the themes of the recommendation and key persons to whom the recommendation is addressed.





funders



legislators



practitioners



agency/policy leaders

In addition, promising practices are spotlighted with this icon:



- (1) **Increase research on victim experience and participation in post-conviction processes (i.e., from sentencing through an offender’s full release from supervision) to inform policies and practice and make research more accessible.**



While numerous federal and state agencies conduct research on crime victimization and victims’ needs and services, there is a dearth of research on victim participation and satisfaction with post-conviction processes, the effect of post-conviction systems on victims, and the levels of compliance with victims’ rights post-conviction. The research that does exist is not widely disseminated or readily available to post-conviction practitioners, which hinders the integration of this research into practice. Victims would be better served and post-conviction systems could become more trauma-informed and compliant with victims’ rights if additional research was conducted and effectively disseminated.

A national conversation of practitioners and research should be initiated by appropriate federal agency(ies) with the goal of developing and implementing short- and long-term research plans. These plans would include possible collaborations between public and private research organizations. A central agency should ultimately maintain a comprehensive, searchable repository of such research.

- (2) **Encourage and support active collaboration and cross-training of representatives from the wide range of agencies and organizations (system- and community-**



The [National Institute of Corrections Information Center](#) has links to internal and external reports, data and statistics.

based; inter- and intra-jurisdictional) that work with victims or perform jobs that affect victims' rights post-conviction.



Post-conviction systems are varied, complex, and often confusing. Further, post-conviction services and systems are often wholly separate from pre-conviction services and systems. The numerous agencies, their diverse structures and the lack of common agreement regarding permissibility of sharing of information can hinder the delivery of seamless victim services and result in inconsistent compliance with victims' rights. Victim services that exist within these diverse agencies are often underfunded and understaffed and may be structurally isolated from other agency divisions within which they are housed. The result impairs the full implementation of best practices and policies on victims' rights and services. Increasing all practitioners' understanding of the full panoply of post-conviction processes, systems, and rights can help ensure victims meaningfully participate across both systems. This knowledge of other agencies, systems, and processes will promote victim healing and recovery through warm hand offs, continuity of care, and policy enhancements.

Funders and agency/policy leaders should significantly increase their encouragement of and support for regular and meaningful collaboration across the full spectrum of pre- and post-conviction services and agencies within a jurisdiction. Practitioners should seek out and participate in such collaboration.

(3) Create a trauma-informed post-conviction training (similar in model to state victim assistance academies) that covers the full post-conviction continuum, victim experience, victims' rights, trauma effects, and trauma-informed communications. Require personnel across the pre- and post-conviction continuum (e.g., law enforcement, prosecution-based victim assistance, corrections, community supervision, judiciary) to receive this training.



The Minnesota Department of Corrections has a model that provides training on victim's issues to all staff.



Oregon's Basic Parole and Probation Academy trains new parole officers on victims' rights and how to work effectively with victims.

Multnomah County, Oregon, provides additional "new hire" training for parole officers on working with victim advocates and restitution.

The Illinois Attorney General's Office is planning an Advanced Victim Assistance Academy on post-conviction victims' rights.

The Arizona Attorney General's Office's training on pre- and post-conviction rights, restitution, and probation was recognized as a model by the United States Department of Justice in 2017.

Even though offenders often spend more time in the criminal justice system post-conviction than pre-conviction, many victims and the pre-conviction and general victim service professionals with whom they work know little about post-conviction processes. Further, while most funded victim services are pre-conviction (e.g., in prosecutor's offices), the hand-off to post-conviction services is rarely a priority. The result is that post-sentencing, victims enter the longest, most unfamiliar part of the criminal justice system with the least support and little preparation. In addition, there is a lack of understanding among pre- and post-conviction criminal justice professionals about how trauma affects victims, the need for trauma-informed practices, and communication. All of this

can cause re-traumatization – i.e., new or additional trauma for victims – beyond the effect of the original crime.

It is recommended that post-conviction victim advocacy experts, working in collaboration with trauma experts, be supported by funders and agency/policy leaders in the design and delivery of trauma-informed training. The training should include:

- An overview of all post-conviction processes and rights
- Research regarding the effects of trauma
- Information about how to provide trauma-informed responses, care, and communications

The training should be required for all practitioners who interact with victims post-conviction, including those who are the bridge or hand-off from pre- to post-conviction.

- (4) **Leverage technology to increase information dissemination to victims and to create integrated communications and seamless information-sharing across post-conviction actors to promote compliance with victims' rights and interests post-conviction.**



In most jurisdictions, a victim interacts with numerous post-conviction agencies as the offender moves across phases of the post-conviction process. Generally, each post-conviction agency has a unique website and information brochure and uses a distinct case management and victim notification system. Agencies within a single jurisdiction may even have different approaches to how victims activate their rights (e.g., opt-in vs. opt-out). As a result, interagency information sharing is minimal at best, creating confusion and re-traumatization for victims as they have to initiate contact with each responsible agency. While technology cannot replace human interaction with victims, it can be a tool to ensure victims have access to the information that they need when they need it. Technology may also help jurisdictions:

- Streamline, standardize, and improve information sharing and collaboration across agencies (e.g., transferring the victims' assertion of rights)

- Facilitate delivery of services (e.g., notifications)
- Minimize opportunities for human errors

When done well, technology can enhance continuity of care in victim services by facilitating a case management approach to victim services.

It is recommended that funders and agency/policy leaders identify a single agency within each jurisdiction with strong interagency support to take the lead in bringing together post-conviction stakeholders to develop a technology plan to enhance interagency information sharing and continuity of victim care. Technology that leverages, integrates, and factors existing systems; meets the operational and functional needs of agencies; and considers long-term sustainability should be a priority of such a plan. The effort should begin with detailed planning discussions with practitioners regarding the vision for the technology, securing ongoing financial support, determining the host agency, ensuring data security, and formalizing processes and policies for victims' informed consent. Jurisdictions should leverage work done in this area by other jurisdictions.



Multnomah County, Oregon's [Case Companion](#) website created from a partnership and grant provided by Code for America was a collaborative design to share information with victims while improving systems.

(5) Ensure seamless delivery of victim assistance from pre-conviction through post-conviction by leveraging human assistance and technology.



While most jurisdictions have relatively comprehensive pre-conviction victim services, when a victim transitions into post-conviction systems, more often than not the transition is confusing and far from seamless. Even when pre-conviction services provide some information about post-conviction rights and services, it may be minimal or done at a time when the victim may be unable to process the information fully. Ultimately, this leaves victims without critical information necessary for meaningful participation in the post-conviction process, and it often leads to re-traumatization. Systems and processes that ensure the sharing of information about rights and services across the life of a case would help victims know when and how to connect with relevant system actors and thereby improve outcomes for victim safety and empowerment, as well as offender management.

Agency/policy leaders should adopt and funders should support that a life cycle case management approach be taken to victim services to ensure continuity of care for a victim from pre-conviction through post-conviction. The structure of such services can be that of a single human “navigator” or “liaison” who would leverage technology to help a victim understand and navigate each step post-conviction. Using a case management approach that leverages technology can help victims know who to contact with questions about the process, the offender, available services, and their rights. This approach would also ensure that a victim is aware of restitution collection efforts.



[Pennsylvania’s Office of Victim Advocate](#), an established state victim advocate with a clearly defined position that includes statutorily representing the interests of victims on post-sentencing rights and services, streamlines services and elevates victims’ rights.

- (6) **Laws in each jurisdiction should provide victims with meaningful participatory status in the post-conviction process by affording them sufficient information, notice, protection, privacy, financial support, and access to no-cost legal services to aid their healing.**



While every jurisdiction affords victims some constitutional, statutory, and/or rule-based rights, the rights afforded and their enforceability varies greatly. Without comprehensive, enforceable rights that attach pre-charging and continue throughout post-conviction (e.g., parole, probation, appeal, habeas corpus), victims’ privacy, safety, and financial stability are in jeopardy. Moreover their dignity is jeopardized when they are treated as interlopers, rather than rightful participants, in the process.

Practitioners, policy makers, and victims’ rights experts should collaborate to compare a jurisdiction’s existing laws against the checklist contained in appendix E and the collection of laws contained in appendices F (participation), G (privacy), and H (protection) to



[The National Crime Victim Law Institute](#) has resources to help states analyze their rights. Of specific interest may be the Victims’ Rights Enforcement Toolkit which has a section dedicated to [post-conviction processes](#).

identify any gaps or provisions that undermine victims' meaningful role in the system. The laws must include a clear right to restitution and procedures for restitution collection. From this review, a plan for amending the law (considering changes to constitution, statute, rule, and policy) should be crafted and advanced. Such a plan should include identification of funding to make the rights meaningful, including access to no-cost legal services to help victims with the assertion and enforcement of their rights.

- (7) **Create a dedicated, temporary funding stream to establish or enhance post-conviction victim services, education, and technology, and require collaboration and cross-training on post-conviction victims' rights and services for existing funding of pre-conviction victim services.**



Post-conviction victim services are generally under-resourced and understaffed. Funding is needed for personnel, training, and technology enhancements to make post-conviction victim services effective and vigorous. A short-term, dedicated funding stream can allow jurisdictions to invest in victim services and rights compliance that will bring post-conviction victim services to a level minimally on par with pre-conviction victim services. Further, as noted throughout, the demarcation of pre- and post-conviction victim services fails to recognize the continuity of victim needs which, when combined with silos of agencies, is detrimental to victim involvement, empowerment, and recovery. Collaboration and increased understanding among professionals interacting with victims at all phases of criminal justice will benefit victims, the system, and our communities by improving victim services, reducing trauma, and reducing the risk of re-traumatization.

It is recommended that funds be dedicated for jurisdictions to initiate or enhance post-conviction victim services systems in accord with the other recommendations contained in this paper. This funding would allow states that do not have services to establish them and those that have some services to enhance them. Further, it is recommended that agencies receiving pre-conviction victim services funds be required to collaborate with, and be trained on, post-conviction victims' rights and services.

- (8) **Increase victim access to no- or low-cost legal services pre- and post-conviction.**





Post-conviction processes present complexities that are difficult to navigate even for the most skilled advocates and attorneys. For those who have experienced trauma, who are unfamiliar with the justice system or who are uneducated in law, navigating and activating one’s rights within the post-conviction process is nearly impossible. A victims’ rights attorney (VRA) is able to increase victim satisfaction and victim healing during the post-conviction process in myriad ways. A VRA can facilitate communication between system actors and the victim, explain system processes, identify and predict moments that implicate victims’ rights and services, help victims assert rights, and zealously advocate for those rights as necessary. Providing no- or low-cost legal services is a recognized method of making rights meaningful. As the United States Supreme Court noted in a 1932 case, “[t]he right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel.” Likewise, victims’ rights to be heard and rights to privacy, safety, and restitution are of little avail to the victim who is lost in the complex maze of post-conviction without legal guidance.

It is recommended that pre- and post-conviction victim service providers and agencies actively inform victims of the opportunity to access legal services to assist them with their rights and develop referral processes and systems for connecting victims to VRAs. It is further recommended that funders increase available funding for such legal services.

CONCLUSION

Because post-conviction systems are incredibly complex yet perhaps the least spoken about of criminal justice processes, and because post-conviction victim services are among the least resourced, crime victims struggle to access their rights and meaningfully participate in criminal justice post-conviction. The victim services field is poised to identify and leverage innovative tools, resources, and solutions to enhance post-conviction victim services and to increase compliance with victims’ rights. The collaborative efforts of this project have identified the need to:

- Design and implement trauma-informed practices informed by research and supported by technology.
- Support collaborative approaches that mitigate the complexity of post-conviction systems, increase efficiencies, and support information sharing.

- Ensure a continuum of legal and social services support for victims pre- and post-conviction.

The recommendations identified in this paper, when funded and implemented, would move the field forward toward increased compliance with and enforcement of victims' rights.

APPENDIX A

Stakeholders, Federal Representatives & Expanded Partner Group

Stakeholders

Name	Title	Jurisdiction	Role
Nida Abbasi	Coordinator, Gender & Family Justice	New York	Advocate
Hon. Richard Barajas	Chief Justice (Ret.) - Executive Director of NOVA	Virginia	Attorney
Nichole Brown	Administrator Programs & Social Support Services Unit	Oregon	Advocate
Karin Ho	Advocate	South Carolina	Advocate
Cindy Hora	Deputy Division Chief	Illinois	Attorney
Angie McCown	Director, Victim Services Division	Texas	Advocate
Robyn Masella	Victims Specialist	Oregon	Advocate
Katie Monroe	Executive Director	Washington, DC	Attorney
Lydia Newlin	Program Manager/Victim Assistance	Minnesota	Advocate
Denise Peña	Senior Manager, Community Supervision	Oregon	Advocate
Kerri Schmitt	Conflict Resolution Specialist	Colorado	Advocate
Randall Udelman	Member Attorney	Arizona	Attorney
Jon Wilson	Director	Maine	Advocate
Julie Grohovsky	Attorney	Washington, DC	Attorney

Federal Representatives

Name	Title	Jurisdiction	Role
Virginia Baran	Program Specialist	Washington, DC/Federal	Program Management
Jasmine D'Addario-Fobian	Victim Justice Program Specialist	Washington, DC/Federal	Program Management
Kate Manning	Senior Attorney Advisor	Washington, DC/Federal	Attorney
Cindy Pappas	Senior Policy Advisor	Washington, DC/Federal	Advocate
Heather Warnken	Legal Fellow	Washington, DC/Federal	Attorney
Eli Vialpando	Senior CPS	Washington, DC/Federal	Program Management
Maria Rustin	Parole Action Review Specialist	Washington, DC/Federal	Program Management

Expanded Partner Group

The EPG included 11 system-based Advocates, 2 community-based advocates, 8 attorneys, 4 system-based program managers, 1 researcher/academic and 2 survivors from 13 states and the District of Columbia.

APPENDIX B



**Post-Conviction Victim Services Legal Issues Project
Literature, Materials & Practices Review
Select Resources***

NCVLI Resources 1
 General Publications 2
 Forms 6
 Brochures 6
 Departmental Policies 7
 Other Resources 8
 Websites with Additional Publications 9

NCVLI Resources

Abatement Ab Initio and a Crime Victim's Right to Restitution, NCVLI Victim Law Bulletin (Nat'l Crime Victim Law Inst., Portland, Or.), 2006, <http://law.lclark.edu/live/files/21760-abatement-ab-initio-and-a-crime-victims-right-to>.

The article focuses on how the *abatement ab initio* doctrine that when applied erases a defendant's conviction if he/she/they dies prior to exhaustion of appellate remedies violates victims' rights.

Considerations When Advising Victims about Methods for Exercising their Right to Be Heard at Sentencing, NCVLI Victim Law Bulletin (Nat'l Crime Victim Law Inst., Portland, OR.), 2018, <https://law.lclark.edu/live/files/26752-victim-input-at-sentencing-qr-codepdf>

This article explores the various methods of exercising the right to be heard at sentencing and the potential reasons for utilizing each method.

DRAFT Survey of Select State and Federal Laws that Implicate Victims' Rights in the Post-Conviction Setting, Victim Law Document (Nat'l Crime Victim Law Inst., Portland, Or.), 2018 (on file with author).

A compilation of state constitutional amendments, statutes and rules explicitly implicating victims' rights in the post-conviction setting. Example of the provisions collected are: sentencing, restitution, parole, probation, sex offender registration and DNA testing.

* Documents without a publication date listed were last reviewed online on August 13, 2018.

The Long and Confusing Road of the Criminal Justice System After Conviction: Victims' Rights in Habeas Corpus Proceedings and Pardons, NCVLI Victim Law Bulletin (Nat'l Crime Victim Law Inst., Portland, Or.), 2018, <http://law.lclark.edu/live/files/25757-victims-rights-in-habeas-and-pardonspdf>.

This article addresses two difficult and perhaps unexpected “after conviction” realities that victims may face—*habeas corpus* proceedings and pardons. It discusses the history of these aspects of the criminal justice system, identifies the rights victims have in each setting, and provides practice pointers for making victims’ rights more meaningful in these contexts.

Overview of Victims' Right to Be Heard in Connection with Parole and Other Post-Conviction Release Proceedings, NCVLI Victim Law Bulletin (Nat'l Crime Victim Law Inst., Portland, OR.), 2018, <https://law.lclark.edu/live/files/27372-victim-input-at-parole-bulletinwith-qr-code-pdfpdf>.

This article provides an overview of the right to be heard post-conviction and practice tips for attorneys and advocates working with victims who are deciding on whether, and how, to exercise their right to be heard post-conviction.

Survey Of Key Laws In The Fifty States And District Of Columbia Specifically Regarding Victims' Right To Notice In Connection With Offenders' Post-Conviction Release, Victim Law Fifty State Survey (Nat'l Crime Victim Law Inst., Portland, Or.), 2016, <http://law.lclark.edu/live/files/23523-50-state-survey--victims-right-to-notice-of>

A survey of laws from the states and Washington D.C. detailing explicit victim notification requirements in the post-conviction release context. Example of types of release for which notification provisions are included are: parole, work-release, supervised release, medical release and pardon.

Survey of Select State Laws Explicitly Addressing The Confidentiality Or Privilege Of Parole Information. Victim Law Select State Survey (Nat'l Crime Victim Law Inst., Portland, Or.), 2016, <http://law.lclark.edu/live/files/23522-state-laws-explicitly-addressing-the>.

Chart of select statutes authorizing victim or public access to certain probation, parole or inmate records.

General Publications

Ass'n of Paroling Authorities Int'l, *Ten Core Principles for Ensuring Crime Victims' Rights are Honored and Upheld in Parole/Release Processes*, <http://apaintl.org/resources/documents/coreprin.pdf>

A list of ten practices for paroling authorities to consider adopting to ensure victims’ rights are afforded in the parole context.

Maureen Baker et al., *Working with Victims of Crime: An Integrated Approach for Community Supervision Professionals* (2016), <https://info.nicic.gov/wwvc/>.

This guide provides an overview of available information on victims' rights and services. Section three, *Victims' Rights*, focuses on seven victims' rights that are common across jurisdictions in the probation and parole context. The rights discussed include the rights to: notification and information; reasonable protection/safety; confidentiality/privacy; attend/be present; be heard/provide input; compensation; and restitution. Section six, *Tools and Materials*, contains a downloadable document: *Ensuring Victims' Rights as a Probation and Parole Officer: What Can You Do?*

Najah Barton and Randi Losalu, Ass'n of Paroling Authorities Int'l, *Victims' Services Best Practices Guide for Parole Board Chairpersons and Members* (2018) (on file with author).

This best practices guide includes information on procedures for notification of victims and/or their representatives; guidance on how victims may participate in parole proceedings and post-conviction processes; guidelines on the development of victim impact statements, and how they are used during parole or post-conviction matters; and what information to make publicly available for post-sentencing matters.

Adam Crawford and Jill Enterkin. *The Probation Service's Work With Victims Of Crime* (2000), <http://journals.sagepub.com/doi/pdf/10.1177/026455050004700203>.

This article is an overview of the main findings of an in-depth, qualitative study of two probation services that have different approaches to victim contact. The article focuses on the shared issues of the two services, highlighting challenges. It concludes that "while there is broad satisfaction with the Probation Service's work with victims, greater clarity is needed with regard to several issues, including the fundamental purpose of victim contact work and the limitations of the service which can be offered."

Seri Irazola et al., ICF Inc., *Study of Victim Experiences of Wrongful Conviction* (2013), <https://www.ncjrs.gov/pdffiles1/nij/grants/244084.pdf>.

This report submitted to the National Institute of Justice discusses an exploratory study examining victim experiences in cases of wrongful conviction. The report documents the methodology and findings from the study, and examines the implications for practice and policy.

Journal of the APPA, Voice of the Victim Spotlight Issue, *Perspectives* (2012), https://www.appa-net.org/eweb/docs/appa/pubs/Perspectives_2012_Spotlight.pdf

This special edition of the American Probation and Parole Association's *Perspectives*, which "provides a collection of informative, thought-provoking articles to support community corrections professionals in incorporating victims' rights and services into daily practice", contains articles on victims' rights surrounding offender reentry,

restitution court in Arizona, technology and how it can benefit crime victims, and recommendations for improving victim services during community corrections program

Mass. Office for Victim Assistance, Chapter 4: Post Disposition Services for Victims, *In the Aftermath of Crime: A Guide to Victim Rights and Services in Massachusetts*, 58-82, www.mass.gov/files/documents/2016/08/un/aftermath-of-crime.pdf, last updated August 27, 2017.

This guide is an excerpted chapter from an update to *In the Aftermath of Crime: a Guide to Victim Rights and Services in Massachusetts*. The guide provides basic information to victims and victim service providers. The content of the chapter focuses on the complexities of navigating the criminal justice system post-conviction and the rights to which victims, witnesses and families are entitled under Massachusetts law.

Mich. Judicial Inst.. Crime Victim Rights Benchbook—Third Edition (Editorial Advisory Comm., ed., Mich. Judicial Inst., 2018), <https://mjieducation.mi.gov/documents/benchbooks/18-cvrb/file>

This benchbook details victims' rights laws and annotates with caselaw interpreting the rights. Chapter 5 addresses victim notification and Chapter 7 addresses victim impact statements and victim's right to appeal parole decisions.

Minn. Dep't of Pub. Safety, Office of Justice Programs, Minn. *Crime Victim Rights: Reference Guide for Criminal Justice Agencies and Professionals*, 20-28, (revised June 2018), https://dps.mn.gov/divisions/ojp/forms_documents/Documents/Victim%20Rights%20Reference%20Guide.pdf

This reference guide is a compilation of Minnesota statutes related to crime victims. The guide describes many Minnesota laws related to crime victims and the obligations of those in the criminal justice system toward victims. The guide lists statutory rights of and obligations to crime victims, and articulates practices to ensure rights are not violated.

Mo. Dep't of Corr., Dep't Manual, *Victim Services*. (Aug. 12, 2007), http://www.navac.website/uploads/7/3/2/2/73224507/2007_mo_doc_victim_services.pdf

This manual establishes guidelines to be followed that provides familiarity with, and knowledge of, the department's responsibility to victims of crime. The manual also provides the conditions under which victim's rights apply and shall be afforded.

Nat'l Ctr for Victims of Crime, *DNA & Crime Victims: Post-Conviction Testing And Exonerations*, https://victimsofcrime.org/docs/DNA%20Resource%20Center/dna_exoneration_bro.pdf?sfvrsn=0.

This bulletin is intended to help victim service providers and other professionals give informed and sensitive guidance to victims during the post-conviction DNA testing and exoneration process.

Nat'l Ctr for Victims of Crime, *Promising Practices and Strategies for Victim Services in Corr.* (1997), <http://victimsofcrime.org/library/publications/archive/promising-practices-and-strategies-for-victim-services-in-corrections#foreward>.

A compendium of three other texts designed to provide the reader with a high-level overview of components of corrections-based victim services. Topics discussed include technology to enhance corrections-based victim services, victim notification, victim impact statements, and restitution.

Office of Attorney Gen. Pam Bondi: Div. of Victim Services and Criminal Justice Programs. *A Guide to Victims' Rights and Services in the Capital Appeals Process*, [http://myfloridalegal.com/webfiles.nsf/WF/RMAS-9JQKKM/\\$file/VictimsRightsintheCapitalAppealsProcess.pdf](http://myfloridalegal.com/webfiles.nsf/WF/RMAS-9JQKKM/$file/VictimsRightsintheCapitalAppealsProcess.pdf)

The purpose of this handbook is to provide a basic overview of Florida's appellate process, to answer some questions victims may have, and to explain how and when victims may be notified about their case during the appeal.

Anne K. Seymour, Am. Prob. And Parole Ass'n, *Public Hearing on Victim Issues in Probation and Parole August 18, 2010 Recommendation Report*, <https://www.appa-net.org/eweb/docs/appa/pubs/PHVIPRR.pdf>

A report based on a public hearing that provides a list of 10 recommendations for improving services to crime victims and survivors throughout the community corrections process. The report also summarizes hearing testimony regarding victim information and notification, restitution, fairness and justice, respect and recognition, and offender accountability.

Anne K. Seymour, Am. Prob. and Parole Ass'n, *A Community Response Manual: The Victim's Role in Offender Reentry*, (2001), <https://www.appa-net.org/eweb/docs/appa/pubs/VROR.pdf>

This manual contains information to educate community members in reentry partnerships (such as institutional and community corrections, local law enforcement, social service agencies, and community organizations) that are victim-centered and reflect victims' needs and concerns, and engage them in meaningful partnerships with criminal and juvenile justice professionals, victim assistance personnel, and allied professionals. Its stated intention to enhance the capacity of reentry partnerships to promote victim and community involvement and safety.

U.S. Dep't of Justice, Office of Justice Programs, Office for Victims of Crime, *Attorney Gen. Guidelines for Victim and Witness Assistance* (2012), https://www.justice.gov/sites/default/files/olp/docs/ag_guidelines2012.pdf

The guidelines are to be followed by officers and employees of the U.S. Department of Justice (Department), including the correctional and parole components of the Department, in the treatment of crime victims.

Corey Stephan, Wis. Dep't of Justice: Office of Crime Victim Services, *Victims' Rights and Criminal Appeals*, <https://www.doj.state.wi.us/sites/all/themes/wi-doj-ag/ocvs/files/navigating/victim-rights-criminal-appeals.pdf>

This handout provides general information on the appellate processes in Wisconsin. It outlines the types of appeals, who represents the parties in an appeal, the length of time for an appeal, and provides a glossary of terms.

Forms

Cal. Attorney Gen.'s Office, Victims' Services Unit, *Request for Criminal Appeal Status*, (rev'd July 2009), <https://oag.ca.gov/sites/all/files/agweb/pdfs/victimservices/OVSform.pdf>

This form allows victims to request notification of the outcome of an appeal by their offender. It provides information about the right and where to mail the form.

Cal. Dep't of Corr. and Rehab., Victim & Survivor Rights & Services, *Request for Notification of Parole Hearings*, http://www.cdcr.ca.gov/Victim_Services/docs/Victim_Declaration.pdf

This form allows victims to request notification of parole hearings for their offender and to declare their relationship status with the offender.

Minn. Office of Justice Programs and Minn. Dep't of Corr., *Post-Conviction Checklist – Jail And Prob.: A guide for advocates at the close of the case*, (2016), <https://dps.mn.gov/divisions/ojp/forms-documents/Documents/Exit%20check%20list.pdf>

This checklist is designed for victim advocates to use at the conclusion of a criminal case to ensure victims are not denied their rights. The checklist covers information to be reviewed with victims regarding the disposition of the case, resources available, and post-conviction rights and how the victim can provide and receive information from criminal justice systems and professionals. "Conclusion of a criminal case" is undefined, but appears to be conclusion of trial court level proceedings.

Brochures

Cal. Victim Comp. Bd., *A Victim's Restitution Guide: Financial Recovery*, (rev'd Sept. 2016), <https://victims.ca.gov/docs/brochures/RestVictims.pdf>

This brochure outlines steps for victims to take after restitution is ordered; details the process of restitution payment when offender is incarcerated; and outlines restitution payment when offender is released.

Or. Dep't of Justice: Crime Victims' Services Div. and Post-Conviction Victim Advocacy Program, *Post-Conviction Process And Victims' Rights*, (rev'd April 2017), https://www.doj.state.or.us/wp-content/uploads/2017/03/pcvap_brochure.pdf

This brochure provides an overview of the post-conviction process, the potential outcomes, and the related victims' rights. It also contains answers to frequently-asked questions and contact information for the state's Post-Conviction Advocacy Program.

State of Wyo. Bd. of Parole, *Victims' Rights; Public Safety; Treatment & Control of Offenders*, <https://drive.google.com/file/d/0BxgGvgRMOUrUYmhYOXhFSHd6VDA/edit>

This brochure provides an overview of Wyoming's sentencing system and the Wyoming Board of Parole's role in the system. The brochure provides information on victim restitution, offender apology letter bank, and parole in general.

Departmental Policies

N.H. Dep't of Corr., Policy and Procedure Directive, Statement No. 1.30, *Services And Support For Victims And Survivors Of Crime*, (April 15, 2005), <http://www.navac.website/uploads/7/3/2/2/73224507/newhampshirevictimnotification.pdf>

This policy provides procedures for department personnel to follow in affording victims their rights to notice, to be free from intimidation,; and to be reasonably protected from the offender. It also outlines the VOD process.

State of La. Dep't of Public Safety and Corr., Field Operations General Crime Victims Services Bureau, Corrections Services, *Department Regulation No. C-01-007*, (May 20, 2006), http://www.navac.website/uploads/7/3/2/2/73224507/2006_la_reg.pdf

This document establishes the primary functions of the Crime Victims Services Bureau, a public service implemented through the state's Secretary's Office, which enables victims of crime and others directly affected by that crime to register for notification of key events specified in law and policy, facilitates general access to information helpful to crime victims, and supports development of programming responsive to the needs and wishes of crime victims and others injured by the criminal acts of persons under the state's authority.

State of Ohio Dep't of Rehab. and Corr., *Crime Victim Services, Policy No. 03-OVS-01*, (Mar. 15, 2007), http://www.navac.website/uploads/7/3/2/2/73224507/ohio_2007_-_crime_victim_services.pdf

This document states the policy of the Ohio Department of Rehabilitation and Correction to ensure that victims are treated with respect and sensitivity, and that they are informed

and considered in decisions related to their offenders' liberty and outlines procedures for achieving the policy.

State of Ohio Dep't of Rehab. and Corr., *Victim Notification, Policy No. 03-OVS-04*, (April 17, 2010), http://www.navac.website/uploads/7/3/2/2/73224507/ohio_2010_-_victim_notification.pdf

This document establishes a policy and the accompanying procedures governing the process of victim notification in regard to the Parole Board hearing process and other events regarding offenders under the custody or supervision of the Department.

State of Me. Dep't of Corr., *Victim Notification of Prisoner or Juvenile Client Release, Policy No. 6.1*, (Dec. 22, 2003), <http://www.navac.website/uploads/7/3/2/2/73224507/mainevictimnotification.pdf>

This document provides guidance on how to fulfill Maine's victims' rights law that requires the Department of Corrections notify certain crime and juvenile crime victims when the prisoner receives an unconditional release and discharge from institutional confinement, or receives a conditional release such as probation, parole or furlough.

Other Resources

Am. Prob. and Parole Ass'n, *Empowering Crime Victims through Information and Notification*, <http://appa.academy.reliaslearning.com/product.aspx?zpid=5633>, and *Promising Victim-Related Practices in Probation and Parole*, <http://appa.academy.reliaslearning.com/product.aspx?zpid=5616> (online trainings).

These two online training courses are designed to educate parole and probation employees of the fundamental rights and needs of crime victims and to provide information and strategies for how to protect and meet the needs of crime victims whose offenders are involved in the community corrections process.

Am. Prob. and Parole Ass'n, *Promising Victim-Related Practices in Probation and Parole and Empowering Crime Victims Through Information and Notification. Fact Sheet 4: Restitution And Other Legal Financial Obligations*, (1999), <https://www.appa-net.org/eWeb/docs/APPA/pubs/PVRPPP-FACTSHEET-4.pdf>

This fact sheet contains information on facilitating the collection and management of restitution for crime victims. It includes tips for enhancing collection without adding additional resources; innovations in law and practice among the states; and training opportunities in restitution management.

Am. Prob. and Parole Ass'n, *Promising Victim-Related Practices in Probation and Parole and Empowering Crime Victims through Information and Notification, Fact Sheet 5: Seeking Victim Input*, (1999), <https://www.appa-net.org/eWeb/docs/APPA/pubs/PVRPPP-FACTSHEET-5.pdf>

This fact sheet provides information on victim input for consideration in probation and parole decisions. Specifically, it discusses key elements for seeking victim input; promising practices in the solicitation and delivery of victim impact statements; and when and what form victim input may occur.

Am. Prob. and Parole Ass'n, Promising Victim-Related Practices in Probation and Parole and Empowering Crime Victims through Information and Notification, *Fact Sheet 6: Victim Information and Notification*, (1999), <https://www.appa-net.org/eWeb/docs/APPA/pubs/PVRPPP-FACTSHEET-6.pdf>

This fact sheet provides information on victim notification rights during probation and parole. Specifically, it covers elements of victim notification, informational needs, and ways to enhance victim notification.

Lorie Brisbin and Denise Pena, Nat'l Inst. of Corr. and Multnomah Cnty. Dep't of Cmty. Justice, *Victims and Justice Reinvestment in Oregon* (PowerPoint Presentation), (2017), <http://www.oregon.gov/cjc/summit/Documents/Victims.pdf>

This presentation discusses how Oregon is tackling criminal justice reform as it relates to post-conviction processes.

Co. Dep't of Corr., *Victim Notification Program, 2017*, https://drive.google.com/file/d/0B4D7ltAV_jW1Yi15NmRQSnNwQ0h6MFRQNF9vOXR4VE1FdUxJ/view

This fact sheet provides Colorado victims with information on post-conviction processes, including under what circumstances victims will be notified; the parole process; and how an offender's sentence may be modified (good time credit, parole revocation).

CSG Justice Ctr., Nat'l Reentry Res. Ctr., *Financial Support for Victims of Crime: A Quick Guide for Corrections and Community Supervision Officers*, (Aug. 7, 2018), <https://csgjusticecenter.org/wp-content/uploads/2018/08/Financial-Support-for-Victims-of-Crime.pdf>

This guide briefly outlines the role that corrections, probation, and parole officers can play in informing victims of the supports to which they are entitled and how they can pursue restitution, compensation, or other means of financial support.

Fed. Bureau of Prisons, *Resources For Victims & Witnesses*, https://www.bop.gov/resources/victim_resources.jsp

Informational website about notifications, payments, and complaint procedures for victims of federal crimes.

Websites with Additional Publications

National Association of Victim Assistance in Corrections - <http://www.navac.website/resources.html>

National Crime Victim Law Institute - <https://law.lclark.edu/live/news/22671-post-trial?preview=1>

National Institute of Corrections - <https://nicic.gov/library-overview>

National Institute of Justice - <https://www.nij.gov/publications/Pages/all-publications.aspx>

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APPENDIX C

Mapping A Model Post-Conviction Victim Process

The following pages present a visual map of model post-conviction processes that would help to ensure victims' meaningful rights through collaboration and information sharing across key system and community-based stakeholders. The map presents distinct victim advocates at different points in the system drawing from common practices. Notably, however, if the recommendation of a life cycle case management approach is taken, the structure of such advocacy might evolve to be that of a single human "navigator" or "liaison" leveraging technology or integrating a common navigator/liaison with other advocates.

The full map is made up of four submaps and a key is provided to aid with review. The submaps cover distinct processes: (1) sentencing, (2) probation, (3) custody and (4) appeals. The first three follow the general progression of most offenders and are most informative when read in sequential order. The appeals submap is a stand-alone map as activities associated with an appellate review can occur throughout the post-conviction timeline.

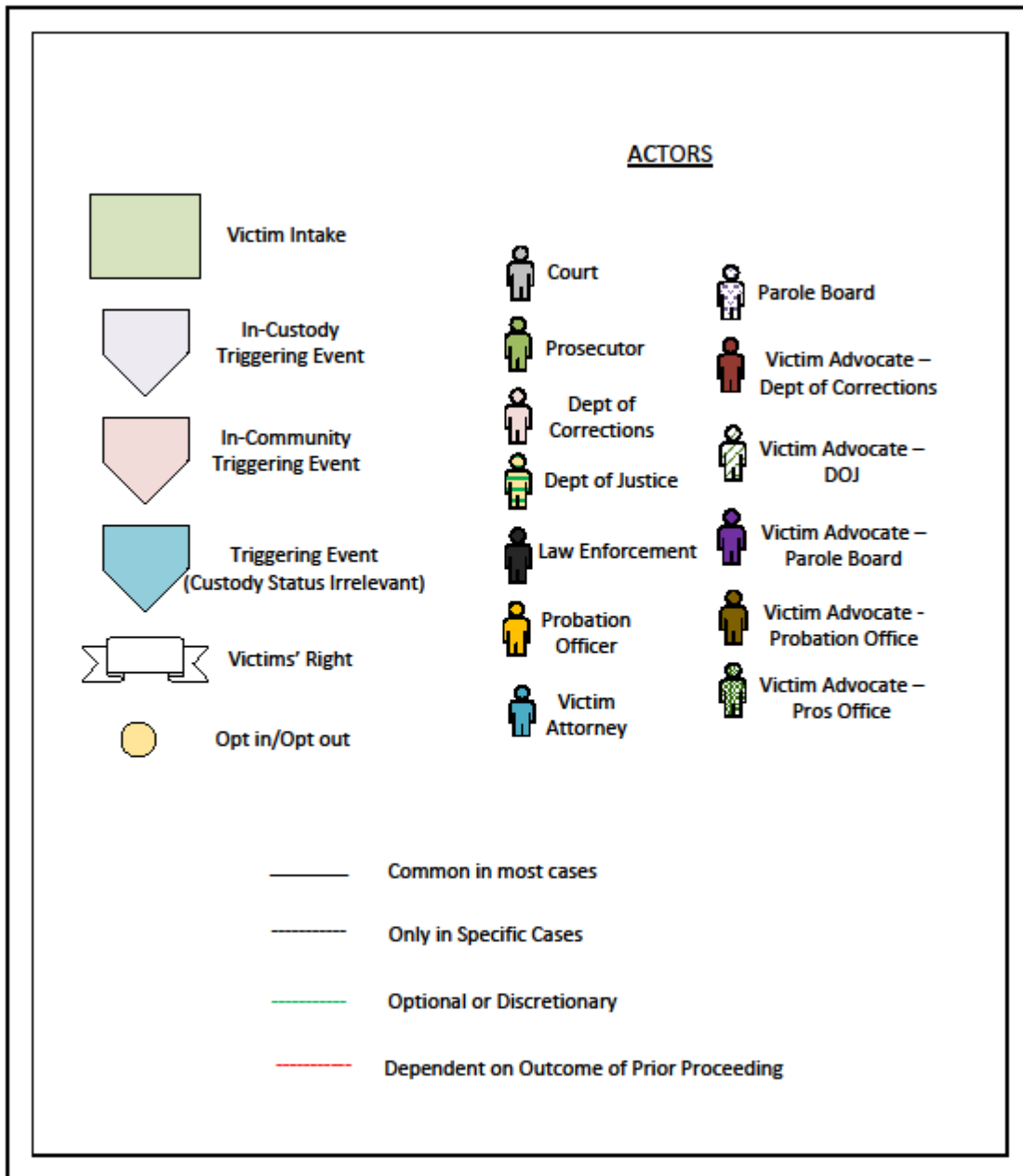
The general flow of each map is from left to right. Victim Intake (i.e., green rectangles) begin a process and denote a transfer of custody/control over offender. At every Victim Intake, actors within an agency losing custody/control and those within an agency receiving custody/control are to be sharing information with the victim and, as appropriate, with one another, regarding agency contact information and next steps in the post-conviction process. Each Victim Intake also includes an assessment of and communications with victims about victims' rights and interests regarding privacy, protection, restitution and being heard.

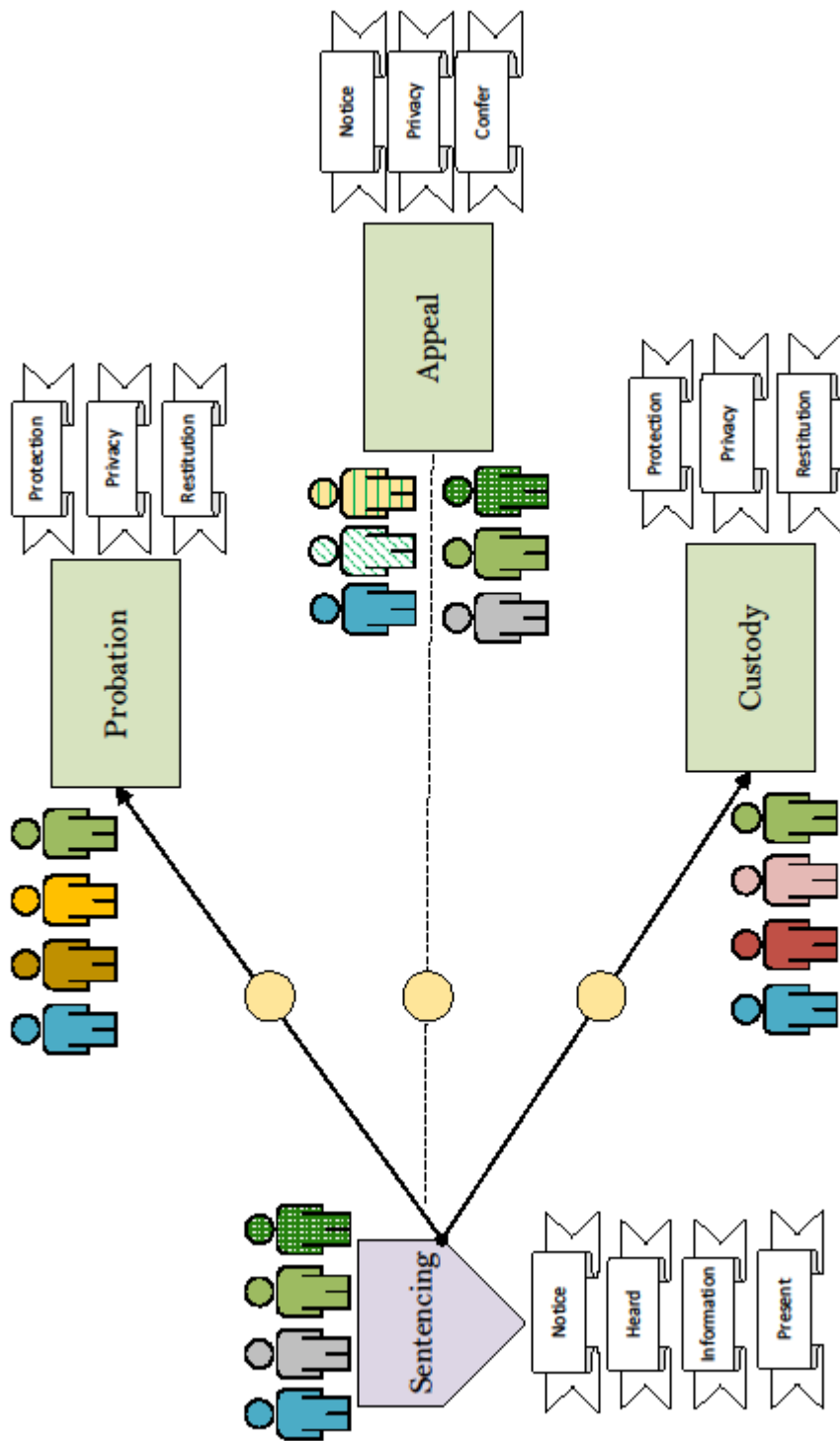
When a Triggering Event (i.e., irregular pentagons) occurs, the submaps indicate the actors that would ideally be involved and the most significant victims' rights implicated (in addition to those rights present throughout). Not every Triggering Event will occur for every offender:

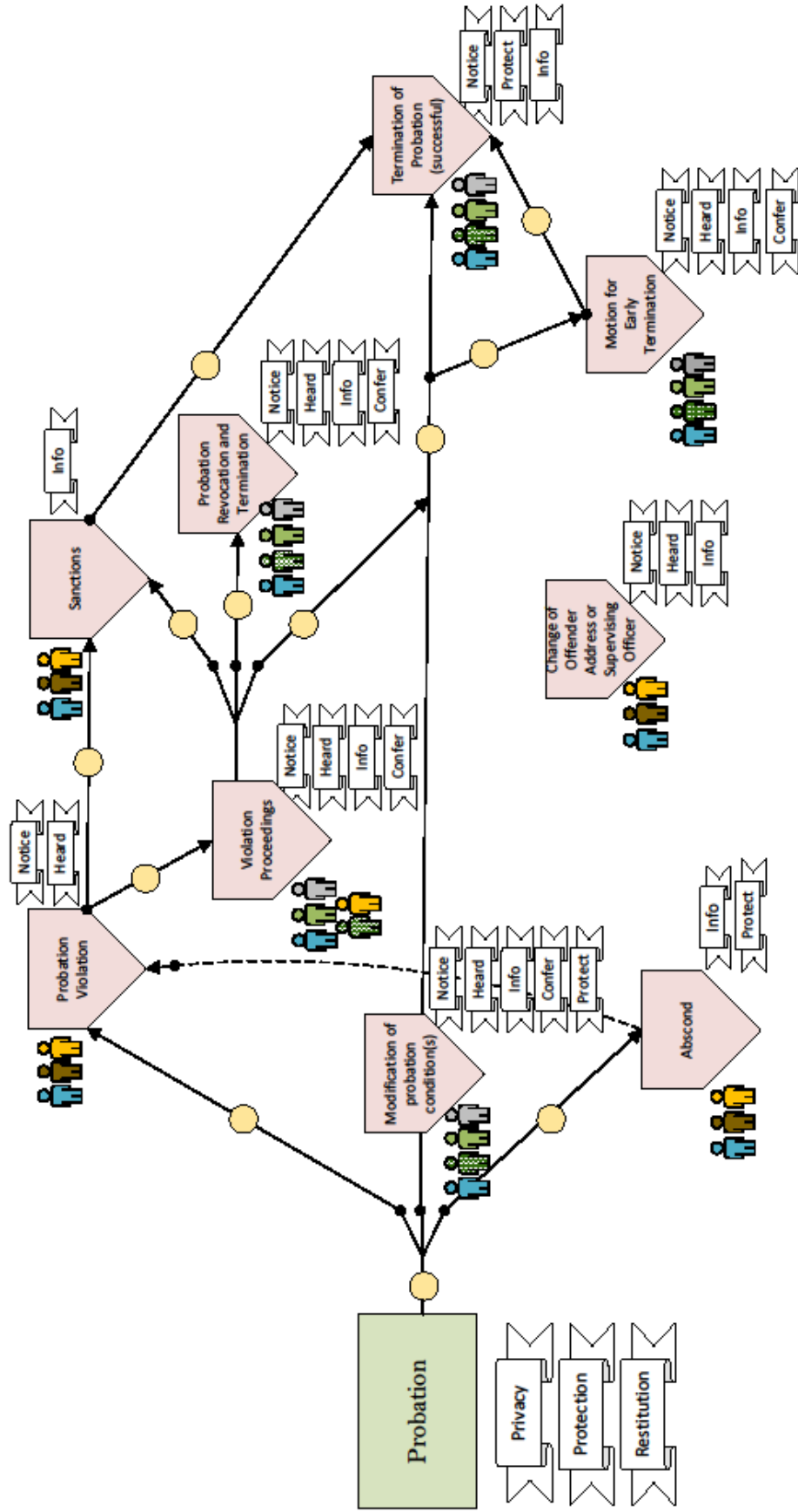
- A solid black line indicates the most common pathways
- A dashed black line is for those only present for certain cases (e.g., sexual offender cases)
- A dashed green line indicates optional or discretionary pathways
- A dashed red line indicates pathways dependent on a court decision or prior proceeding
- Events that are not on an identified path can occur at any time throughout the process

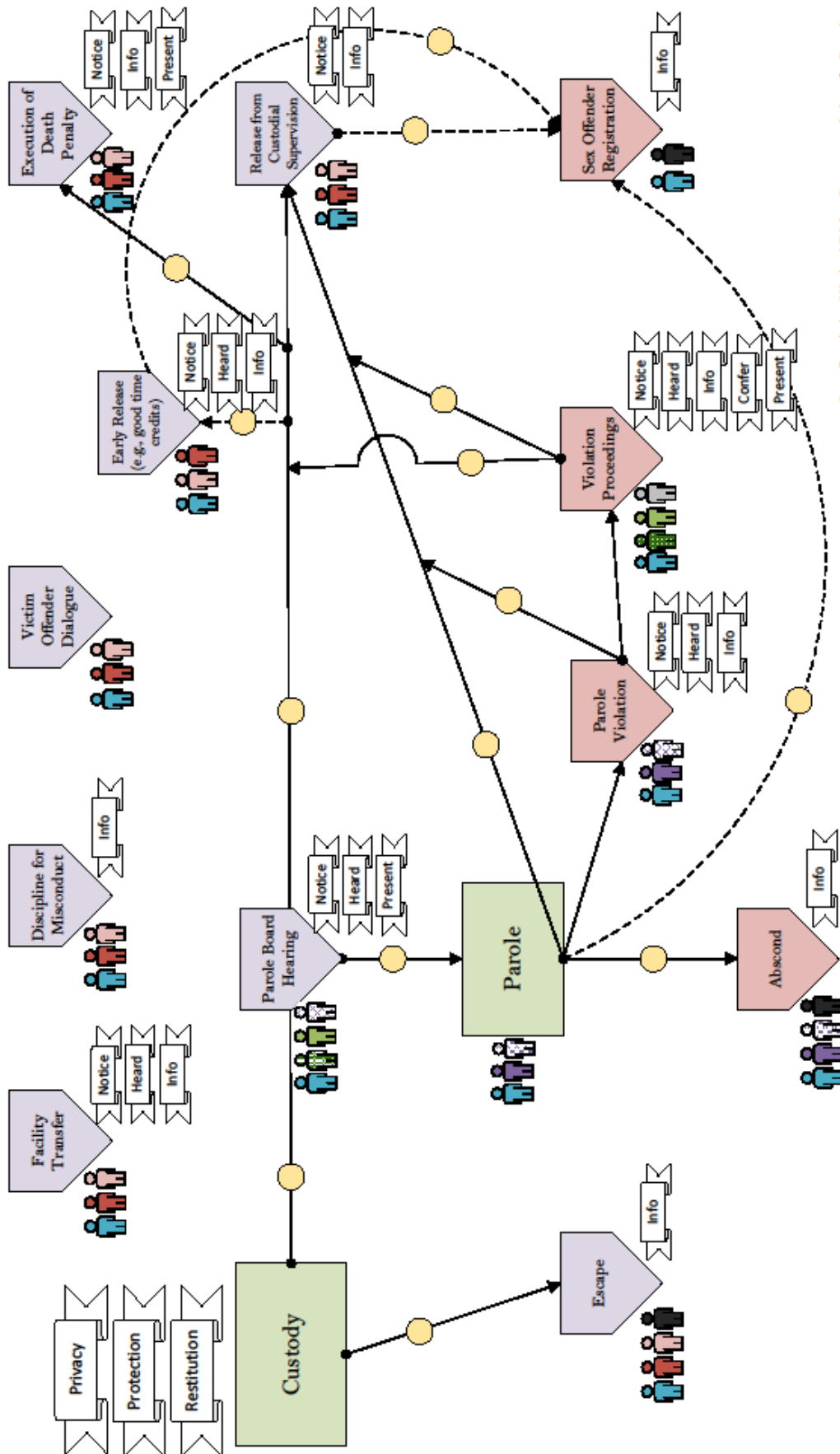
The Opt In/Opt Out circles indicate moments where victims may elect to continue/discontinue to receive notice and information about some or all of their rights. The frequent occurrence of the Opt In/Opt Out circles demonstrates the necessity for victims to have opportunity to change their minds regarding their rights throughout the process.

KEY

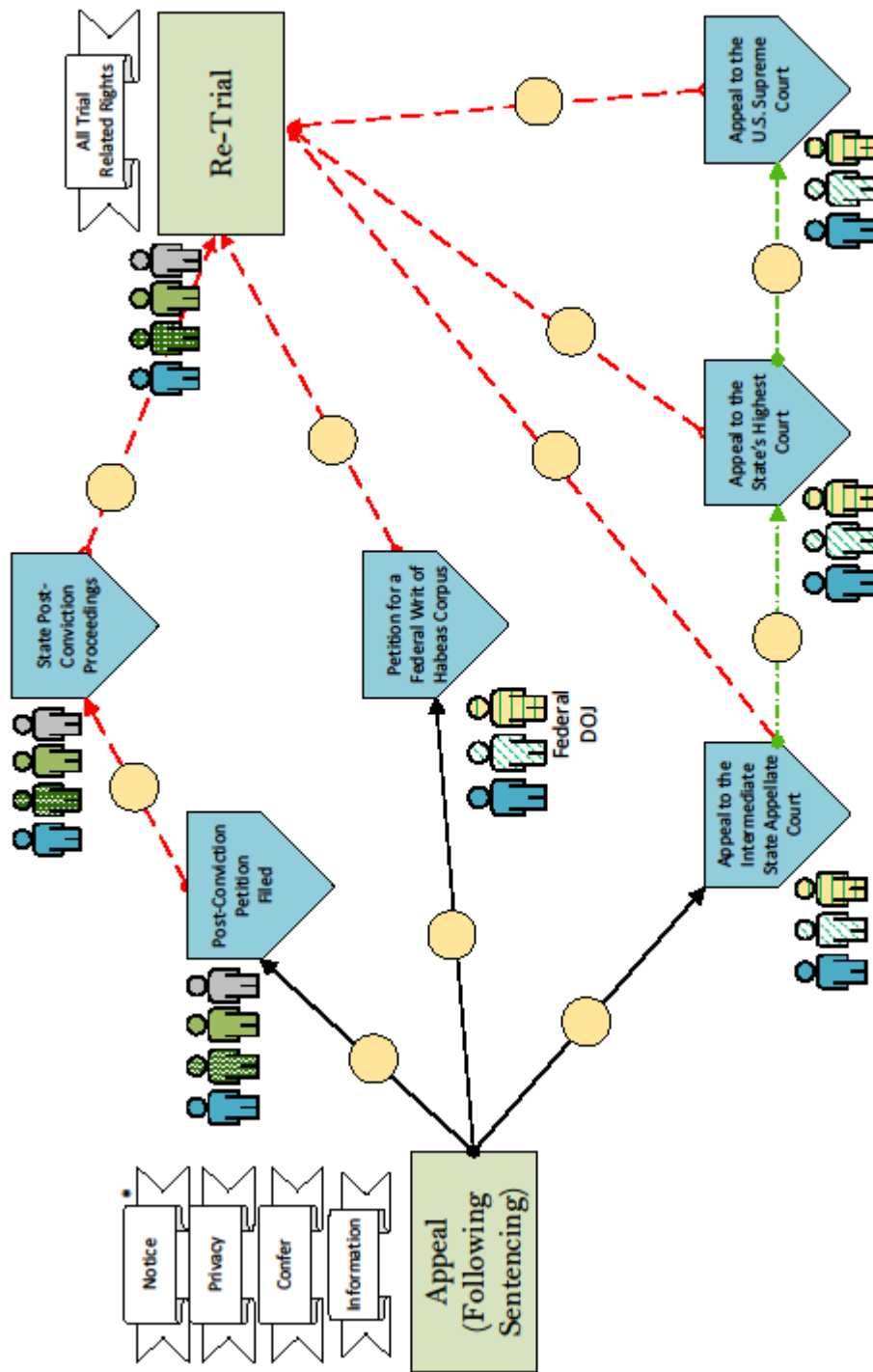








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* all rights attach at each triggering event

APPENDIX D

Post-Conviction Victims' Rights Project: Meeting Agendas¹

February 26, 2018 – Technology Assisted Meeting

- Stakeholder Introductions
- Project Overview – Background, Goals & Objectives, Deliverables & Timeline
- Key Word Definitions

March 19, 2018 – Technology Assisted Meeting

- Introduction to Mapping: What we mean, how we will do it, and first steps
- Identification of Federal Agency Contacts to Attend Mapping Session
- Expanded Partnership Group Identification & Tasks

April 12, 2018 – Technology Assisted Meeting

- Review of Victims' Rights Timelines and Worksheet of Rights
- Literature & Materials Review, Mapping, In-Person Meeting

May 14, 2018 – Technology Assisted Meeting

- Vision Statement For Post-Conviction Victims' Rights
- Project Updates

June 22, 2018 – Technology Assisted Meeting

- Vision & Values Statements For Post-Conviction Victims' Rights
- Policy Considerations To Prioritize for Mapping

July 31, 2018 – Technology Assisted Meeting

- Draft Project Vision & Values Statements For Post-Conviction Victims' Rights
- September Mapping Meeting

September 6-7, 2018 – In-Person Meeting²

- Meeting Goals & Structure
- Review of Project Work to Date
- Presentations on Existing Victim-Centered Post-Conviction Practices
- Small Group: Victim Participation In Post-Conviction Systems and Processes
- Large Group: Honoring Victim Privacy In Post-Conviction Systems and Processes
- Small Group: Victim Safety and Protection In Post-Conviction Systems and Processes
- Identification of Priorities: Gaps and Legal, Policy and Cultural Bridges
- Discussion of Strategies and Consensus Building

December 11 and 17, 2018 – Technology Assisted Meeting

Discussion of Draft Recommendations: For each topic area, the discussion was as follows:

- Does topic area need recommendation(s) based upon gaps and opportunities identified?
 - If yes, why? Refine recommendation(s) and identify target audience(s).
 - If no, why? Are processes working well for victims and no improvements are needed?

¹ Each meeting included a welcome at the opening and closed with identification of next steps.

² Model expansive victims' rights law and three separate collections of sample post-conviction laws (participation, privacy, and protection) were distributed.

APPENDIX E

CHECKLIST FOR MEANINGFUL POST-CONVICTION VICTIMS' RIGHTS LAWS

Overarching Considerations

- For each right afforded, system actor should be clearly obligated to inform victims of the existence and meaning of the right, and required to timely notify victims of all proceedings/critical stages that may impact the right
- Each agency with information relevant to the exercise of a victim's right should have a corresponding obligation to ensure victims' rights are afforded; such agencies include those:
 - responsible for litigating post-conviction actions on behalf of government, starting at sentencing and continuing thereafter (e.g., prosecutor, attorney general)
 - with custodial or supervisory responsibility for the offender (e.g., department of corrections, community supervision, probation, state hospitals, law enforcement)
 - with authority to decide an offender's status (e.g., parole board, governor, court)
- A system-based victim advocate/advisor/navigator should exist who works with victims at every post-conviction step; if these are different people housed within different agencies, each person should have an affirmative obligation for collaborating and cross-sharing victim information with the others
- Rights should explicitly attach to juvenile and adult systems.
- Rights should explicitly attach through all post-conviction processes, including appeal, petitions for post-conviction relief, petitions for habeas corpus, parole, probation and community supervision
- Regardless of whether rights are "opt out" or "opt in", a clear process should exist that ensures a knowing and voluntary assertion or waiver of *each* right by victims
- Victims should have explicit victim standing to assert a right before a decision-making authority (e.g., trial court, parole board) and to seek administrative and, ultimately, appellate view of any denial of that right
- "Victim" should be defined to include any persons directly and proximately harmed by the commission or attempted commission of a crime or delinquent act
- Mandatory rather than permissive language is preferred as it makes rights stronger (e.g., "shall" vs. "may")

Victims' Fundamental Rights

Victims shall have the right to:

- Fairness, Dignity, Respect that includes
 - proceedings free from unreasonable delay
 - consideration of a victim's schedule in calendaring proceedings implicating their rights
 - prompt return of a victim's property when it is no longer necessary as evidence in a case
 - the ability to choose the communication method for notice (e.g., mail, email, text)
 - language access (e.g., interpreters)
- Timely and accurate information regarding
 - the ongoing status of a case at each decision point (e.g., sentence, parole/probation decision, probation violation status); custodial location; possible and actual release dates from physical custody (whether work, humanitarian, furlough, medical or other release, or any other form of administrative early release whether temporary or permanent)

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- the calculation of the earliest release eligibility date and any updates to that date
- contact information for custodial/supervisory agencies and any victim advocate(s)
- the status of an offender's compliance with conditions of release/probation, and sex offender registration
- the enforcement options available to the victim for collecting restitution order and how to use each
- the availability of crime victim compensation monies for relevant expenses and how to apply for compensation
- Inspect and have copies of case records (e.g., court and administrative agency decisions, transcripts, presentence reports, minute entries), in a timely manner, at no cost or no cost greater than an indigent defendant is required to pay, and subject only to the same confidentiality obligations/restrictions as the parties to the action
- Reasonable, accurate, timely and accessible (e.g., plain and appropriate language) notification of
 - post-conviction proceedings or critical stages that may impact an offender's conviction, sentence, physical location, custodial/probationary/parole status, and ability to pay restitution; and the outcomes of the same proceedings, coincident with notification to the parties
 - the arrest of a person for a probation/parole violation when the person is on supervised release
 - any conduct by an offender that raises a substantial concern for the victim's safety
 - the death or escape of an offender
 - the possible destruction or disposal of biological evidence from the crime
 - proceedings or stages that may result in release of an offender from supervision or custody
- Be present in-person or through technology-assistance (at the victim's choice) at
 - any post-conviction proceeding or critical stage that may impact sentence, release, changes in custodial status, or ability to pay restitution
- Be heard in writing and orally, regarding sentencing, potential release, change in custody, or other change that may impact restitution, and to have such input considered by the decision maker prior to any determination
- Privacy that includes
 - the ability to refuse discovery requests and to be notified of any requests for or sharing of information so that victim can refuse or consent
 - a presumption of nondisclosure over personal, identifiable information about victims (including the residential address, telephone number, email or place of employment or school of the victim and victim's family members) such that no law enforcement employee, attorney, victim advocate, parole, probation or corrections official may disclose, state in open court or put in a publicly accessible document the information without a court order
 - exempting from the public records personally identifying information regarding the victim, and timely notice and opportunity to object to public record requests for such information
 - confidentiality of impact statements made to post-conviction decision-makers other than the sentencing court

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- a presumption of seal/protective order over evidence submitted at any stage of proceedings that contains private information regarding the victim (e.g., videotape of a child victim, 911 recordings with victim's address, medical photographs)
- Reasonable protection from the offender that includes
 - availability of no contact orders throughout post-conviction, information on how to obtain such orders and support with securing the orders
 - dependent on the commission of requisite criminal conduct, the compelled testing of convicted persons for HIV and other communicable diseases throughout any possible incubation period; access to the results
 - photograph of the offender taken within weeks of any planned release/change of custody
- Full and timely restitution that includes
 - calculations of loss that include future losses (e.g., counseling costs)
 - a court maintaining jurisdiction over restitution for the entirety of post-conviction processes that allows the opportunity for modifying the restitution order amount where economic loss changes or new information is discovered
 - regular review by custodian/supervisory authority of offender's compliance with a payment plan, followed by a written report regarding the same and adjustment of payment plans where financial circumstances change
 - non-release from final supervision if any restitution monies are still owing, recognizing that incarceration for non-willful failure to pay is not an appropriate remedy
 - the right to any assets or revenue made from the crime by the perpetrator and active state collection efforts against same
 - enforcement options explicitly available to the victim (e.g., liens, review hearing requests, reduction to civil judgments)
- Confer with the attorney for government that is prosecuting any post-conviction action
- Availability of crime victim compensation funds for post-conviction expenses, including medical and counseling costs, and costs for records if not available at no cost, and explicit provision that victims may receive compensation for services entered into at any point after the victimization.

APPENDIX F



Sample of Post-Conviction Laws: Participation

National Crime Victim Law Institute
ncvli@lclark.edu

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PARTICIPATION

COLORADO

Const. Art. 2, § 16a. Rights of crime victims

Any person who is a victim of a criminal act, or such person's designee, legal guardian, or surviving immediate family members if such person is deceased, shall have the right to be heard when relevant, informed, and present at all critical stages of the criminal justice process. All terminology, including the term "critical stages", shall be defined by the general assembly.

Colo. Rev. Stat. Ann. § 16-11-102. Presentence or probation investigation

(1)(a)(I) Following the return of a verdict of guilty of a felony, other than a class 1 felony, or following a finding of guilt on such charge where the issues were tried to the court, or on a plea of guilty or nolo contendere to such a charge, or upon order of the court in any misdemeanor conviction, the probation officer shall make an investigation and written report to the court before the imposition of sentence. Each presentence report must include... a victim impact statement;...

(1)(a)(III) The district attorney's office shall prepare a victim impact statement. The department of human services shall provide the district attorney's office with the information necessary for the preparation of a victim impact statement. In addition, the court, in cases that it deems appropriate, may require the presentence report to include the findings and results of a professionally conducted psychiatric examination of the defendant.

...

(1.5) A victim impact statement may include the following:

- (a) An identification of the victim of the offense;
- (b) An itemization of any economic loss suffered by the victim as a result of the offense, including any loss incurred after the offense and after criminal charges were filed formally against the defendant. The victim impact statement shall be prepared by the district attorney's office at the time the offense is filed and shall be updated to include any loss incurred by the victim after criminal charges were filed.
- (c) An identification of any physical injury suffered by the victim as a result of the offense, including information on its seriousness and permanence;
- (d) A description of any change in the victim's personal welfare or familial relationships as a result of the offense;
- (e) An identification of any request for psychological services initiated by the victim or the victim's family as a result of the offense;
- (e.5) An evaluation of the victim's and the victim's children's safety if probation is granted;
- (f) Any other information related to the impact of the offense upon the victim that the court requires. ...

(4)The court, with the concurrence of the defendant and the prosecuting attorney, may dispense with the presentence examination and report; except that the information required by section 18-1.3-603(2), C.R.S., and a victim impact statement shall be made in every case. The amount of restitution shall be ordered pursuant to section 18-1.3-603, C.R.S., and article 18.5 of this title and endorsed upon the mittimus.

Colo. Rev. Stat. Ann. § 16-11-601. Right to attend sentencing

The victim of any crime or a relative of the victim, if the victim has died, has the right to attend all sentencing proceedings resulting from a conviction of said crime under any laws of this state. Said person has the right to appear, personally or with counsel, at the sentencing proceeding and to adequately and reasonably express his or her views concerning the crime, the defendant, the need for restitution, and the type of sentence which should be imposed by the court. The court, in imposing sentence, shall consider the statements of such person and shall make a finding, on the record, as to whether or not the defendant would pose a threat to public safety if granted probation.

Colo. Rev. Stat. Ann. § 16-22-103. Sex offender registration—required—applicability—exception

(5)(a) Notwithstanding any provision of this article 22 to the contrary, if, pursuant to a motion filed by a person described in this subsection (5) or on its own motion, a court determines that the registration requirement specified in this section would be unfairly punitive and that exempting the person from the registration requirement would not pose a significant risk to the community, the court, upon consideration of the totality of the circumstances, may exempt the person from the registration requirements imposed pursuant to this section if:

(I) The person was younger than eighteen years of age at the time of the commission of the offense; and

(II) The person has not been previously charged with unlawful sexual behavior; and

(III) The offense, as charged in the first petition filed with the court, is a first offense of misdemeanor unlawful sexual contact, as described in section 18-3-404; indecent exposure, as described in section 18-7-302; or sexual exploitation of a child, as described in section 18-6-403, and the person's conduct is limited to the elements in posting private images by a juvenile, as described in section 18-7-109(1), or possessing private images by a juvenile, as described in section 18-7-109(2); and

(IV) The person has received a sex offender evaluation that conforms with the standards developed pursuant to section 16-11.7-103(4)(i), from an evaluator who meets the standards established by the sex offender management board, and the evaluator recommends exempting the person from the registration requirements based upon the best interests of that person and the community; and

(V) The court makes written findings of fact specifying the grounds for granting such exemption.

(b) Any defendant who files a motion pursuant to this subsection (5) or the court, if considering its own motion, shall provide notice of the motion to the prosecuting district attorney.

In addition, the court shall provide notice of the motion to the victim of the offense. Prior to deciding the motion, the court shall conduct a hearing on the motion at which both the district attorney and the victim shall have opportunity to be heard.

Colo. Rev. Stat. Ann. § 17-2-201. State board of parole—duties—definitions

(3.7)(d) The board shall provide victim notification in accordance with section 24-4.1-302.5, C.R.S., for all parole application hearings for which the inmate is eligible for parole, as such eligibility is determined pursuant to the provisions of this section.

(e) As used in this subsection (3.7), "eligible for parole" means an inmate is eligible to make application to the board for parole and includes an inmate's initial application as well as any subsequent application for parole review or reconsideration.

(4) The board has the following powers and duties: ...

(f)(I) To conduct an initial or subsequent parole release review in lieu of a hearing, without the presence of the inmate, if

(A) The application for release is for special needs parole pursuant to section 17-22.5-403.5, and victim notification is not required pursuant to section 24-4.1-302.5;

(B) A detainer from the United States immigration and customs enforcement agency has been filed with the department, the inmate meets the criteria for the presumption of parole in section 17-22.5-404.7, and victim notification is not required pursuant to section 24-4.1-302.5;

(C) The inmate has a statutory discharge date or mandatory release date within six months after his or her next ordinarily scheduled parole hearing and victim notification is not required pursuant to section 24-4.1-302.5; or

(D) The inmate is assessed to be a "low" or "very low" risk on the validated risk assessment instrument developed pursuant to section 17-22.5-404(2), the inmate meets readiness criteria established by the board, and victim notification is not required pursuant to section 24-4.1-302.5.

Colo. Rev. Stat. Ann. § 17-2-214. Right to attend parole hearings

(2)(b) In the case of any offenses other than offenses against the person as specified in article 3 of title 18, C.R.S., notice of any parole proceeding shall be sent by the department of corrections, working in cooperation with the board, only upon request to the department of corrections or the board, to any victim of the crime or relative of a victim, if the victim has died, who makes such a request at least sixty days before the hearing. Such notice shall be sent to the last address in the possession of the department of corrections or the board, and the victim of the crime or relative of the victim, if the victim has died, has the duty to keep the department of corrections or the board informed of his or her most current address.

Colo. Rev. Stat. Ann. § 17-22.5-403. Parole eligibility

(4.5)(b) When an offender applies for early parole pursuant to paragraph (a) of this subsection (4.5) after having successfully completed the specialized program described in section 17-34-102, the offender shall make his or her application to the governor's office with notice and a copy of the application sent to the state board of parole created in section 17-2-201. The state board of parole shall review the offender's application and all supporting documents and schedule a hearing if the board considers making a recommendation for early parole, at which hearing any victim must have the opportunity to be heard, pursuant to section 24-4.1-302.5(1)(j), C.R.S. Not later than ninety days after receipt of a copy of an offender's application for early parole, the state board of parole, after considering the presumptions set forth in section 17-34-102(8), shall make a recommendation to the governor concerning whether early parole should be granted to the offender.

(c) The department, in consultation with the state board of parole, shall develop any necessary policies and procedures to implement [early parole], including procedures for providing notice to any victim, as required by sections 24-4.1-302.5(1)(j) and 24-4.1-303(14), C.R.S., and to the district attorney's office that prosecuted the crime for which the offender was sentenced.

Colo. Rev. Stat. Ann. § 17-22.5-403.5. Special needs parole

(1) Notwithstanding any provision of law to the contrary, a special needs offender, as defined in section 17-1-102(7.5)(a), may be eligible for parole prior to or after the offender's parole eligibility date pursuant to this section if:

- (a) The state board of parole determines, based on the special needs offender's condition and a medical evaluation, that he or she does not constitute a threat to public safety and is not likely to commit an offense; and
- (b) The state board of parole approves a special needs parole plan that ensures appropriate supervision of and continuity of medical care for the special needs offender.

...

(3)(a) The department is responsible for identifying inmates who meet the eligibility criteria for special needs parole and shall submit a referral to the state board of parole for all eligible inmates.

(b) The referral shall include:...

IV) A victim impact statement or response from the district attorney that prosecuted the offender, if received pursuant to paragraph (c) of this subsection (3).

(c)(I) The department shall provide notification to any victim, as required under section 24-4.1-302.5, C.R.S. A victim shall have thirty days after receiving notification to submit a victim impact statement to the department. The department shall include any victim impact statement in the referral to the state board of parole.

Colo. Rev. Stat. Ann. § 17-22.5-404. Parole guidelines—definition

(4)(a) In considering offenders for parole, the state board of parole shall consider the totality of the circumstances, which include, but need not be limited to, the following factors:

(I) The testimony or written statement from the victim of the crime, or a relative of the victim, or a designee, pursuant to section 17-2-214;

Colo. Rev. Stat. Ann. § 17-27-103.5. Statements relating to a transitional referral to community corrections

(5) The department shall not be required to provide notice to any person, other than a registered victim, of a community corrections board hearing relating to the offender.

Colo. Rev. Stat. Ann. § 17-42-104. Inmates incarcerated in other states—notifications to victims required—exceptions—definitions

(1) If the department determines that an inmate is eligible for relocation to a penal institution in another state pursuant to the "Interstate Corrections Compact", part 16 of article 60 of article 24, then not later than twenty-four hours after such determination, the department shall notify the prosecuting attorney and any registered victim of one or more crimes for which the inmate is serving his or her sentence that:

(a) Such a determination has been made; and

(b) If the inmate is relocated, the department, pursuant to subsection (2) of this section, may be required to notify the prosecuting attorney and any registered victim of one or more crimes for which the inmate is serving his or her sentence of the name and location of the penal institution where the inmate is to be housed for any period of time.

(2) If the department relocates an inmate for incarceration or contracts with another state for the incarceration of an inmate in a penal institution in another state, then not later than forty-eight hours after such relocation, the department shall notify the prosecuting attorney and any registered victim of one or more crimes for which the inmate is serving his or her sentence of the name and location of the penal institution where the inmate is to be housed for any period of time.

- (3) Subsection (2) of this section does not apply if any of the following factors apply and the prosecuting attorney confirms such fact in writing as described in subsection (4)(b) of this section:
- (a) The inmate is a witness and the executive director determines that disclosing the location of the inmate would pose a risk to the personal safety of the inmate, corrections staff, other inmates, or facilities;
 - (b) The prosecuting attorney requests in writing that the department not disclose the location of the penal institution where the inmate is located;
 - (c) The registered victim is currently incarcerated; or
 - (d) The inmate has been employed by the department or as a law enforcement officer and the executive director determines that disclosing the location of the inmate poses a risk to the personal safety of the inmate, corrections staff, other inmates, or facilities.
- (4)(a) If the department relocates an inmate and the executive director determines that any factor described in subsection (3) of this section applies, then not later than forty-eight hours after such relocation, the department shall notify the prosecuting attorney:
- (I) That the inmate has been relocated; and
 - (II) Which of the factors described in subsection (3) of this section the executive director has determined applies.
- (b) If the prosecuting attorney agrees with the executive director's determination that a factor described in subsection (3) of this section applies, then:
- (I) The prosecuting attorney shall confirm the executive director's determination in writing;
 - (II) The department shall retain such written confirmation; and
 - (III) The department shall notify any registered victim of one or more crimes for which the inmate is serving his or her sentence that the inmate has been relocated and the department is unable to disclose the inmate's location because one of the factors described in subsection (3) of this section applies.
- (c)(I) If the prosecuting attorney disagrees with the executive director's determination that a factor applies, then the executive director has thirty days to review the notice of disagreement. If, after such review, the executive director still determines that a factor applies and the inmate's location should not be disclosed, the department shall notify the prosecutor of such fact and notify any registered victims that the prosecutor disagrees with the executive director's determination.
- (II) Either the prosecutor or any registered victim of the inmate may bring an action in the district court from which the inmate's sentence was issued for the court to determine whether a substantial basis existed and still exists to support the executive director's determination. If the district court finds that no substantial basis exists, the executive director shall disclose the inmate's location to any registered victims, as described in subsection (2) of this section. Any hearing conducted for the purpose of this subsection (4)(c)(II) must be held in camera.
- (III) In an action brought pursuant to this subsection (4)(c), the parties are entitled to full discovery under the Colorado rules of civil procedure that are applicable to actions for declaratory judgment; except that the executive director is not required to disclose the location of the inmate pending the resolution of the civil action and any appeals. Any appeal of a judgment from an action brought under this subsection (4)(c) must be made pursuant to the rules of appellate procedure.
- (5) As used in this section, unless the context otherwise requires:
- (a) "Law enforcement officer" means a peace officer described in article 2.5 of title 16.

- (b) "Prosecuting attorney" means the office of the district attorney or other prosecutor who prosecuted an offender who was subsequently convicted and incarcerated.
- (c) "Registered victim" means a victim who has registered with the victims services unit within the department.
- (d) "Victim" has the same meaning as set forth in section 24-4.1-302(5).
- (e) "Witness" has the same meaning as set forth in section 24-4.1-302(7).

Colo. Rev. Stat. Ann. § 18-1.3-105. Authority of sentencing courts to utilize home detention programs

(1)(c) The sentencing judge shall make every reasonable effort to notify the victims of crime that the offender has been sentenced to a home detention program. Such notice shall be sent to the last address in the possession of the court, and the victim of the crime has the duty to keep the court informed of his or her most current address.... Pursuant to the provisions of section 24-4.1-302.5(1)(j.5), C.R.S., a victim shall have the right to provide a written victim impact statement and a separate oral statement to a community corrections board considering an offender's transitional referral to community corrections

Colo. Rev. Stat. Ann. § 18-1.3-301. Authority to place offenders in community corrections programs

- (h)(I) The sentencing court shall have the authority to modify the sentence of an offender who has been directly sentenced to a community corrections program in the same manner as if the offender had been placed on probation.
- (II) A defendant who successfully completes the residential phase of a community corrections sentence, has paid the costs of the residential program in full, and is being supervised on nonresidential status at either a minimum or administrative level is eligible for consideration for early termination of his or her community corrections sentence by the court.
- (III) When the defendant has met the eligibility criteria enumerated in subparagraph (II) of this paragraph (h), the defendant's probation officer shall submit a petition for early termination of sentence to the court and notify the district attorney and the defendant.
- (IV) If victim notification is required, the probation officer shall provide victim notification pursuant to part 3 of article 4.1 of title 24, C.R.S.
- (V) In determining whether to grant or deny the petition, the court may consider the following factors:...
 - (B) Victim input, if any

HAWAII

Haw. Rev. Stat. § 353-8. Conditional release centers for committed persons

- (a) The director may establish and operate facilities to be known as conditional release centers, either operated separately, or as part of community correctional centers.
- (b) The purpose of such facilities is to provide housing, meals, supervision, guidance, furloughs, and other correctional programs for persons committed to the department of public safety and to give committed persons, in selected cases, a chance to begin adjustment to life in a free society and to serve as a test of an individual's fitness for release on parole.
- (c) The department shall notify the county prosecutors and police chiefs whenever a person committed for an offense against the person as described in chapter 707, or any convicted felon, is admitted to a work furlough, conditional release, or similar program. Notification shall be transmitted in writing no later than thirty days prior to the commencement of the program and shall list the conditions pertaining thereto. For parole violators who are recommitted to prison for less than thirty days or who are placed on a work furlough, conditional release, or similar program, notification as described above shall be transmitted in writing on the next working day after recommitment or placement in a program.
- (d) Additionally, whenever the department admits a committed person who has been convicted of an offense against the person as described in chapter 707, or of an attempt to commit such an offense, to a work furlough program, conditional release program, or other similar programs, it shall give written notice to each victim of the offense, who has made written request for such notice, of the admission of the committed person to the program. Notice shall be given to the victim at the address given on the request for notice or such address as may be provided to the department by the victim from time to time. Neither the failure of any state officer or employee to carry out the requirements of this section nor compliance with it shall subject the State or the officer or employee to liability in any civil action. However, such failure may provide a basis for such disciplinary action as may be deemed appropriate by competent authority.

Haw. Rev. Stat. § 353-132. System; requirements

- (a) The department shall establish a statewide automated victim information and notification system to:
 - (1) Automatically notify a registered victim or concerned member of the community, via the person's choice of telephone, text message, or electronic mail transmission when the offender who is in the custody of the department:
 - (A) Is transferred or assigned to another facility;
 - (B) Is transferred to the custody of another agency outside the State;
 - (C) Is released on temporary leave or for other reasons;
 - (D) Is discharged; or
 - (E) Has escaped;
 - (2) Automatically notify a registered victim or concerned member of the community via the person's choice of telephone, text message, or electronic mail transmission when:
 - (A) The offender has an upcoming parole hearing; or
 - (B) There is a change in the offender's parole status, including a change in the offender's supervision status;
 - (3) Permit a victim or concerned member of the community to receive the most recent status report for the offender in the custody of the department by calling the system on a toll-free telephone number, as well as by accessing the system via a public website;

- (4) Provide all victims or concerned members of the community calling the system with the option to receive live operator assistance with the system on a twenty-four-hours per day, three-hundred-sixty-five-days per year basis; and
 - (5) Permit a victim or a concerned member of the community to register or update the person's registration information for the system by calling a toll-free telephone number or accessing a public website.
- (b) The prosecuting agency shall notify the victim of the victim's right to register in the system. It shall be the responsibility of the victim to register with the system.

Haw. Rev. Stat. § 353-133. Satisfaction of victims' rights to notification

Participation in the system and making offender data available on a timely basis to the system shall be deemed to satisfy the obligations of:

- (1) The department to notify the victim of changes in the offender's custodial status pursuant to section 801D-4(a)(7); and
- (2) The police and prosecuting attorney to notify the victim of the offender's release from custody pursuant to section 801D-4(a)(1).

Haw. Rev. Stat. § 353-134. Compliance by department; no cause of action

The department shall ensure that the offender information contained within the system is updated on a regular basis sufficient to timely notify a victim or a concerned member of the community of the offender's release, discharge, or escape. However, failure of the system to provide notice to the victim or a concerned member of the community shall not establish a separate cause of action by the victim or a concerned member of the community against the State, any county, or any state or county agency, officer, or employee.

Haw. Rev. Stat. § 706-601. Pre-sentence diagnosis and report

(3) With the consent of the court, the requirement of a pre-sentence diagnosis may be waived by agreement of both the defendant and the prosecuting attorney; provided that in felony cases, the prosecuting attorney shall inform, or make reasonable efforts to inform, the victim or the victim's surviving immediate family members of their rights to be present at the sentencing hearing and to provide information relating to the impact of the crime, including any requested restitution.

Haw. Rev. Stat. § 706-602. Pre-sentence diagnosis, notice to victims, and report

(2) The court personnel or agency shall give notice of the Crime Victim Compensation Act, the application for compensation procedure, and the possibility of restitution by the defendant to all victims of the convicted defendant's criminal acts.

Haw. Rev. Stat. § 706-624.5. Notice of probation

- (1) Whenever the court places a defendant convicted of an offense against the person as described in chapter 707, or of an attempt to commit such an offense on probation without requiring the serving of a term of imprisonment, the court shall provide written notice to each victim of such offense of the probation, whenever the victim has made a written request for such notice. Notice shall be given to the victim at the address given on the request for notice or such other address as may be provided to the court by the victim from time to time.
- (2) Neither the failure of any state officer or employee to carry out the requirements of this section nor compliance with it shall subject the State or the officer or employee to liability in any

civil action. However, such failure may provide a basis for such disciplinary action as may be deemed appropriate by competent authority.

Haw. Rev. Stat. § 706-670.5. Notice of parole or final unconditional release

(1) As used in this section, the following terms have the following meanings:

“Offense against the person” means any of the offenses described in chapter 707 and includes any attempt to commit any of those offenses.

“Prisoner” or “parolee” means a person who has been convicted of an offense against the person.

“Surviving immediate family member” means a person who is a surviving grandparent, parent, sibling, spouse or reciprocal beneficiary, child, or legal guardian of a deceased victim.

“Victim” means the person who was the victim of the offense against the person for which the prisoner or parolee was convicted.

(2) The Hawaii paroling authority shall give written notice of the parole or release from parole of a prisoner or parolee to each victim who has submitted a written request for notice or to a surviving immediate family member who has submitted a written request for notice.

(3) The department of public safety shall give written notice of the final unconditional release of a prisoner or parolee, who has not been previously paroled or discharged, to each victim who has submitted a written request for notice or to a surviving immediate family member who has submitted a written request for notice.

(4) The authority or department, as the case may be, shall provide written notice to the victim or surviving immediate family member at the address given on the written request for notice or such other address as may be provided by the victim or surviving immediate family member, not less than ten days prior to parole or final unconditional release. The authority or department, in its discretion, may instead give written notice to the witness or victim counselor programs in the prosecuting attorney’s office in the county where the victim or the surviving immediate family member resides.

(5) Neither the failure of any state officer or employee to carry out the requirements of this section nor compliance with it shall subject the State, the officer, or employee to liability in any civil action. However, such failure may provide a basis for such disciplinary action as may be deemed appropriate by a competent authority.

Haw. Rev. Stat. § 706-673. Notice of escape

(1) As used in this section, the following terms have the following meanings:

“Offense against the person” means any of the offenses described in chapter 707 and includes any attempt to commit any of those offenses.

“Prisoner” means a person who has been convicted of an offense against the person.

“Surviving immediate family member” means a person who is a surviving grandparent, parent, sibling, spouse or reciprocal beneficiary, child, or legal guardian of a deceased victim.

“Victim” means the person who was the victim of the offense against the person for which the prisoner was convicted.

(2) Upon written request, the department of public safety shall give notice of the escape of a prisoner, immediately following the escape, by the most reasonable and expedient means available, to each victim or a surviving immediate family member of the victim, through the victim witness assistance program in the county where the crime was committed.

(3) Neither the failure of any state officer or employee to carry out the requirements of this

section nor compliance with it shall subject the State, the officer, or employee to liability in any civil action. However, such failure may provide a basis for such disciplinary action as may be deemed appropriate by a competent authority.

Haw. Rev. Stat. § 801D-4. Basic bill of rights for victims and witnesses

(a) Upon written request, victims and surviving immediate family members of crime shall have the following rights: ... (7) To be informed by the department of public safety of changes planned by the department in the custodial status of the offender that allows or results in the release of the offender into the community, including escape, furlough, work release, placement on supervised release, release on parole, release on bail bond, release on appeal bond, and final discharge at the end of the prison term.

Haw. Code R. § 23-700-35. Actual release on parole.

(d) The Authority shall give written notice of the parole or release from parole of an inmate or parolee to each victim who has submitted a written request for notice or to a surviving immediate family member who has submitted a written request for notice.

(e) The Authority shall provide written notice to the victim or surviving immediate family member at the address given on the written request for notice or such other address as may be provided by the victim or surviving immediate family member, not less than ten days prior to parole or final unconditional release. However, the Authority, in its discretion, may instead give written notice to the witness or victim counselor programs in the prosecuting attorney's office in the appropriate county.

Haw. Code R. § 23-700-54. Notification of Discharge

When a person is discharged from a sentence, the Authority shall inform in writing the court which convicted and sentenced the person discharged and to each victim who has submitted a written request for notice or to a surviving immediate family member who has submitted a written request for notice.

KENTUCKY

Ky. Rev. Stat. Ann. § 196.280. Notification of release of person from penitentiary, facility for youthful offenders, regional jail, or county jail; escape

(1)(a) The Department of Corrections shall provide or contract with a private entity to provide to members of the public who have made a notification request, notification of the release of an incarcerated person from a penitentiary, as defined in KRS 197.010, facility for youthful offenders, regional jail, or county jail. The warden, jailer, or chief administrator, or a person designated by the warden, jailer, or chief administrator, of a penitentiary, facility for youthful offenders, regional jail, or county jail, shall make available to the Department of Corrections, or any private entity under contract with the Department of Corrections, the information necessary to implement this section in a timely manner and before the release of any incarcerated person from the penitentiary, facility for youthful offenders, regional jail, or county jail. The Department of Corrections or the private entity under contract with the Department of Corrections shall be responsible for retrieving the information and notifying the requester in accordance with administrative regulations promulgated by the Department of Corrections.

(b) If an incarcerated person escapes from any penitentiary, facility for youthful offenders, regional jail, or county jail, the warden, jailer, or chief administrator, or a person designated by the warden, jailer, or chief administrator, shall immediately provide the information necessary to implement this section.

(c) If, upon a hearing, a court releases an incarcerated person and the incarcerated person does not return to the penitentiary, facility for youthful offenders, regional jail, or county jail, the warden, jailer, or chief administrator, or a person designated by the warden, jailer, or chief administrator, shall provide the information necessary to implement this section as soon as practicable.

(2) The Department of Corrections shall promulgate administrative regulations for the implementation of this section.

Ky. Rev. Stat. Ann. § 197.170. Release of prisoner; parties to be notified; means of providing notice; posting of notice received by law enforcement officers

(1)(a) The wardens of the state penitentiaries upon the release of any prisoner or inmate from confinement shall immediately notify:

1. The Circuit Court, the Commonwealth's attorney of the district, and the sheriff of the county where the inmate was sentenced;
2. The Circuit Court, the Commonwealth's attorney of the district, the county attorney and sheriff of the county, and the chief of police of the city and county, to which the inmate is released; and
3. Any victim, as defined in KRS 421.500, who has requested that he or she be notified on release of a particular inmate who victimized him or her and who has forwarded a current address and telephone number to the Department of Corrections.

(b) The notice shall give the residence of the person released and the name of the person to whom he or she was released. The provisions of KRS Chapter 202A notwithstanding, the Department of Corrections may release to the public the information that a petition to involuntarily hospitalize a prisoner has been filed concerning any inmate who is scheduled to be released from custody.

(2) Notice under subsection (1) of this section shall be given by mail, fax, or electronic means at the discretion of the Department of Corrections in a manner to insure receipt.

(3) Notices received by sheriffs and chiefs of police shall be posted in a conspicuous location where personnel employed by the department may see it. Notices posted under this subsection shall remain posted for not less than seven (7) days.

Ky. Rev. Stat. Ann. § 421.500. applicability; required notifications; duties of public officers and agencies (effective until contingency is met)

(5) Attorneys for the Commonwealth shall make a reasonable effort to insure that: ... (c) The victim knows how to register to be notified when a person has been released from a prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;

...
(10) If a defendant seeks appellate review of a conviction and the Commonwealth is represented by the Attorney General, the Attorney General shall make a reasonable effort to notify victims promptly of the appeal, the status of the case, and the decision of the appellate court.

Ky. Rev. Stat. Ann. § 431.073. Certain felony convictions may be vacated and the records expunged; application; hearing; vacating conviction without a hearing; order to vacate and expunge; application form and fee; retroactivity

(1) Any person who has been convicted of a Class D felony violation [LIST OF CRIMES], or a series of Class D felony violations of one (1) or more statutes enumerated in this section arising from a single incident, or who has been granted a full pardon, may file with the court in which he or she was convicted an application to have the judgment vacated. The application shall be filed as a motion in the original criminal case. The person shall be informed of the right at the time of adjudication.

(2) A verified application to have the judgment vacated under this section shall be filed no sooner than five (5) years after the completion of the person's sentence, or five (5) years after the successful completion of the person's probation or parole, whichever occurs later. Upon the payment of the filing fee and the filing of the application, the Circuit Court clerk shall serve a notice of filing upon the office of the Commonwealth's attorney or county attorney that prosecuted the case and the county attorney of the county where the judgment was entered. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall file a response within sixty (60) days after being served with the notice of filing. That time period may be extended for good cause, but the hearing on the application to vacate the judgment shall occur no later than one hundred twenty (120) days following the filing of the application.

The inability to determine the location of the crime victim shall constitute good cause for an extension of time. No hearing upon the merits of the application shall be scheduled until the Commonwealth's response has been filed, or if no response is received, no later than one hundred twenty (120) days after the filing of the application.

(3) Upon the filing of the Commonwealth's response to an application, or if no response is received, no later than one hundred twenty (120) days after the filing of the application, the court shall set a date for a hearing and the Circuit Court clerk shall notify the office of the Commonwealth's attorney or county attorney that prosecuted the case.

The office of the Commonwealth's attorney or county attorney that prosecuted the case shall notify the victim of the crime, if there was an identified victim. The Commonwealth's attorney or county attorney shall be authorized to obtain without payment of any fee information from the Transportation Cabinet regarding the crime victim's address on file regarding any vehicle operator's license issued to that person.

Ky. Rev. Stat. Ann. § 431.078. Expungement of misdemeanor, violation, and traffic infraction records of convictions and dismissed or amended charges

(1) Any person who has been convicted of:

(a) A misdemeanor, a violation, or a traffic infraction not otherwise classified as a misdemeanor or violation, or a series of misdemeanors, violations, or traffic infractions arising from a single incident; or

(b) A series of misdemeanors, violations, or traffic infractions not arising from a single incident; may petition the court in which he was convicted for expungement of his misdemeanor or violation record within that judicial district, including a record of any charges for misdemeanors, violations, or traffic infractions that were dismissed or amended in the criminal action. The person shall be informed of the right at the time of adjudication.

(2) Except as provided in KRS 218A.275(8) and 218A.276(8), the petition shall be filed no sooner than five (5) years after the completion of the person's sentence or five (5) years after the successful completion of the person's probation, whichever occurs later.

(3) Upon the filing of a petition, the court shall set a date for a hearing, no sooner than thirty (30) days after the filing of the petition, and shall notify the county attorney; the victim of the crime, if there was an identified victim; and any other person whom the person filing the petition has reason to believe may have relevant information related to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.

Ky. Rev. Stat. Ann. § 439.340. Parole of prisoners confined in adult penal or correctional institutions, halfway houses, and reentry centers

(5) In addition to or in conjunction with each hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B, or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than forty-five (45) nor more than ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he or she is imprisoned, and all identified victims of the crimes or the next of kin of any victim who is deceased. Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt at the Commonwealth attorney's business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board.

Notice to victims or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt by the Commonwealth's attorney, who shall forward the notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after

July 15, 1986, notice to the victims or their next of kin shall be by mail from the Parole Board to their last known address as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner.

Notice to the victim or the next of kin of subsequent considerations for parole after the initial consideration shall not be sent if the victim or the next of kin gives notice to the board that he or she no longer wants to receive such notices. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

(5)... The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

(6) Persons receiving notice as provided for in subsection (5) of this section may submit comments, in person or in writing, to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all comments prior to making its parole decision, if they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all comments in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decisions affecting the prisoner.

In addition to officers listed in subsection (5) of this section, the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor may attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, if they have advised the board, in writing received by the board not less than seven (7) days prior to the date set for the hearing, of their intention to attend the hearing. The board shall receive and consider all comments, shall make a record of them which it shall retain in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the Parole Board pursuant to this subsection may elect to make their presentations outside of the presence of the prisoner.

(7) Victims of Class D felonies may submit comments in person or in writing to the board upon all issues relating to the parole of a prisoner.

Ky. Rev. Stat. Ann. § 439.3403. Reconsideration of parole of inmate given deferment or serve-out longer than sixty months; exceptions; hearings

(5) Parole hearings required under subsection (1) of this section shall be conducted in accordance with and subject to the provisions of KRS 439.250 to 439.560, including but not limited to the requirements relating to notification of victims, the authority of the board to conduct hearings by panels of the board, and the requirement to keep records relating to the hearings.

Ky. Rev. Stat. Ann. § 439.3405. Parole of prisoners with documented terminal medical conditions

(5) Notwithstanding KRS 439.340(5), in addition to or in conjunction with each review conducted under subsection (1) of this section for any prisoner convicted of a Class A or B felony, or of a Class C felony involving violence or a sexual offense and prior to the granting of parole to any such prisoner, the Parole Board shall conduct a hearing of which the following persons shall receive not less than fifteen (15) nor more than thirty (30) days' notice:

(a) The Commonwealth's attorney, who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he or she is imprisoned; and

(b) All identified victims of the crimes or the next of kin of any victim who is deceased. Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means, at the discretion of the board, and shall be in a manner that ensures receipt at the Commonwealth attorney's business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board.

Notice to victims or their next of kin shall be made by mail, fax, or electronic means, at the discretion of the board, to their last known address or telephone number as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. Notice to the victim or the next of kin of subsequent considerations for parole after the initial consideration shall not be sent if the victim or the next of kin gives notice to the board that he or she no longer wants to receive such notices. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

Ky. Rev. Stat. Ann. § 421.530. Submission of victim impact statement to parole board; duties of parole board

(1) If a defendant is sentenced to a period of incarceration and his release is subject to the authority of the parole board, the victim may submit a written impact statement to the parole board that it shall consider when making a decision on the release of the defendant.

(2) The impact statement may contain, but need not be limited to, a description of the long-term consequences of the crime, including but not necessarily limited to, the physical, psychological and financial harm suffered by the victim, and whether the victim has applied for or received compensation for financial loss

Ky. Rev. Stat. Ann. § 439.653. Referral of inmates or parolees to pilot program; substance abuse assessments; factors to be considered; conditions of referral

(5)(a) Upon receiving a referral from the department's Division of Substance Abuse Programming pursuant to subsection (3) of this section or from the department's hearing officers pursuant to subsection (4) of this section, the Parole Board shall notify the inmate's or parolee's victims, if any, and provide them an opportunity to submit a written victim impact statement and to testify. The Parole Board shall then evaluate the referred inmate or parolee to determine whether to place him or her in the reentry drug supervision pilot program.

(b) When evaluating whether to place a referred inmate or parolee in the reentry drug supervision pilot program, the Parole Board shall consider the following:

1. Current criminal charges, if any;
2. Criminal convictions;
3. Results of the substance abuse assessment conducted pursuant to subsection (3) or (4) of this section;
4. Plan of recovery created by the department;
5. Information regarding the victims, if any;
6. Trial court's recommendation to participate in the pilot program, if any;

7. An inmate's or parolee's willingness to participate; and
 8. Other relevant information as identified by the department.
- (6) After evaluating the referred inmate or parolee pursuant to subsection (5) of this section, the Parole Board shall determine whether to place an inmate or parolee into the reentry drug supervision pilot program.
- (7) (a) 1. Notwithstanding KRS 218A.1412 or 439.340 or any other statute to the contrary, if the Parole Board decides to place an inmate in the reentry drug supervision pilot program, the inmate shall immediately be paroled into the pilot program. The only conditions of parole shall be to:
- a. Have no contact with victims, if applicable;
 - b. Pay restitution, if applicable; and
 - c. Adhere to KRS 439.650 to 439.657 and to the reentry team's requirements and conditions.
2. Notwithstanding any statute to the contrary, if the Parole Board decides to place a parolee in the reentry drug supervision pilot program, the parolee shall immediately be entered into the pilot program. The only conditions of parole shall be to:
- a. Adhere to any special conditions established by the Parole Board; and
 - b. Adhere to KRS 439.650 to 439.657 and to the reentry team's requirements and conditions.

501 Ky. Admin. Reg. 14:010. Psychiatric or Forensic Psychiatric Facility Victim Notification System

- Section 1. Definitions. (1) "Notification" means the telephonic communication to the individual regarding the release or escape of an involuntarily committed person.
- (2) "Register" means the electronic communication by the individual recording a telephone number to be contacted when the involuntarily committed person is released or escapes.
- Section 2. (1) The chief administrator of a psychiatric or forensic psychiatric facility shall make available the name, date of birth, date of commitment, the charge, date of release or escape of the involuntarily committed individual to the Department of Corrections.
- (2) The Department of Corrections shall provide:
- (a) The ability to register for notification purposes; and
 - (b) The notification for which the individual has registered.
- Section 3. (1) A victim may register for notification by calling Victim Information and Notification Every Day (VINE) at (800) 511-1670 and providing his name, address, and telephone number.
- (2) The victim may provide the notification information by:
- (a) Speaking to a VINE operator; or
 - (b) Accessing the VINE system through the keypad on his telephone.
- Section 4. If the Department of Corrections provides the administrator with any instrument or equipment to provide victim notification, the instrument or equipment shall be secured. The instrument or equipment shall be used only for the purposes set out in this administrative regulation, unless express written permission is obtained from the Department of Corrections

MINNESOTA

Minn. Stat. Ann. § 243.05. Commissioner of corrections; powers, limitations

Subd. 1b. Victim's rights. (a) This subdivision applies to parole decisions relating to inmates convicted of first-degree murder who are described in subdivision 1, clauses (a) and (b).

As used in this subdivision, "victim" means the murder victim's surviving spouse or next of kin.

(b) The commissioner shall make reasonable efforts to notify the victim, in advance, of the time and place of the inmate's parole review hearing.

The victim has a right to submit an oral or written statement at the review hearing. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the inmate should be paroled at that time. The commissioner must consider the victim's statement when making the parole decision.

Minn. Stat. Ann. § 244.05. Supervised Release Term

Subd. 5. Supervised release, life sentence. (a) The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence under section 609.185, paragraph (a), clause (3), (5), or (6); 609.3455, subdivision 3 or 4; 609.385; or Minnesota Statutes 2004, section 609.109, subdivision 3, after the inmate has served the minimum term of imprisonment specified in subdivision 4.

(b) The commissioner shall require the preparation of a community investigation report and shall consider the findings of the report when making a supervised release decision under this subdivision. The report shall reflect the sentiment of the various elements of the community toward the inmate, both at the time of the offense and at the present time. The report shall include the views of the sentencing judge, the prosecutor, any law enforcement personnel who may have been involved in the case, and any successors to these individuals who may have information relevant to the supervised release decision.

The report shall also include the views of the victim and the victim's family unless the victim or the victim's family chooses not to participate.

(c) The commissioner shall make reasonable efforts to notify the victim, in advance, of the time and place of the inmate's supervised release review hearing. The victim has a right to submit an oral or written statement at the review hearing.

The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the inmate should be given supervised release at this time. The commissioner must consider the victim's statement when making the supervised release decision.

... (e) As used in this subdivision, "victim" means the individual who suffered harm as a result of the inmate's crime or, if the individual is deceased, the deceased's surviving spouse or next of kin.

Minn. Stat. Ann. § 244.052. Predatory Offenders, notice:

Subd. 4. Law enforcement agency; disclosure of information to public. (a) The law enforcement agency in the area where the predatory offender resides, expects to reside, is employed, or is regularly found, shall disclose to the public any information regarding the offender contained in the report forwarded to the agency under subdivision 3, paragraph (f), that is relevant and necessary to protect the public and to counteract the offender's dangerousness, consistent with the guidelines in paragraph (b). The extent of the information disclosed and the community to whom disclosure is made must relate to the level of danger posed by the offender, to the

offender's pattern of offending behavior, and to the need of community members for information to enhance their individual and collective safety.

(b) The law enforcement agency shall employ the following guidelines in determining the scope of disclosure made under this subdivision:

(1) if the offender is assigned to risk level I, the agency may maintain information regarding the offender within the agency and may disclose it to other law enforcement agencies. Additionally, the agency may disclose the information to any victims of or witnesses to the offense committed by the offender. The agency shall disclose the information to victims of the offense committed by the offender who have requested disclosure and to adult members of the offender's immediate household;

(2) if the offender is assigned to risk level II, the agency also may disclose the information to agencies and groups that the offender is likely to encounter for the purpose of securing those institutions and protecting individuals in their care while they are on or near the premises of the institution. These agencies and groups include the staff members of public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender. The agency also may disclose the information to individuals the agency believes are likely to be victimized by the offender. The agency's belief shall be based on the offender's pattern of offending or victim preference as documented in the information provided by the department of corrections or human services;

(3) if the offender is assigned to risk level III, the agency shall disclose the information to the persons and entities described in clauses (1) and (2) and to other members of the community whom the offender is likely to encounter, unless the law enforcement agency determines that public safety would be compromised by the disclosure or that a more limited disclosure is necessary to protect the identity of the victim.

Notwithstanding the assignment of a predatory offender to risk level II or III, a law enforcement agency may not make the disclosures permitted or required by clause (2) or (3), if the offender is placed or resides in a residential facility. However, if an offender is placed or resides in a residential facility, the offender and the head of the facility shall designate the offender's likely residence upon release from the facility and the head of the facility shall notify the commissioner of corrections or the commissioner of human services of the offender's likely residence at least 14 days before the offender's scheduled release date. The commissioner shall give this information to the law enforcement agency having jurisdiction over the offender's likely residence. The head of the residential facility also shall notify the commissioner of corrections or human services within 48 hours after finalizing the offender's approved relocation plan to a permanent residence. Within five days after receiving this notification, the appropriate commissioner shall give to the appropriate law enforcement agency all relevant information the commissioner has concerning the offender, including information on the risk factors in the offender's history and the risk level to which the offender was assigned. After receiving this information, the law enforcement agency shall make the disclosures permitted or required by clause (2) or (3), as appropriate.

(c) As used in paragraph (b), clauses (2) and (3), "likely to encounter" means that:

(1) the organizations or community members are in a location or in close proximity to a location where the offender lives or is employed, or which the offender visits or is likely to visit on a regular basis, other than the location of the offender's outpatient treatment program; and
(2) the types of interaction which ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably certain.

(d) A law enforcement agency or official who discloses information under this subdivision shall make a good faith effort to make the notification within 14 days of receipt of a confirmed address from the Department of Corrections indicating that the offender will be, or has been, released from confinement, or accepted for supervision, or has moved to a new address and will reside at the address indicated. If a change occurs in the release plan, this notification provision does not require an extension of the release date.

(e) A law enforcement agency or official who discloses information under this subdivision shall not disclose the identity or any identifying characteristics of the victims of or witnesses to the offender's offenses.

(f) A law enforcement agency shall continue to disclose information on an offender as required by this subdivision for as long as the offender is required to register under section 243.166. This requirement on a law enforcement agency to continue to disclose information also applies to an offender who lacks a primary address and is registering under section 243.166, subdivision 3a.

(g) A law enforcement agency that is disclosing information on an offender assigned to risk level III to the public under this subdivision shall inform the commissioner of corrections what information is being disclosed and forward this information to the commissioner within two days of the agency's determination. The commissioner shall post this information on the Internet as required in subdivision 4b.

(h) A city council may adopt a policy that addresses when information disclosed under this subdivision must be presented in languages in addition to English. The policy may address when information must be presented orally, in writing, or both in additional languages by the law enforcement agency disclosing the information. The policy may provide for different approaches based on the prevalence of non-English languages in different neighborhoods.

(i) An offender who is the subject of a community notification meeting held pursuant to this section may not attend the meeting.

(j) When a school, day care facility, or other entity or program that primarily educates or serves children receives notice under paragraph (b), clause (3), that a level III predatory offender resides or works in the surrounding community, notice to parents must be made as provided in this paragraph. If the predatory offender identified in the notice is participating in programs offered by the facility that require or allow the person to interact with children other than the person's children, the principal or head of the entity must notify parents with children at the facility of the contents of the notice received pursuant to this section. The immunity provisions of subdivision 7 apply to persons disclosing information under this paragraph.

Subd. 6. Administrative review. (a) An offender assigned or reassigned to risk level II or III under subdivision 3, paragraph (e) or (h), has the right to seek administrative review of an end-of-confinement review committee's risk assessment determination. The offender must exercise this right within 14 days of receiving notice of the committee's decision by notifying the chair of the committee. Upon receiving the request for administrative review, the chair shall notify: (1) the offender; (2) the victim or victims of the offender's offense who have requested disclosure or their designee; (3) the law enforcement agency that investigated the offender's crime of conviction or, where relevant, the law enforcement agency having primary jurisdiction where the offender was committed; (4) the law enforcement agency having jurisdiction where the offender expects to reside, providing that the release plan has been approved by the hearings and release unit of the department of corrections; and (5) any other individuals the chair may select. The

notice shall state the time and place of the hearing. A request for a review hearing shall not interfere with or delay the notification process under subdivision 4 or 5, unless the administrative law judge orders otherwise for good cause shown.

(b) An offender who requests a review hearing must be given a reasonable opportunity to prepare for the hearing. The review hearing shall be conducted on the record before an administrative law judge. The review hearing shall be conducted at the correctional facility in which the offender is currently confined. If the offender no longer is incarcerated, the administrative law judge shall determine the place where the review hearing will be conducted. The offender has the burden of proof to show, by a preponderance of the evidence, that the end-of-confinement review committee's risk assessment determination was erroneous. The attorney general or a designee shall defend the end-of-confinement review committee's determination. The offender has the right to be present, to present evidence in support of the offender's position, to call supporting witnesses, and to cross-examine witnesses testifying in support of the committee's determination.

(c) After the hearing is concluded, the administrative law judge shall decide whether the end-of-confinement review committee's risk assessment determination was erroneous and, based on this decision, shall either uphold or modify the review committee's determination. The judge's decision shall be in writing and shall include the judge's reasons for the decision. The judge's decision shall be final and a copy of it shall be given to the offender, the victim, the law enforcement agency, and the chair of the end-of-confinement review committee.

(d) The review hearing is subject to the contested case provisions of chapter 14.

(e) The administrative law judge may seal any portion of the record of the administrative review hearing to the extent necessary to protect the identity of a victim of or witness to the offender's offense.

Minn. Stat. Ann. § 244.053. Notice of release of certain offenders

Subdivision 1. Notice of impending release. At least 60 days before the release of any inmate convicted of an offense requiring registration under [section 243.166](#), the commissioner of corrections shall send written notice of the impending release to the sheriff of the county and the police chief of the city in which the inmate will reside or in which placement will be made in a work release program. The sheriff of the county where the offender was convicted also shall be notified of the inmate's impending release.

Subd. 2. Additional notice. The same notice shall be sent to the following persons concerning a specific inmate convicted of an offense requiring registration under [section 243.166](#):

- (1) the victim of the crime for which the inmate was convicted or a deceased victim's next of kin if the victim or deceased victim's next of kin requests the notice in writing;
- (2) any witnesses who testified against the inmate in any court proceedings involving the offense, if the witness requests the notice in writing; and
- (3) any person specified in writing by the prosecuting attorney.

The notice sent to victims under clause (1) must inform the person that the person has the right to request and receive information about the offender authorized for disclosure under the community notification provisions of [section 244.052](#).

If the victim or witness is under the age of 16, the notice required by this section shall be sent to the parents or legal guardian of the child. The commissioner shall send the notices required by this provision to the last address provided to the commissioner by the requesting party. The requesting party shall furnish the commissioner with a current address. Information regarding witnesses requesting the notice, information regarding any other person specified in writing by

the prosecuting attorney to receive the notice, and the notice are private data on individuals, as defined in section 13.02, subdivision 12, and are not available to the inmate.

The notice to victims provided under this subdivision does not limit the victim's right to request notice of release under section 611A.06.

Subd. 3. No extension of release date. The existence of the notice requirements contained in this section shall in no event require an extension of the release date.

Minn. Stat. Ann. § 244.14. Intensive community supervision; basic elements

Subdivision 1. Requirements. This section governs the intensive community supervision programs established under section 244.13. The commissioner shall operate the programs in conformance with this section. The commissioner shall administer the programs to further the following goals:

- (1) to punish the offender;
- (2) to protect the safety of the public;
- (3) to facilitate employment of the offender during the intensive community supervision and afterward; and
- (4) to require the payment of restitution ordered by the court to compensate the victims of the offender's crime.

Minn. Stat. Ann. § 253B.18. Persons who are mentally ill and dangerous to the public

Subd. 5. (e) In making their recommendations and order, the special review board and commissioner must consider any statements received from victims under subdivision 5a.

Subd. 5a.

Victim notification of petition and release; right to submit statement. (a) As used in this subdivision:

- (1) "crime" has the meaning given to "violent crime" in section 609.1095, and includes criminal sexual conduct in the fifth degree and offenses within the definition of "crime against the person" in section 253B.02, subdivision 4a, and also includes offenses listed in section 253D.02, subdivision 8, paragraph (b), regardless of whether they are sexually motivated;
 - (2) "victim" means a person who has incurred loss or harm as a result of a crime the behavior for which forms the basis for a commitment under this section or chapter 253D; and
 - (3) "convicted" and "conviction" have the meanings given in section 609.02, subdivision 5, and also include juvenile court adjudications, findings under Minnesota Rules of Criminal Procedure, rule 20.02, that the elements of a crime have been proved, and findings in commitment cases under this section or chapter 253D that an act or acts constituting a crime occurred.
- (b) A county attorney who files a petition to commit a person under this section or chapter 253D shall make a reasonable effort to provide prompt notice of filing the petition to any victim of a crime for which the person was convicted. In addition, the county attorney shall make a reasonable effort to promptly notify the victim of the resolution of the petition.
- (c) Before provisionally discharging, discharging, granting pass-eligible status, approving a pass plan, or otherwise permanently or temporarily releasing a person committed under this section from a treatment facility, the head of the treatment facility shall make a reasonable effort to notify any victim of a crime for which the person was convicted that the person may be discharged or released and that the victim has a right to submit a written statement regarding decisions of the medical director, special review board, or commissioner with respect to the person. To the extent possible, the notice must be provided at least 14 days before any special

review board hearing or before a determination on a pass plan. Notwithstanding section 611A.06, subdivision 4, the commissioner shall provide the judicial appeal panel with victim information in order to comply with the provisions of this section. The judicial appeal panel shall ensure that the data on victims remains private as provided for in section 611A.06, subdivision 4.

(d) This subdivision applies only to victims who have requested notification through the Department of Corrections electronic victim notification system, or by contacting, in writing, the county attorney in the county where the conviction for the crime occurred. A request for notice under this subdivision received by the commissioner of corrections through the Department of Corrections electronic victim notification system shall be promptly forwarded to the prosecutorial authority with jurisdiction over the offense to which the notice relates or, following commitment, the head of the treatment facility. A county attorney who receives a request for notification under this paragraph following commitment shall promptly forward the request to the commissioner of human services.

(e) The rights under this subdivision are in addition to rights available to a victim under chapter 611A. This provision does not give a victim all the rights of a “notified person” or a person “entitled to statutory notice” under subdivision 4a, 4b, or 5 or section 253D.14.

Minn. Stat. Ann. § 253D.14. Victim notification of petition and release; right to submit statement
Subdivision 1. Definitions. As used in this section:

(1) “crime” has the meaning given to “violent crime” in section 609.1095, and includes criminal sexual conduct in the fifth degree and offenses within the definition of “crime against the person” in section 253B.02, subdivision 4a, and also includes offenses listed in section 253D.02, subdivision 8, paragraph (b), regardless of whether they are sexually motivated;

(2) “victim” means a person who has incurred loss or harm as a result of a crime, the behavior for which forms the basis for a commitment under this chapter; and

(3) “convicted” and “conviction” have the meanings given in section 609.02, subdivision 5, and also include juvenile court adjudications, findings under Minnesota Rules of Criminal Procedure, rule 20.02, that the elements of a crime have been proved, and findings in commitment cases under this section or section 253B.18, that an act or acts constituting a crime occurred.

Subd. 2. Notice of filing petition. A county attorney who files a petition to commit a person under this chapter shall make a reasonable effort to provide prompt notice of filing the petition to any victim of a crime for which the person was convicted. In addition, the county attorney shall make a reasonable effort to promptly notify the victim of the resolution of the petition.

Subd. 3. Notice of discharge or release. Before provisionally discharging, discharging, granting pass-eligible status, approving a pass plan, or otherwise permanently or temporarily releasing a person committed under this chapter from a treatment facility, the executive director shall make a reasonable effort to notify any victim of a crime for which the person was convicted that the person may be discharged or released and that the victim has a right to submit a written statement regarding decisions of the executive director, or special review board, with respect to the person. To the extent possible, the notice must be provided at least 14 days before any special review board hearing or before a determination on a pass plan. Notwithstanding section 611A.06, subdivision 4, the commissioner shall provide the judicial appeal panel with victim information in order to comply with the provisions of this chapter. The judicial appeal panel shall ensure that the data on victims remains private as provided for in section 611A.06, subdivision 4.

Subd. 4. Electronic notice. This section applies only to victims who have requested notification through the Department of Corrections electronic victim notification system, or by contacting, in

writing, the county attorney in the county where the conviction for the crime occurred or where the civil commitment was filed or, following commitment, the executive director. A request for notice under this section received by the commissioner of corrections through the Department of Corrections electronic victim notification system shall be promptly forwarded to the prosecutorial authority with jurisdiction over the offense to which the notice relates or, following commitment, the executive director. A county attorney who receives a request for notification under this section following commitment shall promptly forward the request to the commissioner of human services.

Subd. 5. Additional victim rights. Rights under this section are in addition to rights available to a victim under chapter 611A. This provision does not give a victim all the rights of a “notified person” or a person “entitled to statutory notice” under section 253B.18, subdivision 4a, 4b, or 5; 253D.23; or 253D.27.

Minn. Stat. Ann. § 256.995. School-linked services for at-risk children and youth

Subdivision 1. Program established. In order to enhance the delivery of needed services to at-risk children and youth and maximize federal funds available for that purpose, the commissioners of human services and education shall design a statewide program of collaboration between providers of health and social services for children and local school districts, to be financed, to the greatest extent possible, from federal sources. The commissioners of health and public safety shall assist the commissioners of human services and education in designing the program.

Subd. 2. At-risk children and youth. The program shall target at-risk children and youth, defined as individuals, whether or not enrolled in school, who are under 21 years of age and who:

(6) are victims of physical, sexual, or psychological abuse;

Minn. Stat. Ann. § 518B.02. Domestic abuse counseling program or educational program required

Subdivision 1. Court-ordered domestic abuse counseling program or educational program. If the court stays imposition or execution of a sentence for a domestic abuse offense and places the offender on probation, the court shall order that, as a condition of the stayed sentence, the offender participate in and successfully complete a domestic abuse counseling program or educational program.

Subd. 2. Standards for domestic abuse counseling programs and domestic abuse educational programs. (a) Domestic abuse counseling or educational programs that provide group or class sessions for court-ordered domestic abuse offenders must provide documentation to the probation department or the court on program policies and how the program meets the criteria contained in paragraphs (b) to (l).

(b) Programs shall require offenders and abusing parties to attend a minimum of 24 sessions or 36 hours of programming, unless a probation agent has recommended fewer sessions. The documentation provided to the probation department or the court must specify the length of the program that offenders are required to complete.

(c) Programs must have a written policy requiring that counselors and facilitators report to the court and to the offender’s probation or corrections officer any threats of violence made by the offender or abusing party, acts of violence by the offender or abusing party, violation of court orders by the offender or abusing party, and violation of program rules that resulted in the offender’s or abusing party’s termination from the program. Programs shall have written policies

requiring that counselors and facilitators hold offenders and abusing parties solely responsible for their behavior.

Programs shall have written policies requiring that counselors and facilitators be violence free in their own lives.

(d) Each program shall conduct an intake process with each offender or abusing party. This intake process shall look for chemical dependency problems and possible risks the offender or abusing party might pose to self or others. The program must have policies regarding referral of a chemically dependent offender or abusing party to a chemical dependency treatment center. If the offender or abusing party poses a risk to self or others, the program shall report this information to the court, the probation or corrections officer, and the victim.

(e) If the offender or abusing party is reported back to the court or is terminated from the program, the program shall notify the victim of the circumstances unless the victim requests otherwise.

(f) Programs shall require court-ordered offenders and abusing parties to sign a release of information authorizing communication regarding the offender's or abusing party's progress in the program to the court, the offender's probation or corrections officer, other providers, and the victim. The offender or abusing party may not enter the program if the offender does not sign a release.

(g) If a counselor or facilitator contacts the victim, the counselor or facilitator must not elicit any information that the victim does not want to provide. A counselor or facilitator who contacts a victim shall (1) notify the victim of the right not to provide any information, (2) notify the victim of how any information provided will be used and with whom it will be shared, and (3) obtain the victim's permission before eliciting information from the victim or sharing information with anyone other than staff of the counseling program.

Programs shall have written policies requiring that counselors and facilitators inform victims of the confidentiality of information as provided by this subdivision. Programs must maintain separate files for information pertaining to the offender or abusing party and to the victim. If a counselor or facilitator contacts a victim, the counselor or facilitator shall provide the victim with referral information for support services.

(h) Programs shall have written policies forbidding program staff from disclosing any confidential communication made by the offender or abusing party without the consent of the offender or abusing party, except that programs must warn a potential victim of imminent danger based upon information provided by an offender or abusing party.

(i) The counseling program or educational program must provide services in a group setting, unless the offender or abusing party would be inappropriate in a group setting.

Programs must provide separate sessions for male and female offenders and abusing parties.

(j) Programs shall have written policies forbidding program staff from offering or referring marriage or couples counseling until the offender or abusing party has completed a domestic abuse counseling program or educational program for the minimum number of court-ordered sessions and the counselor or facilitator reasonably believes that the violence, intimidation, and coercion has ceased and the victim feels safe to participate.

(k) Programs must have written policies requiring that the counselor or facilitator report when the court-ordered offender or abusing party has completed the program to the court and the offender's probation or corrections officer.

(l) Programs must have written policies to coordinate with the court, probation and corrections officers, battered women's and domestic abuse programs, child protection services, and other providers on promotion of victim safety and offender accountability.

Subd. 3. Program accountability. The Office of Justice Programs in the Department of Public Safety will consult with domestic abuse counseling and educational programs, the court, probation departments, and the interagency task force on the prevention of domestic and sexual abuse on acceptable measures to ensure program accountability. By December 30, 2001, the center shall make recommendations to the house of representatives and senate committees and divisions with jurisdiction over criminal justice policy and funding on agreed-upon accountability measures including outcome studies.

Minn. Stat. Ann. § 609.115. Presentence investigation

Subdivision 1. Presentence investigation. (a) When a defendant has been convicted of a misdemeanor or gross misdemeanor, the court may, and when the defendant has been convicted of a felony, the court shall, before sentence is imposed, cause a presentence investigation and written report to be made to the court concerning the defendant's individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused by it to others and to the community. At the request of the prosecutor in a gross misdemeanor case, the court shall order that a presentence investigation and report be prepared. The investigation shall be made by a probation officer of the court, if there is one; otherwise it shall be made by the commissioner of corrections. The officer conducting the presentence or predispositional investigation shall make reasonable and good faith efforts to contact and provide the victim with the information required under section 611A.037, subdivision 2. Presentence investigations shall be conducted and summary hearings held upon reports and upon the sentence to be imposed upon the defendant in accordance with this section, section 244.10, and the Rules of Criminal Procedure.

(d) The report shall also include the information relating to crime victims required under section 611A.037, subdivision 1. If the court directs, the report shall include an estimate of the prospects of the defendant's rehabilitation and recommendations as to the sentence which should be imposed. In misdemeanor cases the report may be oral.

Minn. Stat. Ann. § 609.3455. Dangerous sex offenders; life sentences; conditional release

Subd. 8. Terms of conditional release; applicable to all sex offenders. (a) The provisions of this subdivision relating to conditional release apply to all sex offenders sentenced to prison for a violation of [section 609.342](#), [609.343](#), [609.344](#), [609.345](#), or [609.3453](#). Except as provided in this subdivision, conditional release of sex offenders is governed by provisions relating to supervised release. The commissioner of corrections may not dismiss an offender on conditional release from supervision until the offender's conditional release term expires.

(b) The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in [section 244.05, subdivision 6](#), and any other conditions the commissioner considers appropriate. The commissioner shall develop a plan to pay the cost of treatment of a person released under this subdivision. The plan may include co-payments from offenders, third-party payers, local agencies, or other funding sources as they are identified. This section does not require the commissioner to accept or retain an offender in a treatment program. Before the offender is placed on conditional release, the commissioner shall notify the sentencing court and the

prosecutor in the jurisdiction where the offender was sentenced of the terms of the offender's conditional release. The commissioner also shall make reasonable efforts to notify the victim of the offender's crime of the terms of the offender's conditional release.

Minn. Stat. Ann. § 609A.025. No petition required in certain cases with prosecutor agreement and notification

- (a) If the prosecutor agrees to the sealing of a criminal record, the court shall seal the criminal record for a person described in section 609A.02, subdivision 3, without the filing of a petition unless it determines that the interests of the public and public safety in keeping the record public outweigh the disadvantages to the subject of the record in not sealing it.
- (b) Before agreeing to the sealing of a record under this section, the prosecutor shall make a good faith effort to notify any identifiable victims of the offense of the intended agreement and the opportunity to object to the agreement.
- (c) Subject to paragraph (b), the agreement of the prosecutor to the sealing of records for a person described in section 609A.02, subdivision 3, paragraph (a), clause (2), may occur before or after the criminal charges are dismissed.

Minn. Stat. Ann. § 609A.03. Petition to expunge criminal records

Subdivision 1. Petition; filing fee. An individual who is the subject of a criminal record who is seeking the expungement of the record shall file a petition under this ...

Subd. 2. Contents of petition. (a) A petition for expungement shall be signed under oath by the petitioner and shall state the following:

(5) the details of the offense or arrest for which expungement is sought, including the date and jurisdiction of the occurrence, either the names of any victims or that there were no identifiable victims, whether there is a current order for protection, restraining order, or other no contact order prohibiting the petitioner from contacting the victims or whether there has ever been a prior order for protection or restraining order prohibiting the petitioner from contacting the victims, the court file number, and the date of conviction or of dismissal;

(b) If there is a current order for protection, restraining order, or other no contact order prohibiting the petitioner from contacting the victims or there has ever been a prior order for protection or restraining order prohibiting the petitioner from contacting the victims, the petitioner shall attach a copy of the order to the petition.

Subd. 3. Service of petition and proposed order. ... (b) The prosecutorial office that had jurisdiction over the offense for which expungement is sought shall serve by mail the petition for expungement and a proposed expungement order on any victims of the offense for which expungement is sought who have requested notice of expungement pursuant to [section 611A.06](#). Service under this paragraph does not constitute a violation of an existing order for protection, restraining order, or other no contact order.

(c) The prosecutorial office's notice to victims of the offense under this subdivision must specifically inform the victims of the victims' right to be present and to submit an oral or written statement at the expungement hearing described in subdivision 4.

Subd. 4. Hearing. A hearing on the petition shall be held no sooner than 60 days after service of the petition.

A victim of the offense for which expungement is sought has a right to submit an oral or written statement to the court at the time of the hearing describing the harm suffered by the victim as a

result of the crime and the victim's recommendation on whether expungement should be granted or denied. The judge shall consider the victim's statement when making a decision.

Subd. 5 (c) In making a determination under this subdivision, the court shall consider:

- (10) the recommendations of victims or whether victims of the underlying crime were minors;
- (11) the amount, if any, of restitution outstanding, past efforts made by the petitioner toward payment, and the measures in place to help ensure completion of restitution payment after expungement of the record if granted; and
- (12) other factors deemed relevant by the court.

Subd. 6a. Order when context and circumstances of the underlying crime indicate a nexus between the criminal record to be expunged and person's status as a crime victim. If the court finds, under subdivision 5, paragraph (c), clause (5), that the context and circumstances of the underlying crime indicate a nexus between the criminal record to be expunged and the person's status as a crime victim, then the effect of the court order to seal the record of the proceedings shall be to restore the person, in the contemplation of the law, to the status the person occupied before the arrest, indictment, or information. The person shall not be guilty of perjury or otherwise of giving a false statement if the person fails to acknowledge the arrest, indictment, information, or trial in response to any inquiry made for any purpose. The court may request a sworn statement from a staff member of a state-funded victim services organization or a licensed health care provider as evidence to support a determination under subdivision 5.

Subd. 7a. Limitations of order effective January 1, 2015, and later. (a) Upon issuance of an expungement order related to a charge supported by probable cause, the DNA samples and DNA records held by the Bureau of Criminal Apprehension and collected under authority other than section 299C.105 shall not be sealed, returned to the subject of the record, or destroyed.

(b) Notwithstanding the issuance of an expungement order:

- (6) the court may order an expunged record opened upon request by the victim of the underlying offense if the court determines that the record is substantially related to a matter for which the victim is before the court.

Minn. Stat. Ann. § 611A.021. Notice of right to request withholding of certain public data

A victim has a right under section 13.82, subdivision 17, clause (d), to request a law enforcement agency to withhold public access to data revealing the victim's identity.

Minn. Stat. Ann. § 611A.03. Plea agreements; notification

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

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

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

- (1) the victim's legal guardian or guardian ad litem; or

(2) the three victims the prosecuting attorney believes to have suffered the most, if there are more than three victims of the offense.

Minn. Stat. Ann. § 611A.037. Presentence investigation; victim impact; notice

Subdivision 1. Victim impact statement. A presentence investigation report prepared under section 609.115 shall include the following information relating to victims:

- (1) a summary of the damages or harm and any other problems generated by the criminal occurrence;
- (2) a concise statement of what disposition the victim deems appropriate for the defendant or juvenile court respondent, including reasons given, if any, by the victim in support of the victim's opinion; and
- (3) an attachment to the report, consisting of the victim's written objections, if any, to the proposed disposition if the victim provides the officer conducting the presentence investigation with this written material within a reasonable time prior to the disposition.

Subd. 2. Notice to victim. The officer conducting a presentence or predispositional investigation shall make reasonable and good faith efforts to assure that the victim of that crime is provided with the following information by contacting the victim or assuring that another public or private agency has contacted the victim: (1) the charge or juvenile court petition to which the defendant has been convicted or pleaded guilty, or the juvenile respondent has admitted in court or has been found to have committed by the juvenile court, and of any plea agreement between the prosecution and the defense counsel; (2) the victim's right to request restitution pursuant to [section 611A.04](#); (3) the time and place of the sentencing or juvenile court disposition and the victim's right to be present; and (4) the victim's right to object in writing to the court, prior to the time of sentencing or juvenile court disposition, to the proposed sentence or juvenile dispositional alternative, or to the terms of the proposed plea agreement. To assist the victim in making a recommendation under clause (4), the officer shall provide the victim with information about the court's options for sentencing and other dispositions. Failure of the officer to comply with this subdivision does not give any rights or grounds for postconviction or postjuvenile disposition relief to the defendant or juvenile court respondent, nor does it entitle a defendant or a juvenile court respondent to withdraw a plea of guilty.

Minn. Stat. Ann. § 611A.038. Right to submit statement at sentencing

(a) A victim has the right to submit an impact statement to the court at the time of sentencing or disposition hearing. The impact statement may be presented to the court orally or in writing, at the victim's option. If the victim requests, the prosecutor must orally present the statement to the court. Statements may include the following, subject to reasonable limitations as to time and length:

- (1) a summary of the harm or trauma suffered by the victim as a result of the crime;
- (2) a summary of the economic loss or damage suffered by the victim as a result of the crime; and
- (3) a victim's reaction to the proposed sentence or disposition.

(b) A representative of the community affected by the crime may submit an impact statement in the same manner that a victim may as provided in paragraph (a). This impact statement shall describe the adverse social or economic effects the offense has had on persons residing and businesses operating in the community where the offense occurred.

(c) If the court permits the defendant or anyone speaking on the defendant's behalf to present a statement to the court, the court shall limit the response to factual issues which are relevant to sentencing.

(d) Nothing in this section shall be construed to extend the defendant's right to address the court under section 631.20.

Minn. Stat. Ann. § 611A.0385. Sentencing; implementation of right to notice of offender release and expungement

At the time of sentencing or the disposition hearing in a case in which there is an identifiable victim, the court or its designee shall make reasonable good faith efforts to inform each affected victim of the offender notice of release and notice of expungement provisions of section 611A.06.

If the victim is a minor, the court or its designee shall, if appropriate, also make reasonable good faith efforts to inform the victim's parent or guardian of the right to notice of release and notice of expungement. The state court administrator, in consultation with the commissioner of corrections and the prosecuting authorities, shall prepare a form that outlines the notice of release and notice of expungement provisions under [section 611A.06](#) and describes how a victim should complete and submit a request to the commissioner of corrections or other custodial authority to be informed of an offender's release or submit a request to the prosecuting authorities to be informed of an offender's petition for expungement.

The state court administrator shall make these forms available to court administrators who shall assist the court in disseminating right to notice of offender release and notice of expungement information to victims.

Minn. Stat. Ann. § 611A.039. Right to notice of final disposition of criminal case

Subdivision 1. Notice required. Except as otherwise provided in subdivision 2, within 15 working days after a conviction, acquittal, or dismissal in a criminal case in which there is an identifiable crime victim, the prosecutor shall make reasonable good faith efforts to provide to each affected crime victim oral or written notice of the final disposition of the case. When the court is considering modifying the sentence for a felony or a crime of violence or an attempted crime of violence, the court or its designee shall make a reasonable and good faith effort to notify the victim of the crime.

If the victim is incapacitated or deceased, notice must be given to the victim's family. If the victim is a minor, notice must be given to the victim's parent or guardian. The notice must include:

- (1) the date and approximate time of the review;
- (2) the location where the review will occur;
- (3) the name and telephone number of a person to contact for additional information; and
- (4) a statement that the victim and victim's family may provide input to the court concerning the sentence modification.

As used in this section, "crime of violence" has the meaning given in section 624.712, subdivision 5, and also includes gross misdemeanor violations of section 609.224, and nonfelony violations of sections 518B.01, 609.2231, 609.3451, 609.748, and 609.749.

Subd. 2. Exception. If a prosecutor contacts an identifiable crime victim in advance of the final case disposition, either orally or in writing, and notifies the victim of the victim's right to request information on the final disposition of the case, the prosecutor shall only be required to provide

the notice described in subdivision 1 to those victims who have indicated in advance their desire to be notified of the final case disposition.

Minn. Stat. Ann. § 611A.0395. Right to information regarding defendant's appeal

Subdivision 1. Prosecuting attorney to notify victims. (a) The prosecuting attorney shall make a reasonable and good faith effort to provide to each affected victim oral or written notice of a pending appeal. This notice must be provided within 30 days of filing of the respondent's brief. The notice must contain a brief explanation of the contested issues or a copy of the brief, an explanation of the applicable process, information about scheduled oral arguments or hearings, a statement that the victim and the victim's family may attend the argument or hearing, and the name and telephone number of a person that may be contacted for additional information. (b) In a criminal case in which there is an identifiable crime victim, within 15 working days of a final decision on an appeal, the prosecuting attorney shall make a reasonable and good faith effort to provide to each affected victim oral or written notice of the decision. This notice must include a brief explanation of what effect, if any, the decision has upon the judgment of the trial court and the name and telephone number of a person that may be contacted for additional information.

Subd. 2. Exception. The notices described in subdivision 1 do not have to be given to victims who have previously indicated a desire not to be notified.

Minn. Stat. Ann. § 611A.046. Victim's right to request probation review hearing

A victim has the right to ask the offender's probation officer to request a probation review hearing if the offender fails to pay restitution as required in a restitution order.

Minn. Stat. Ann. § 611A.06. Right to notice of release

Subdivision 1. Notice of release required. The commissioner of corrections or other custodial authority shall make a good faith effort to notify the victim that the offender is to be released from imprisonment or incarceration, including release on extended furlough and for work release; released from a juvenile correctional facility; released from a facility in which the offender was confined due to incompetency, mental illness, or mental deficiency, or commitment under section 253B.18 or chapter 253D; or if the offender's custody status is reduced, if the victim has mailed to the commissioner of corrections or to the head of the facility in which the offender is confined a written request for this notice, or the victim has made a request for this notice to the commissioner of corrections through the Department of Corrections electronic victim notification system. The good faith effort to notify the victim must occur prior to the offender's release or when the offender's custody status is reduced. For a victim of a felony crime against the person for which the offender was sentenced to imprisonment for more than 18 months, the good faith effort to notify the victim must occur 60 days before the offender's release.

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

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

Subd. 2. Contents of notice. The notice given to a victim of a crime against a person must include the conditions governing the offender's release, and either the identity of the corrections agent who will be supervising the offender's release or a means to identify the court services agency that will be supervising the offender's release.

The commissioner or other custodial authority complies with this section upon mailing the notice of impending release to the victim at the address which the victim has most recently provided to the commissioner or authority in writing, or by providing electronic notice to the victim who requested this notice through the Department of Corrections electronic victim notification system.

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

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

- (1) the offender is not under correctional supervision at the time of the victim's request;
 - (2) the commissioner or the commissioner's designee does not have the city or zip code; or
 - (3) the commissioner or the commissioner's designee reasonably believes that disclosure of the city or zip code of the offender's residency creates a risk to the victim, offender, or public safety.
- (b) All identifying information regarding the victim including, but not limited to, the notification provided by the commissioner or the commissioner's designee is classified as private data on individuals as defined in section 13.02, subdivision 12, and is accessible only to the victim.
- (c) This subdivision applies only where the offender is serving a prison term for a qualified domestic violence-related offense committed against the victim seeking notification.

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

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

Minn. Stat. Ann. § 611A.07. Electronic monitoring to protect domestic abuse victims; standards
Subdivision 1. Generally. The commissioner of corrections, after considering the recommendations of the Advisory Council on Battered Women and Domestic Abuse and the Sexual Assault Advisory Council, and in collaboration with the commissioner of public safety,

shall adopt standards governing electronic monitoring devices used to protect victims of domestic abuse. In developing proposed standards, the commissioner shall consider the experience of the courts in the Tenth Judicial District in the use of the devices to protect victims of domestic abuse. These standards shall promote the safety of the victim and shall include measures to avoid the disparate use of the device with communities of color, product standards, monitoring agency standards, and victim disclosure standards.

Minn. Stat. Ann. § 611A.19. Testing sex offender for human immunodeficiency virus

Subdivision 1. Testing on request of victim. (a) Upon the request or with the consent of the victim, the prosecutor shall make a motion in camera and the sentencing court shall issue an order requiring an adult convicted of or a juvenile adjudicated delinquent for violating section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or any other violent crime, as defined in section 609.1095, to submit to testing to determine the presence of human immunodeficiency virus (HIV) antibody if (1) the crime involved sexual penetration, however slight, as defined in section 609.341, subdivision 12; or (2) evidence exists that the broken skin or mucous membrane of the victim was exposed to or had contact with the offender's semen or blood during the commission of the crime in a manner which has been demonstrated epidemiologically to transmit the human immunodeficiency virus (HIV).

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

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

Subd. 2. Disclosure of test results. The date and results of a test performed under subdivision 1 are private data as defined in section 13.02, subdivision 12, when maintained by a person subject to chapter 13, or may be released only with the subject's consent, if maintained by a person not subject to chapter 13.

The results are available, on request, to the victim or, if the victim is a minor, to the victim's parent or guardian and positive test results shall be reported to the commissioner of health.

Unless the subject of the test is an inmate at a state correctional facility, any test results given to a victim or victim's parent or guardian shall be provided by a health professional who is trained to provide the counseling described in section 144.7414. If the subject of the test is an inmate at a state correctional facility, test results shall be given by the Department of Corrections' medical director to the victim's health care provider who shall give the results to the victim or victim's parent or guardian. Data regarding administration and results of the test are not accessible to any other person for any purpose and shall not be maintained in any record of the court or court services or any other record. After the test results are given to the victim or the victim's parent or guardian, data on the test must be removed from any medical data or health records maintained under sections 13.384 or 144.291 to 144.298 and destroyed, except for those medical records maintained by the Department of Corrections.

Minn. Stat. Ann. § 611A.775. Restorative justice programs

A community-based organization, in collaboration with a local governmental unit, may establish a restorative justice program.

A restorative justice program is a program that provides forums where certain individuals charged with or petitioned for having committed an offense meet with the victim, if appropriate; the victim's family members or other supportive persons, if appropriate; the offender's family members or other supportive persons, if appropriate; a law enforcement official or prosecutor when appropriate; other criminal justice system professionals when appropriate; and members of the community, in order to:

- (1) discuss the impact of the offense on the victim and the community;
- (2) provide support to the victim and methods for reintegrating the victim into community life;
- (3) assign an appropriate sanction to the offender; and
- (4) provide methods for reintegrating the offender into community life.

Minn. Stat. Ann. § 638.04. Meetings

The Board of Pardons shall hold meetings at least twice each year and shall hold a meeting whenever it takes formal action on an application for a pardon or commutation of sentence. All board meetings shall be open to the public as provided in chapter 13D.

The victim of an applicant's crime has a right to submit an oral or written statement at the meeting. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the application for a pardon or commutation should be granted or denied. In addition, any law enforcement agency may submit an oral or written statement at the meeting, giving its recommendation on whether the application should be granted or denied. The board must consider the victim's and the law enforcement agency's statement when making its decision on the application.

Minn. Stat. Ann. § 638.06. Action on application

Every application for relief by the Pardon Board shall be filed with the secretary of the Board of Pardons not less than 60 days before the meeting of the board at which consideration of the application is desired. If an application for a pardon or commutation has been once heard and denied on the merits, no subsequent application shall be filed without the consent of two members of the board endorsed on the application. Immediately on receipt of any application, the secretary to the board shall mail notice of the application, and of the time and place of hearing on it, to the judge of the court where the applicant was tried and sentenced, and to the prosecuting attorney who prosecuted the applicant, or a successor in office. Additionally, the secretary shall publish notice of an application for a pardon extraordinary in the local newspaper of the county where the crime occurred.

The secretary shall also make all reasonable efforts to locate any victim of the applicant's crime. The secretary shall mail notice of the application and the time and place of the hearing to any victim who is located. This notice shall specifically inform the victim of the victim's right to be present at the hearing and to submit an oral or written statement to the board as provided in section 638.04.

Minn. R. Crim. P. 27.03. Sentencing Proceedings

Subd. 3. Statements at Time of Sentencing. Before pronouncing sentence, the court must allow statements from:

(A) the prosecutor, victim, and defense counsel concerning any sentencing issues and a recommended sentence;

(B) persons on behalf of the defendant;

(C) the defendant, personally.

The court must not accept any off-the-record communications relating to sentencing unless the contents are disclosed to the parties.

Minn. R. Crim. P. 28.02. Appeal by Defendant

Subd. 7. Release of Defendant.

(5) When a defendant obtains release pending appeal under this rule, the prosecution must make reasonable good faith efforts as soon as possible to advise the victim of the defendant's release.

MISSISSIPPI

Miss. Code. Ann. § 47-7-9. Division of Community Corrections; duties of personnel

3(a) Division personnel shall be provided to perform investigation for the court as provided in this subsection. Division personnel shall conduct presentence investigations on all persons convicted of a felony in any circuit court of the state, prior to sentencing and at the request of the circuit court judge of the court of conviction. The presentence evaluation report shall consist of a complete record of the offender's criminal history, educational level, employment history, psychological condition and such other information as the department or judge may deem necessary.

Division personnel shall also prepare written victim impact statements at the request of the sentencing judge as provided in Section 99-19-157.

Miss. Code. Ann. § 47-7-17. Consideration; notice; factors considered; rules

Before ruling on the application for parole of any offender, the board may require a parole-eligible offender to have a hearing as required in this chapter before the board and to be interviewed. The hearing shall be held no later than thirty (30) days prior to the month of eligibility. No application for parole of a person convicted of a capital offense shall be considered by the board unless and until notice of the filing of such application shall have been published at least once a week for two (2) weeks in a newspaper published in or having general circulation in the county in which the crime was committed.

The board shall, within thirty (30) days prior to the scheduled hearing, also give notice of the filing of the application for parole to the victim of the offense for which the prisoner is incarcerated and being considered for parole or, in case the offense be homicide, a designee of the immediate family of the victim, provided the victim or designated family member has furnished in writing a current address to the board for such purpose. Parole release shall, at the hearing, be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. An offender shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. When the board determines that the offender will need transitional housing upon release in order to improve the likelihood of him or her becoming a law-abiding citizen, the board may parole the offender with the condition that the inmate spends no more than six (6) months in a transitional reentry center. At least fifteen (15) days prior to the release of an offender on parole, the director of records of the department shall give the written notice which is required pursuant to Section 47-5-177. Every offender while on parole shall remain in the legal custody of the department from which he was released and shall be amenable to the orders of the board.

Upon determination by the board that an offender is eligible for release by parole, notice shall also be given within at least fifteen (15) days before release, by the board to the victim of the offense or the victim's family member, as indicated above, regarding the date when the offender's release shall occur, provided a current address of the victim or the victim's family member has been furnished in writing to the board for such purpose.

Failure to provide notice to the victim or the victim's family member of the filing of the application for parole or of any decision made by the board regarding parole shall not constitute grounds for vacating an otherwise lawful parole determination nor shall it create any right or liability, civilly or criminally, against the board or any member thereof.

Miss. Code. Ann. § 47-7-18. Hearing for release

(1) Each inmate eligible for parole pursuant to Section 47-7-3, shall be released from incarceration to parole supervision on the inmate's parole eligibility date, without a hearing before the board, if

- (a) The inmate has met the requirements of the parole case plan established pursuant to Section 47-7-3.1;
 - (b) A victim of the offense has not requested the board conduct a hearing;
 - (c) The inmate has not received a serious or major violation report within the past six (6) months;
 - (d) The inmate has agreed to the conditions of supervision; and
 - (e) The inmate has a discharge plan approved by the board.
- (2) At least thirty (30) days prior to an inmate's parole eligibility date, the department shall notify the board in writing of the inmate's compliance or noncompliance with the case plan. If an inmate fails to meet a requirement of the case plan, prior to the parole eligibility date, he or she shall have a hearing before the board to determine if completion of the case plan can occur while in the community.
- (3) Any inmate for whom there is insufficient information for the department to determine compliance with the case plan shall have a hearing with the board.
- (4) A hearing shall be held with the board if requested by the victim following notification of the inmate's parole release date pursuant to Section 47-7-17.

Miss. Code. Ann. § 99-19-161. Notice to victim of sentencing

The prosecuting attorney shall notify the victim or the victim representative in writing of the date, time and place of any sentencing hearing. If a sentencing hearing is not ordered by the trial judge, the prosecuting attorney shall notify the victim or the victim representative of his right to prepare a written victim impact statement to be considered by the trial judge prior to sentencing. A copy of any relevant rules and regulations pertaining to the victim impact statement and the hearing shall accompany the notice. The notice and the copy of any relevant rules and regulations shall be sent to the last known address of the victim or the victim representative at least five (5) days prior to the sentencing hearing.

Miss. Code. Ann. § 99-20-9. Notification of eligible person; victim recommendation

When a case appears to meet the eligibility criteria established in Section 99-20-5 [community service restitution program], the Department of Corrections representative shall notify the district attorney of that district and the defense attorney.

The Department of Corrections representative, the district attorney and the defense attorney shall request the court to sentence the defendant to the community service restitution program. The Department of Corrections representative shall present to the court its basis for requesting the community service sentence.

In addition, the victim, if any, of the crime for which the defendant is charged shall be asked to comment in writing as to whether or not the defendant shall be allowed to enter the program. The court shall not be bound by such recommendations.

Miss. Code. Ann. § 99-35-115. Bail after felony conviction

(1) A person convicted of felony child abuse, sexual battery of a minor or any offense in which a sentence of death or life imprisonment is imposed shall not be entitled to be released from imprisonment pending an appeal to the Supreme Court.

(2)(a) A person convicted of any felony, not enumerated in subsection (1), shall be entitled to be released from imprisonment on bail pending an appeal to the Supreme Court, within the discretion of a judicial officer, if the convict shows by clear and convincing evidence that release of the convict would not constitute a special danger to any other person or to the community, and that a condition or a combination of conditions may be placed on release that will reasonably assure the appearance of the convict as required, and only when the peculiar circumstances of the case render it proper.

(b) If bail is denied, the judicial officer shall place the reasons for such denial of record in the case.

(c) For the purposes of this section, "judicial officer" means the trial court or trial judge, a judge of the district in which the conviction occurred, the Supreme Court or a justice of the Supreme Court in vacation of the court.

(d) The victim or family of a victim shall be entitled to submit a written statement objecting to the granting of release on bail pending appeal.

Miss. Code. Ann. § 99-36-5. Victims' rights

(1) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system:

(c) The right to be informed of relevant court proceedings and to be informed if those court proceedings have been canceled or rescheduled prior to the event...

(e) The right to provide a victim impact statement prior to any sentencing of the offender

Miss. Code. Ann. § 99-43-9. Notification of victim by prosecutor

(1) Upon written request of the victim, the prosecuting attorney shall notify the victim of all charges filed against the defendant and any criminal proceedings, other than initial appearances, as soon as practicable, including any changes that may occur.

(2) In order to be entitled to receive notice under this section, the victim shall provide to and maintain with the office of the prosecuting attorney a request for notice which shall include the telephone number and address of the victim. The request for notice shall be considered withdrawn and void in the event the victim fails to update this information as necessary. Except as otherwise provided, all notices provided to a victim pursuant to this chapter shall be on forms as specified by the Attorney General.

Miss. Code. Ann. § 99-43-29. Notice to victim of disposition and sentencing

The prosecuting attorney shall provide to the victim the date of a conviction, acquittal, or dismissal of the charges filed against the defendant and prior to sentencing, when applicable, notice of the following:

(a) The criminal offense for which the defendant was convicted, acquitted, or the effect of a dismissal of the charges filed against the defendant.

(b) If the defendant is convicted, on request, the victim shall be notified, if applicable, of the following:

(i) The existence and function of the pre-sentence report.

(ii) The name, address, and telephone number of the office which is preparing the pre-sentence report.

(iii) The right to make a victim impact statement.

(iv) The right of the defendant to view the pre-sentence report.

- (v) The right to be present and be heard at any sentencing proceeding.
- (vi) The time, place and date of the sentencing proceeding.
- (vii) If the court orders restitution, the right to pursue collection of the restitution as provided by Section 99-37-1 et seq., Mississippi Code of 1972.

Miss. Code. Ann. § 99-43-31. Victim impact statements to probation officers

The victim may submit a written impact statement or make an oral impact statement to the probation officer for use in preparing a pre-sentence report. The probation officer shall consider the economic, physical, and psychological impact that the criminal offense has had on the victim and the immediate family of the victim.

Miss. Code. Ann. § 99-43-33. Victim impact statements at court proceedings

The victim has the right to present an impact statement or information that concerns the criminal offense or the sentence during any entry of a plea of guilty, sentencing or restitution proceeding.

Miss. Code. Ann. § 99-43-35. Release, escape and sentencing information

The victim has the right to the following information:

- (a) As soon as practicable after the date of sentencing, the office of the prosecuting attorney shall notify the victim of the sentence imposed on the defendant.
- (b) The names, addresses and telephone numbers of the appropriate agencies and departments to whom request for notice should be provided.
- (c) The status of any post-conviction court review or appellate proceeding or any decisions arising from those proceedings shall be furnished to the victim by the Office of the Attorney General or the office of the district attorney, whichever is appropriate, within five (5) business days after the status is known.
- (d) Upon any post-arrest release of the defendant, the sheriff or municipal jailer shall, upon request, notify the victim of the release of the defendant.
In the case of domestic violence or sexual assault, the appropriate law enforcement agency shall make a reasonable attempt to notify the victim of the defendant's post-arrest release, regardless of the victim's exercise of the right to receive this information.
- (e) The agency having physical custody of a prisoner shall, if provided a request for notice, and as soon as practicable, give notice to the victim of the escape and, subsequently, the return of the prisoner into custody.

Miss. Code. Ann. § 99-43-37. Right of victim to be present and heard at court proceedings

It is the discretion of the victim to exercise the right to be present and heard, where authorized by law, at a court proceeding. The absence of the victim at the proceeding of the court does not preclude the court from going forward with the proceeding. The right of the victim to be heard may be exercised, where authorized by law, at the discretion of the victim, through an oral statement or submission of a written statement, or both.

Miss. Code. Ann. § 99-43-41. Notice requirements of custodial agencies

Any custodial agency having physical custody of the prisoner, if provided a request for notice, shall mail to the victim the following information:

- (a) Within fifteen (15) days prior to the end of the sentence of the prisoner, notice of release upon expiration of sentence or notice of medical release.

- (b) Within fifteen (15) days after the prisoner has died, notice of the death.

Miss. Code. Ann. § 99-43-43. Victim statements for prison records; notice of parole or pardon proceedings; notice of change of custodial status

- (1) Upon written request, the victim shall have the right to be notified that he or she may submit a written statement, or audio or video recording, which shall be entered into the prisoner's Department of Corrections records. The statement or recording shall be considered during any review for community status of the prisoner or prior to release of the prisoner.
- (2) The victim shall have the right to be notified and allowed to submit a written or recorded statement when parole or pardon is considered.
- (3) The victim shall have the right to be notified and allowed to submit a written or recorded statement when any change in custodial status is considered, whether such action be by executive order or judicial action.

Miss. Code. Ann. § 99-45-1. Statewide automated victim information and notification (SAVIN) system

The Department of Corrections shall establish a statewide automated victim information and notification (SAVIN) system that will do the following:

- (a) Automatically notify a registered victim via their choice of telephone, letter, or email when any of the following events affect an offender housed in the Department of Corrections or any county jail in the state:
 - (i) Is transferred or assigned to another facility;
 - (ii) Is transferred to the custody of another agency outside the state;
 - (iii) Is given a different security classification;
 - (iv) Is released on temporary leave or otherwise;
 - (v) Is discharged;
 - (vi) Has escaped; or
 - (vii) Has been served with a protective order that was requested by the victim.
- (b) Automatically notify a registered victim via their choice of telephone, letter, or email, when an offender has:
 - (i) An upcoming court event where the victim is entitled to be present;
 - (ii) An upcoming parole or pardon hearing;
 - (iii) A change in status of their parole or probation status including:
 - 1. A change in their supervision status; or
 - 2. A change in their address.
- (c) Automatically notify a registered victim via their choice of telephone, letter, or email when a sex offender has:
 - (i) Updated his profile information with the state sex offender registry;
 - (ii) Become noncompliant with the state sex offender registry.
- (d) Permit a crime victim to receive the most recent status report for an offender in the Department of Corrections, county jail, or sex offender registry by calling the SAVIN system on a toll free telephone number as well as by accessing the SAVIN system via a public web site.
- (e) All victims calling the SAVIN program will be given the option to have live operator assistance to use the program on a 24 hour, 365 day per year basis.
- (f) Permit a crime victim to register or update the victim's registration information for the SAVIN system by calling a toll free telephone number or accessing a public web site.

Miss. Code. Ann. § 99-45-3. Effect of participation; fulfillment of victim notification obligations
Participation in the SAVIN program and making offender and case data available on a timely basis to the SAVIN program will satisfy the Department of Corrections', sheriff's, and prosecuting attorney's obligation to notify the crime victim of an offender's custody status and the status of the offender's upcoming court events.

Miss. Code. Ann. § 99-45-5. Frequent updating requirement; effect of failure to notify victim
The Department of Corrections must ensure that the offender information contained within the automated victim notification system is updated frequently enough to timely notify a crime victim that an offender has been released, has been discharged, or has escaped. However, the failure of the automated victim notification system to provide notice to the victim does not establish a separate cause of action by the victim against the state, local officials, or against the Department of Corrections.

Miss. Code. Ann. § 99-45-7. Law enforcement and Department of Corrections cooperation
Law enforcement officers shall cooperate with the Department of Corrections in establishing and maintaining the automated victim notification system.

MS R RCRP Rule 26.3. Content.

- (b) The presentence report may contain, but is not limited to, the following information:
- (1) a description of the offense and the circumstances surrounding it, not limited to aspects developed for the record as part of the determination of guilt;
 - (2) any prior criminal convictions of the defendant, or juvenile adjudications of delinquency;
 - (3) a statement considering the economic, physical, and psychological impact of the offense on the victim and the victim's immediate family[.]

APPENDIX G



Sample of Post-Conviction Laws: Privacy

National Crime Victim Law Institute
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Post-Conviction Victims' Rights: Recommendations for Practice
Appendix G

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PRIVACY

COLORADO

Colo. Rev. Stat. Ann. § 16-22-111. Internet posting of sex offenders—procedure

(1) The CBI shall post a link on the state of Colorado home page on the internet to a list containing the names, addresses, and physical descriptions of certain persons and descriptions of the offenses committed by said persons. A person's physical description shall include, but need not be limited to, the person's sex, height, and weight, any identifying characteristics of the person, and a digitized photograph or image of the person. The list shall specifically exclude any reference to any victims of the offenses

Colo. Rev. Stat. Ann. § 16-22-112. Release of information—law enforcement agencies SOR

(4) Information released pursuant to this section, at a minimum, shall include the name, address or addresses, and aliases of the registrant; the registrant's date of birth; a photograph of the registrant, if requested and readily available; and a history of the convictions of unlawful sexual behavior resulting in the registrant being required to register pursuant to this article.

Information concerning victims shall not be released pursuant to this section.

Colo. Rev. Stat. Ann. § 17-22.5-404. Parole guidelines—definition

(2)(b) The division of criminal justice, the department of corrections, and the state board of parole shall cooperate to develop parole board action forms consistent with this section that capture the rationale for decision-making that shall be published as official forms of the department of corrections. Victim identity and input shall be protected from display on the parole board action form or any parole hearing report that may become a part of an inmate record.

(6)(a) The state board of parole shall work in consultation with the division of criminal justice in the department of public safety and the department of corrections to develop and implement a process to collect and analyze data related to the basis for and the outcomes of the board's parole decisions. The process shall collect data related to the board's rationale for granting, revoking, or denying parole.

Any information relating to victim identification or victim input that is identifiable to an individual defendant or case shall be maintained, but kept confidential and released only to other government agencies, pursuant to a nondisclosure agreement, for the purpose of analysis and reporting, pursuant to paragraph (c) of this subsection (6). When the board grants parole, the process shall also collect data related to whether the offender has previously recidivated, the type of reentry program given to the offender as a part of the offender's parole plan, and whether the offender recidivates while on parole.

HAWAII

Haw. Rev. Stat. § 846E-3. Access to sex offender registration information

(a)(3) The attorney general and any county police department shall release public information as provided in subsection (b) concerning a specific person required to register under this chapter; provided that the identity of a victim of an offense that requires registration under this chapter shall not be released.

(b) The identity of any victim of a sexual offense shall not be disclosed and any documentation containing such information shall be redacted to prevent disclosure.

Haw. Rev. Stat. § 353-137. Automated victim information and notification system governance committee

(a) There is established within the department of public safety, an automated victim information and notification system governance committee.... (e) The governance committee may advise the department on the following issues:.... (5) Policies and procedures governing the use of the system, including policies to safeguard the safety, confidentiality, and autonomy of victims.

MINNESOTA

Minn. Stat. Ann. § 611A.90. Release of videotapes of Child Abuse Victims

Subd. 2. Court order required. (a) A custodian of a videotape of a child victim or alleged victim alleging, explaining, denying, or describing an act of physical or sexual abuse as part of an investigation or evaluation of the abuse may not release a copy of the videotape without a court order, notwithstanding that the subject has consented to the release of the videotape or that the release is authorized under law.

Minn. Stat. Ann. § 609.3471. Records pertaining to victim identity confidential

Notwithstanding any provision of law to the contrary, no data contained in records or reports relating to petitions, complaints, or indictments issued pursuant to section 609.322, 609.342, 609.343, 609.344, 609.345, or 609.3453, which specifically identifies a victim who is a minor shall be accessible to the public, except by order of the court. Nothing in this section authorizes denial of access to any other data contained in the records or reports, including the identity of the defendant.

MISSISSIPPI

Miss. Code. Ann. § 99-19-51. Method of Execution

(6)(c) The identities of all members of the execution team, a supplier of lethal injection chemicals, and the identities of those witnesses listed in Section 99-19-55(2) who attend as members of the victim's or the condemned person's immediate family shall at all times remain confidential, and the information is exempt from disclosure under the provisions of the Mississippi Public Records Act of 1983.¹

(7) Notwithstanding any provision of law to the contrary, any portion of any record of any kind that could identify a person as being a current or former member of an execution team or a current or former supplier of lethal injection chemicals, or those witnesses listed in Section 99-19-55(2) who attend as members of the victim's or the condemned person's immediate family, shall at all times be confidential, exempt, and protected from disclosure, but the remainder of the record shall not be protected unless otherwise provided by law. A court shall preserve the secrecy of all confidential and exempt information described in this section by reasonable means, which may include granting protective orders, holding in-camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose such information without prior court approval

APPENDIX H



Sample of Post-Conviction Laws: Protection

National Crime Victim Law Institute
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PROTECTION

COLORADO

Colo. Rev. Stat. Ann. § 16-4-201.5. Right to bail after a conviction—exceptions

(1) The court may grant bail after a person is convicted, pending sentencing or appeal, only as provided by this part 2; except that no bail is allowed for persons convicted of...

(j) Stalking when there was a temporary or permanent protection order, injunction, or condition of bond, probation, or parole or any other court order in effect that protected the victim from the person, including but not limited to stalking, as described in section 18-3-602(5).

Colo. Rev. Stat. Ann. § 16-11.8-103. Domestic violence offender management board—creation—duties—repeal

(4)(a) The board shall carry out the following duties:

(II) Adopt and implement guidelines and standards for a system of programs for the treatment of domestic violence offenders that shall be utilized by offenders who have committed a crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, and who are placed on probation, placed on parole, or placed in community corrections or who receive a deferred judgment and sentence.

The programs developed pursuant to this subparagraph (II) shall be as flexible as possible so that the programs may be utilized by each offender to prevent the offender from harming victims and potential victims. The programs shall be structured in such a manner that they provide a continuing monitoring process as well as a continuum of treatment programs for each offender as that offender proceeds through the criminal justice system and may include, but shall not be limited to, group counseling, individual counseling, outpatient treatment, or treatment in a therapeutic community. Also, the programs shall be developed in such a manner that, to the extent possible, the programs may be accessed by all offenders in the criminal justice system.

Colo. Rev. Stat. Ann. § 17-22.5-404. Parole guidelines—definition

(4)(a) In considering offenders for parole, the state board of parole shall consider the totality of the circumstances, which include, but need not be limited to, the following factors:

(VII) Whether the offender while under sentence has threatened or harassed the victim or the victim's family or has caused the victim or the victim's family to be threatened or harassed, either verbally or in writing;

Colo. Rev. Stat. Ann. § 17-22.5-405. Earned time—earned release time—achievement earned time—definition

(1) Earned time, not to exceed ten days for each month of incarceration or parole, may be deducted from the inmate's sentence upon a demonstration to the department by the inmate, which is certified by the inmate's case manager or community parole officer, that he or she has made consistent progress in the following categories as required by the department of corrections: ...

(f) The offender has not harassed the victim either verbally or in writing;

Colo. Rev. Stat. Ann. § 18-1-1001. Protection order against defendant--definitions

(1) There is hereby created a mandatory protection order against any person charged with a violation of any of the provisions of this title, which order shall remain in effect from the time that the person is advised of his or her rights at arraignment or the person's first appearance before the court and informed of such order until final disposition of the action. Such order shall restrain the person charged from harassing, molesting, intimidating, retaliating against, or tampering with any witness to or victim of the acts charged.

(3) Nothing in this section precludes the defendant from applying to the court at any time for modification or dismissal of the protection order issued pursuant to this section or the district attorney from applying to the court at any time for further orders, additional provisions under the protection order, or modification or dismissal of the same. The trial court retains jurisdiction to enforce, modify, or dismiss the protection order until final disposition of the action. Upon motion of the district attorney or on the court's own motion for the protection of the alleged victim or witness, the court may, in cases involving domestic violence as defined in section 18-6-800.3(1) and cases involving crimes listed in section 24-4.1-302, except those listed in subsections (1)(cc.5) and (1)(cc.6) of that section, enter any of the following further orders against the defendant:

(a) An order to vacate or stay away from the home of the alleged victim or witness and to stay away from any other location where the victim or witness is likely to be found;

(b) An order to refrain from contact or direct or indirect communication with the alleged victim or witness;

(c) An order prohibiting possession or control of firearms or other weapons;

(d) An order prohibiting possession or consumption of alcohol or controlled substances;

(e) An order prohibiting the taking, transferring, concealing, harming, disposing of, or threatening to harm an animal owned, possessed, leased, kept, or held by an alleged victim or witness; and

(f) Any other order the court deems appropriate to protect the safety of the alleged victim or witness.

(5) Before a defendant is released on bail pursuant to article 4 of title 16, C.R.S., the court shall, in cases involving domestic violence as defined in section 18-6-800.3(1), in cases of stalking pursuant to section 18-3-602, or in cases involving unlawful sexual behavior as defined in section 16-22-102(9), C.R.S., state the terms of the protection order issued pursuant to this section, including any additional provisions added pursuant to subsection (3) of this section, to the defendant on the record, and the court shall further require the defendant to acknowledge the protection order in court and in writing prior to release as a condition of any bond for the release of the defendant. The prosecuting attorney shall, in such domestic violence cases, stalking cases, or in cases involving unlawful sexual behavior as defined in section 16-22-102(9), C.R.S., notify the alleged victim, the complainant, and the protected person of the order if such persons are not present at the time the protection order is issued.

(6) The defendant or, in cases involving domestic violence as defined in section 18-6-800.3(1), in cases of stalking pursuant to section 18-3-602, or in cases involving unlawful

sexual behavior as defined in section 16-22-102(9), C.R.S., the prosecuting attorney may request a hearing before the court to modify the terms of a protection order issued pursuant to this section. Upon such a request, the court shall set a hearing and the prosecuting attorney shall send notice of the hearing to the defendant and the alleged victim. At the hearing the court shall review the terms of the protection order and any further orders entered and shall consider the modifications, if any, requested by the defendant or the prosecuting attorney.

Colo. Rev. Stat. Ann. § 18-1.3-104. Alternatives in imposition of sentence

(2)(a) The sentencing court shall consider the following factors in sentencing nonviolent offenders:...

(V) Any potential impact on the safety of the victim, the victim's family, and the general public based upon sentencing alternatives available to the court;

Colo. Rev. Stat. Ann. § 18-1.3-105. Authority of sentencing courts to utilize home detention programs

(1)(a) A sentencing judge is authorized to sentence any offender, as defined in subsection (5) of this section, to a home detention program operated pursuant to a contractual agreement with the department of public safety pursuant to this article for all or part of such offender's sentence.

(b) Prior to sentencing any offender directly to a home detention program, the sentencing judge shall consider the following factors:

(I) The safety of victims and witnesses of the offender's criminal acts; ...

(d) An offender who has been convicted of a crime, the underlying factual basis of which was found by the court to include an act of domestic violence, as defined in section 18-6-800.3(1), shall not be eligible for home detention in the home of the victim pursuant to this article.

Colo. Rev. Stat. Ann. § 18-1.3-204. Conditions of probation--interstate compact probation transfer cash fund--creation

(1)(a) The conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will lead a law-abiding life and to assist the defendant in doing so.... The court shall provide as an explicit condition of every sentence to probation that the defendant not harass, molest, intimidate, retaliate against, or tamper with the victim of or any prosecution witnesses to the crime, unless the court makes written findings that such condition is not necessary.

(2)(a)(XIV) When granting probation, the court may, as a condition of probation, require that the defendant... Be restrained from contact with the victim or the victim's family members in cases in which the defendant was convicted of a crime, the underlying factual basis of which included an act of domestic violence, as defined in [section 18-6-800.3\(1\)](#);

Colo. Rev. Stat. Ann. § 18-6-801. Domestic violence--sentencing

(1)(a) In addition to any sentence that is imposed upon a person for violation of any criminal law under this title, any person who is convicted of any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence... shall be ordered to complete a treatment program and a treatment

evaluation that conform with the standards adopted by the domestic violence offender management board as required by [section 16-11.8-103\(4\), C.R.S.](#)

(5) Before granting probation, the court shall consider the safety of the victim and the victim's children if probation is granted.

HAWAII

Haw. Rev. Stat. § 801D-4. Basic bill of rights for victims and witnesses

(a). Upon written request, victims and surviving immediate family members of crime shall have the following rights: ... (7) To be informed by the department of public safety of changes planned by the department in the custodial status of the offender that allows or results in the release of the offender into the community, including escape, furlough, work release, placement on supervised release, release on parole, release on bail bond, release on appeal bond, and final discharge at the end of the prison term.

MISSISSIPPI

Miss. Code. Ann. § 99-43-35. Release, escape and sentencing information

(d) Upon any post-arrest release of the defendant, the sheriff or municipal jailer shall, upon request, notify the victim of the release of the defendant.

In the case of domestic violence or sexual assault, the appropriate law enforcement agency shall make a reasonable attempt to notify the victim of the defendant's post-arrest release, regardless of the victim's exercise of the right to receive this information.

(e) The agency having physical custody of a prisoner shall, if provided a request for notice, and as soon as practicable, give notice to the victim of the escape and, subsequently, the return of the prisoner into custody.