

YOUR RIGHTS AS A VICTIM



Sheriff Carmine Marceno

**14750 Six Mile Cypress Parkway
Fort Myers, FL 33912**

EMERGENCY 911
Non-emergency (239) 477-1000
www.sheriffleefl.org

"Proud to Serve"

The Lee County Sheriff's Office is an equal opportunity provider and employer.

Voters in November 2018 approved Florida Amendment 6, also known as Marsy's Law, which updated Florida's constitution with enhanced rights for crime victims, their families and their lawful representatives. These rights include:

- 1. Fairness and respect** – The right to due process and to be treated with fairness and respect for the victim's dignity.
- 2. Protection from interference** – The right to be free from intimidation, harassment and abuse.
- 3. Protection from the defendant** – The right, within the judicial process, to be reasonably protected from the accused and persons acting on behalf of the accused.
- 4. Victim safety considerations in setting bail and release conditions** – The right to have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.
- 5. Protection of confidential information** – The right to prevent the disclosure of confidential information or records that could be used to locate or harass the victim or victim's family or which could disclose confidential or privileged information.
- 6. Victim notification** – The right to a reasonable attempt by the appropriate agency to notify the victim of public proceedings involving the criminal conduct including, but not limited to, trial, plea, sentencing or adjudication; and to convey the victim's views to the court.
- 7. Prompt return of property** – The right to the prompt return of property when no longer needed as evidence.
- 8. Restitution** – The right to full and timely restitution in every case and from each convicted offender for all losses suffered both directly and indirectly by the victim as a result of the criminal conduct.
- 9. Speedy trial and prompt conclusion of the case** – The right to a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.

10. Disclosure – The right to receive a written overview of your rights, and notice that victims can seek the advice of an attorney with respect to their rights. The victim, the retained attorney of the victim, a lawful representative of the victim or the office of the state attorney upon request of the victim may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, affording a remedy by due course of law for the violation of any right.

Amendment 6 also provides crime victims with specific rights upon request, including:

11. Notification and appearance at public proceedings – The right to reasonable, accurate and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing or adjudication, even if the victim will be a witness at the proceeding, notwithstanding any rule to the contrary. The right also to reasonable, accurate and timely notice of any release or escape of the defendant.

12. Right to be heard at public proceedings – The right to be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication or parole, and any proceeding during which a right of the victim is implicated.

13. Conference with the prosecution – The right to confer with the prosecuting attorney concerning any plea agreements, participation in pretrial diversion programs, release, restitution, sentencing or any other disposition of the case.

14. Victim impact statement – The right to provide information regarding the impact of the offender’s conduct on the victim and the victim’s family to the individual responsible for conducting any presentence investigation or compiling any presentence investigation report, and to have any such

information considered in any sentencing recommendations submitted to the court.

- 15. Receipt of presentence report** – The right to receive a copy of any presentence report, and any other report or record relevant to the exercise of a victim’s right, except for such portions made confidential or exempt by law.
- 16. Information about conviction, sentence, incarceration, release and escape** – The right to be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.
- 17. Notice of parole procedures and release on parole** – The right to be informed of all post-conviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender.
- 18. Inmate release input** – The right to provide information to the release authority to be considered before a release decision is made and be notified of release decisions.
- 19. Clemency or expungement** – The right to be informed of clemency and expungement procedures, to provide information to the governor, the court, any clemency board, and other authority in these procedures, and to have that information considered before a clemency or expungement decision is made; and to be notified of such decision in advance of any release of the offender.

Additional victim rights are guaranteed in Florida State Statute and outlined below:

Sexual offenses cases

- **Polygraph examination requirement** – The right to deny any request for the victim of an alleged sexual battery as defined in Florida State Statute Chapter 794 or other sexual offense to submit to a polygraph examination or other truth-telling device as a condition of proceeding with the investigation of such an offense.

- **HIV testing** – The right to request that a person who is charged with any offense that involved the transmission of body fluids from one person to another, undergo hepatitis and human immunodeficiency virus (HIV) testing.
- **HIV disclosure** – The right to request and know at the earliest convenience if the person charged with an offense has tested positive for the virus.
- **Privacy** – The right to have the court room cleared, with certain exceptions, during a victim of sexual assault's testimony, regardless of the victim's age or mental capacity.
- **Examination support** – At the request of the victim, or the victim's parents, guardian or lawful representative, the right to ask that a victim advocate from a certified rape crisis center be permitted to attend any forensic medical examination.

Other guaranteed rights

- **Creditor assistance** – The right to request assistance from law enforcement and the State Attorney's Office in notification to creditors and employers in regards to financial hardship or absences resulting from the crime.
- **Deposition support** – The right to have a victim advocate accompany the victim to a deposition. Victims who are not incarcerated shall not be required to attend discovery depositions in any correctional facility.
- **Inmate rights** – The right for incarcerated victims to be informed and able to submit written statements at all crucial stages of the criminal and juvenile justice systems.

Victim assistance information

For many persons being a victim or witness to a crime is their first experience with the criminal justice system. A victim advocate is available 24 hours a day to assist victims with the emotional, physical and financial trauma often resulting from a crime. Please contact our advocates during regular business hours for information and support if immediate assistance is not needed.

A victim advocate can provide further information on your rights as well as assistance, including but not limited to crisis intervention counseling; information and referral; emotional support; coordination with law enforcement or deputies; court accompaniment; follow-up counseling; assistance with property return; assistance with victim compensation; information on your role in the justice system; assistance in filing an injunction for protection; locating transportation and accessible parking; and attempt to locate translators as needed.

In some cases, the victims or relatives of a deceased victim may be eligible for financial compensation from the State of Florida. Those determined eligible by the Office of the Attorney General may receive assistance with medical/dental expenses, burial expenses, lost wages, relocation money for domestic violence victim, and mental health counseling. Call the Office of the Attorney General at (850) 414-1331 or (800) 226-6667 for more information.

Victim notification

The arresting law enforcement officer or service provider for a victim of homicide, attempted murder, sexual offense, stalking or domestic violence must request that the victim or next of kin complete a victim notification card; however, the victim or next of kin may choose not to complete the victim notification card.

Another notification option is VINELink, which is a toll-free, anonymous, automated telephone service that provides victims of crime and the public two important features: information and notification on an inmate or prisoner. Call (877) VINE-4-FL (1-877-846-3435) for additional information.

Stages of the criminal justice system

- 1. Arrest** – Suspect(s) taken to jail, fingerprinted and photographed. Some are immediately released or are required to post a bond to guarantee they will show up in court.
- 2. First appearance** – Occurs within 24 hours of an arrest. Each suspect kept in jail must appear before a judge who establishes whether charges are reasonable. The judge also will consider whether a bond should be set and if so how much. In addition, the judge will consider conditions of release and appoint a defense attorney if the suspect cannot afford one.
- 3. Filing of formal charges** – The State Attorney's Office will file for formal charges within 21 days after reviewing law enforcement reports.
- 4. Arraignment** – The accused is formally charged and enters a plea of guilty, not guilty or no contest.
- 5. Trial preparations** – The prosecutor and defense attorney interview witnesses and exchange evidence. If the defendant gives up the right to a trial and pleads guilty or no contest, the prosecutor usually offers a reduced charge or drops additional counts.
- 6. Plea** – Defendant pleads guilty or no contest without a trial, or charges are dropped. The State Attorney's Office may determine that a case is not strong enough or witnesses are not available. A trial may be held in which a judge or jury decides guilt or innocence after hearing arguments.
- 7. Sentencing** – If the defendant is found guilty, the judge reviews sentencing guidelines and determines what type of sentence the defendant should receive.

Domestic violence

Domestic violence is a crime. Florida State Statute 741.28 defines domestic violence as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment or any criminal offense resulting in physical injury or death of one family or household member by who is or was residing in the same single dwelling.

If you are being physically or sexually abused, threatened or stalked by a family or household member, there is a law to protect you. "Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together, or who have resided together in the past as a family, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, or if you have reasonable cause to believe you are in imminent danger of becoming the victim of any act of domestic violence, you may ask the state attorney's office to file a criminal complaint. You also have the right to go to court and file a petition requesting an Injunction for Protection from domestic violence which may include, but need not be limited to provisions that restrain the abuser from further acts of abuse; direct the abuser to leave your household; prevent the abuser from entering your residence, school, business or place of employment; award you custody of your minor child or children; and directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.

The Clerk of the Court is required to assist you in seeking both injunctions for protection against domestic violence and enforcement for violation of an injunction. Representation by an attorney is not required of either party, and there is no charge for issuing an injunction concerning domestic violence.

To obtain an injunction, go the Clerk of Circuit Court in the Lee County Courthouse and bring identification, information about where the abuser can be located, any other information on the abuser, such as photos or identification, and any papers and/or documentation related to your case.

Tell the clerk that you are interested in filing an injunction for protection from domestic violence. The court clerk will help you in filing the proper paperwork. By filling out these forms, you will be explaining to the judge whom you need protection from and exactly what type of protection you need.

A judge will then review your request and either grant or deny your petition. If granted, you will be given a temporary injunction and a court date to appear before the judge. The abuser must be served with the injunction before it becomes effective.

You must attend this hearing, otherwise the judge will usually end the injunction.

After the hearing, a final injunction may be granted. The final injunction is valid until dissolved or amended by the court.

In the event that the abuser violates the order you should contact the Lee County Sheriff's Office for assistance. If an arrest cannot be made right away you may also file an Order to Show Cause Affidavit with the Clerk of the Circuit Court, in the Lee County Courthouse. The affidavit will be forwarded to the appropriate authority.

If you have an out-of-state court order for protection against domestic violence, federal and state law provide that law enforcement recognize and act on the order as if issued by a Florida court. This includes orders issued by courts from the District of Columbia, Indian tribes, commonwealth territory or possessions of the United States.

Cases involving juveniles

- **Juvenile arrests** – A juvenile arrested and charged with a misdemeanor or non-violent felony may be released immediately into the custody of the parent(s) or legal guardians. Juveniles charged with more serious crimes may go to a pre-detention hearing within 24 hours to set the conditions of release. You have a right to appear at these hearings. You may contact the Lee County Juvenile Detention Center at (239) 332-6727 regarding the hearing. Contact the law enforcement agency handling your case or the State Attorney's Office for further information about juvenile justice proceedings.
- **Juvenile protection** – Juvenile victims have the right to request that the offender be required to attend a different school than the victim or siblings in certain circumstances.
- **Juvenile case records** – The victim or the next of kin of a homicide victim are obligated by Florida State Statute 960 to not release any information in a case involving a juvenile. The exception to this is if it is necessary in the pursuit of legal remedies.

Check status of incarcerated suspect

- **Phone option** – Call LCSO Corrections at (239) 477-1500 to learn if the defendant has been released or if a bond hearing or jail arraignment has been scheduled.
- **Online option** – The status of a defendant also is available online at www.sheriffleefl.org. From the homepage, click on the "Arrest Search" tab and enter the defendant's name and date of birth.

Directory of services

Emergency.....	911
Lee County Sheriff's Office.....	(239) 477-1000
LCSO Victim Advocates Unit.....	(239) 258-3280
Juvenile Assessment Center.....	(239) 334-5100
Homicide/Assault Unit.....	(239) 477-1050
Crimes Against Property.....	(239) 477-1000
Victim Compensation.....	(800) 226-6667
National Domestic Violence Hotline.....	(800) 799-7233
Abuse Counseling and Treatment Shelter.....	(239) 939-3112
State Attorney's Office.....	(239) 533-1000
Florida Abuse Registry.....	(800) 96ABUSE or (800) 962-2873
Lee County Domestic Violence (protection orders).....	(239) 533-2884

Online resources

You can find additional services at www.sheriffleefl.org, including:

- **How to file a police report** – Click on the “Bureaus & Departments” tab on the homepage and go to the “Victim’s Advocate” subpage. You also will find “Marsy’s Law” and more topic-specific brochures in English and Spanish.
- **How to check on the status of a defendant** – Click on the “Arrest Search” tab on the homepage and enter the defendant’s name and date of birth.



Your Case Information

Offense / Type of complaint

Complaint number

Date of incident

Deputy's name

ID number

Contact number for follow up