

## As A Crime Victim / Witness You Have Rights

### The Law

#### CONSTITUTION OF THE STATE OF FLORIDA, ARTICLE 1, SECTION 16(B)

#### **VICTIM RIGHTS**

Victims of crime or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the accused.

#### **If you are the victim of a crime you have the RIGHT:**

1. To be informed of local victim treatment programs.
2. To be informed, present and heard at all crucial stages of the criminal or juvenile justice proceedings and to be told how to participate in these proceedings.
3. To be informed about the availability of Victim Compensation.
4. To be protected from intimidation.
5. To submit a victim impact statement.
6. To seek restitution from the offender.
7. To be notified of scheduling changes.
8. To be informed of a confidential communication.
9. In the case of incarcerated victims, the right to be informed and to submit written statements at all crucial stages of the criminal proceedings, parole proceedings or juvenile proceedings.
10. To a prompt and timely disposition.
11. To be consulted by the State Attorney's Office on certain felony cases.
12. To be notified upon escape of the offender from state correctional facility by the State Attorney.
13. To request a victim advocate to attend depositions with the victim.
14. To be notified in advance if possible of release of offender.
15. To be notified of arrest of accused.

16. To be informed regarding victim's rights to review certain portions of a pre-sentence investigation prior to the sentencing of the accused.
17. To be informed of victim's rights of standing, through the State Attorney's Office, with the consent of the victim to assert the rights of the victim.
18. To a prompt return of your property.
19. To be informed regarding advanced notification of judicial proceedings relating to the arrest and release (including new requirement regarding community control) of accused as well as proceedings in the prosecution.
20. To be informed regarding the victim's right to request the court room be cleared, with certain exceptions during his or her testimony of a sexual offense, regardless of the victim's age or mental capacity.
21. To be informed regarding a victim of domestic violence having the right to be informed of the Address Confidentiality Program administered through the Attorney General's Office.
22. To be informed regarding HIV testing in any case which involves the transmission of body fluids from one person to another, upon request of the victim or the victim's legal guardian, or of the parent or legal guardian of the victim; if the victim is a minor, the court shall order such person to undergo HIV testing.
23. To not be excluded from any portion of any hearing, trial or proceeding pertaining to the offense based solely on the fact that such person is subpoenaed to testify, unless, upon motion, the court determines such person's presence to be prejudicial.
24. That the victims and witnesses who are not incarcerated shall not be required to attend discovery depositions in any correctional facility.
25. To be advised that information gained by the victim pursuant to Chapter 960, including the next of kin of a homicide victim, regarding any case handled in juvenile court, must not be revealed to any outside party, except as is reasonably necessary in pursuit of legal remedies.
26. To request, for specific crimes, an exemption prohibiting the disclosure of information to the public, which reveals your name, home and work numbers, home and work addresses, and personal assets not otherwise held confidential under the Public Records Law.

27. The statutory obligation of the victim, or next of kin of a homicide victim, that any information gained pursuant to FS Chapter 960, regarding any case handled in juvenile court, must not be revealed to any outside party, except as reasonably necessary in pursuit of legal remedies.

28. The right to know in certain cases and at the earliest possible opportunity, if the person charged with an offense has tested positive for human immunodeficiency virus (HIV) infection. In such cases, upon request of the victim or the victim's legal guardian, or the parent or legal guardian if the victim is a minor, the court shall order such person to undergo HIV testing. In some cases, you can be notified of the results of the test within two weeks of the court's receipt of the results.

29. The right to request, for specific crimes, that your home and work telephone numbers, home and work addresses, and personal assets not be disclosed to anyone.

30. The right of a victim of sexual offense to request the presence of a victim advocate during the forensic medical examination. An advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination.

31. No law enforcement officer, prosecuting attorney, or government official shall ask or require a victim of a sexual offense to submit to a polygraph examination or other truth-telling device as a condition of the investigation.

If you are the victim of a crime and need assistance, please contact the Lee County Sheriff's Office Victim Advocate Unit at:

239-477-1050

Victim / Witness Harassment Interference with a victim/witness by threats or acts of revenge is a serious crime in itself and a matter to which the local police agency, the State Attorney's Office, and the Court will give particular attention and do their utmost to remedy. If you are having any problems or if you or your family are in any way threatened immediately call the police agency or the Sheriff's Office and make a full report of the events.

Sometimes after a suspect is arrested, defense attorneys or their investigators may attempt to contact you. You have a right to speak to anyone, unless a Court orders you not to discuss it. However, you are not obligated to discuss the case at all, unless you have received a subpoena for a deposition or a trial. You have a right to privacy and to be left alone. If anyone harasses or intimidates you, please advise law enforcement personnel immediately.

### **Incarcerated Victims**

Incarcerated victims have the right to be informed and to submit written statements at all crucial stages of the criminal proceedings and parole hearings.

### **Timely Disposition of Case**

All victims have the right to a prompt and timely disposition of the case in order to minimize the period in which the victim must endure the responsibilities and stress involved to the extent that this right does not interfere with the constitutional rights of the accused.

### **Notification of Scheduling Changes**

Each victim or witness who has been scheduled to attend a criminal or juvenile justice proceeding shall be notified as soon as possible by the agency scheduling their appearance of any change in scheduling which will affect their appearance.

### **Right to be Present**

Victims' or the victim's relative has the right to advanced notification of judicial proceedings and the right to be present at the proceeding.

Any victim, relative of a minor who is a victim, or relative of a homicide victim shall receive from the appropriate agency, at the address found in the police report or the victim notification card, if such has been provided to the agency, prompt advance notification, unless the agency itself does not have advance notification of judicial and post judicial proceedings relating to their case, including all proceedings or hearings relating to:

1. The arrest of an accused

2. The release of the accused pending judicial proceedings or any modification of release conditions; and
3. Proceedings in the prosecution or petition of delinquency of the accused, including the filing of the accusatory instrument, the arraignment, disposition of the accusatory instrument, trial or adjudicatory hearing, sentencing or disposition hearing, appellate review, subsequent modification of sentence, collateral attack of a judgment, and, when a term of imprisonment, detention, or involuntary commitment is imposed, the release of the defendant or juvenile offender from such imprisonment, detention, or commitment by expiration of sentence or parole and any meeting held to consider such release.

### **Consultation**

The victim of felony involving physical or emotional injury or trauma, or in the case in which the victim is a minor or in a homicide, the guardian or family of the victim shall be consulted by the state attorney in order to obtain the views of the victim or family about the disposition or any criminal or juvenile case brought as a result of such crime, including the views of the victim or family about:

1. The release of the accused pending judicial proceedings;
2. Plea agreements;
3. Participation in the pretrial diversion programs; and
4. Sentencing of the accused.