



A SUMMARY OF VIRGINIA'S CRIME VICTIM AND WITNESS RIGHTS ACT

Your Rights and Responsibilities



**DEPARTMENT OF
CRIMINAL JUSTICE
SERVICES**

Victims Services Section

January 2006

www.dcjs.virginia.gov

INTRODUCTION

This brochure provides information about the rights and responsibilities of crime victims and witnesses under the ‘Crime Victim and Witness Rights Act’ (sometimes called the Victims Bill of Rights) and related laws.

These victims’ rights laws focus on the provision of information and assistance to victims as their cases proceed through the criminal justice process. Victim/witness programs, and other local victim assistance programs, can also provide information, support, and assistance to victims outside the formal criminal justice process.

This and other victim assistance brochures and information are available under the “Resources” tab at www.dcjs.virginia.gov/victims/

Generally, victims statutory rights and responsibilities fall within the following areas covered by this brochure: Protection, Financial Assistance, Notice of Court Dates and Other Court-Related Assistance, Victim Input, and Post-Trial Assistance and Other Notices.

WHO CAN HELP

If you have been the victim of a crime, it may help to talk with a knowledgeable and understanding person about your feelings. This is difficult, but most victims report that they feel better after freely and confidentially discussing concerns and emotions they are experiencing.

Reach out to someone with whom you feel comfortable. The most important step in recovery is to talk to someone you trust.

There are programs and services available in your area designed to assist victims, their families, and others in dealing with the victimization, and the complexities of the criminal justice system.

You can find out about these services by contacting the office of the local law enforcement agency, commonwealth’s attorney or the victim/witness, sexual

assault, domestic violence, or child abuse programs in your area. Telephone numbers for these agencies and programs should be in your local phone book. For information, assistance, and referrals you can also call statewide toll-free numbers including:

- Virginia Crime Victim Assistance INFO-LINE
1-888-887-3418
- Virginia Family Violence and Sexual Assault Hotline 1-800-838-8238 (V/TTY)

Definition of Victim

The Victims Bill of Rights and most other victims' rights laws recognize the following individuals as crime victims: *Anyone suffering physical, emotional or financial harm as a direct result of a felony or certain misdemeanors. (The included misdemeanors are: assault and battery, assault and battery against a family or household member, stalking, sexual battery, attempted sexual battery, and driving while intoxicated).*

The definition of victim includes:

- Spouses and children of all victims
- Parents and guardians of minor victims
- Parents, guardians, and siblings of mentally or physically incapacitated
- Victims or victims of homicide
- Foster parents or other caregivers, under certain circumstances

The Victims Bill of Rights is intended to ensure that crime victims:

- Have opportunities to make the courts aware of the full impact of crime;
- Are treated with dignity, respect, and sensitivity and that their privacy is protected;
- Are informed of their rights;
- Receive authorized services; and,
- Are heard at all critical stages of the criminal justice process.

THE RIGHT TO BE INFORMED

To help to ensure that crime victims are informed of their rights, the law requires that investigating law enforcement agencies provide victims with written information about their rights. Victims should be given a telephone number to call in order to receive further information and assistance regarding their rights. They should also be provided with the names, addresses, and telephone numbers of the commonwealth's attorney and the investigating law enforcement agency.

Your local law enforcement agency may use this brochure as part of its effort to assist you and to meet this requirement.

CONFIDENTIALITY

Crime victims, and certain witnesses, have the right to request that certain information remain confidential. For example, a crime victim may request that courts, police departments, sheriff's offices, commonwealth's attorneys, defense attorneys, and the Department of Corrections not disclose, except among themselves, his or her home address, telephone number, or place of employment. To request confidentiality, the victim must file a Request for Confidentiality by Crime Victim Form (DC-301) with the magistrate, court, commonwealth's attorney, police department or sheriff's office in the locality where the crime occurred. Forms may be obtained from the magistrate or clerk of court. You can consult with the commonwealth's attorney to get a clear idea of what information may be kept confidential in your case.

IMPORTANT REMINDERS

- 1 Victim/witness programs, and other victim assistance programs, are available to assist you and to provide information, so that you can make informed decisions.
- 2 Not all rights and services are applicable in every case.
- 3 To receive information and assistance, victims also have certain responsibilities, including having to file requests to be notified or offer input. For

example, to receive notices regarding release of offenders, court dates, and appeals etc. victims are required to provide contact information to certain agencies. To protect your rights to receive notices and offer input, it is extremely important that you ensure that the commonwealth's attorney and other agencies have accurate contact information. Responsibilities related to receiving notices and offering input are summarized in this brochure. Your local victim/witness program can provide further information.



PROTECTION

Victim Safety and Protective Orders

Virginia has a number of laws that promote victim safety and offender accountability. These include laws authorizing protective orders. It is important to remember, however, that while protective orders may offer you legal protection, they cannot necessarily protect you from violence.

If you believe that you are in immediate danger, dial 911 for assistance. If the danger is not immediate, you may wish to contact your local domestic violence, sexual assault, or victim/witness program to discuss your concerns and assess your options. As indicated above, numbers for these programs should be listed in your local phone book or may be found by contacting either of the hotlines listed in this brochure.

A protective order is a legal order issued by a magistrate or a judge to protect one person from physical abuse or threatening behavior by another. A protective order can be issued in cases of domestic violence, stalking, and crimes resulting in serious bodily injury, to protect the health and safety of an abused person and his/her family or household members.

More information about protective orders and how to obtain them is available from many sources, including: your local victim/witness program, domestic violence shelter, or the Court Service Unit of the local Juvenile and Domestic Relations District Court. Additionally, brochures on this topic are available under the "Resources" tab at www.dcjs.virginia.gov/victims/



FINANCIAL ASSISTANCE

Restitution

Under certain circumstances, the defendant may be ordered to repay you, at least partially, for your losses. The commonwealth's attorney and/or victim/witness program staff can provide more information about local restitution procedures and referrals to appropriate local personnel. Court ordered restitution is no guarantee of repayment by the defendant. It is extremely important that the court clerk, or other agency responsible for sending you any restitution collected, have accurate contact information for you.

Victims' Compensation

If you are the victim of a crime in Virginia and if you were injured during the crime, or you are the surviving spouse, parent, grandparent, sibling, or child of a victim who dies as a result of a crime, then you may be compensated for certain unreimbursed losses such as loss of earnings, medical expenses, or funeral expenses.

The commonwealth's attorney and/or victim/witness program staff can advise you on how to apply for victims' compensation and, if necessary, assist you with the application. You may contact the Criminal Injuries Compensation Fund directly by calling (800) 552-4007. This number is toll-free, statewide. If you are calling from the local Richmond area, dial (804) 378-3434.

Property Return

To assist in the investigation and prosecution of certain crimes, law enforcement authorities may hold your property as evidence. The law allows them to photograph and return certain evidence to you before the trial. However, law enforcement may hold your property until after the trial and any appeals. The commonwealth's attorney and/or victim/witness program staff may be able to assist you in the return of your property.

Compensation for Witnesses

Witnesses traveling from out of town may be entitled to payment for mileage, tolls, parking, meals, and lodging for each day's attendance in court. Ask the victim/witness program staff, commonwealth's attorney, or clerk of court whether and how you can be reimbursed.

Civil Actions

Crime victims can bring civil lawsuits against perpetrators or other responsible parties in order to hold them accountable for harm suffered. A civil action may provide compensation for damages not covered by restitution or victims' compensation. Victims have the greatest probability of being fully compensated when they file civil actions in addition to, rather than instead of, seeking restitution or victims' compensation. You will need the help of a private attorney to pursue a civil action.

The National Crime Victim Bar Association provides victims referrals to local attorneys specializing in victim-related litigation. The referral service can be reached at (800) FYI-CALL (394-2255) between 8:30 a.m.-5:30 p.m. (EST) Monday through Friday.

NOTICE OF COURT DATES AND OTHER COURT-RELATED ASSISTANCE

Notice of Court Dates

You must give the commonwealth's attorney your current name, address and telephone number, in writing, if you wish to be notified in advance of the scheduled court dates for proceedings including:

- Preliminary hearings
- Plea agreement hearings
- Trials
- Sentencing hearings

Employer Intercession

If you are subpoenaed to court and you give reasonable notice at your workplace, your employer may not fire you, discipline you, or require you to use vacation or sick leave in order to go to court. However, your employer is not required to pay you for your time in court. If necessary, the commonwealth's attorney or victim/witness program staff can notify your employer of the law that protects you.

Separate Waiting Areas

Some courthouses have separate waiting areas for victims and witnesses, in order to provide them privacy and protection from intimidation. If you are worried

about having to wait in an area near the defendant or the defense witnesses, contact your local victim/witness program, the commonwealth's attorney's office, or the clerk of court or bailiff at the courthouse, to see if a separate waiting area is available to you.

Right to Remain in Courtroom

Victims have the right to remain in the courtroom during all court proceedings (bail or bond hearings, preliminary hearings, trials, sentencing, etc.) that the defendant attends, unless the judge has determined that the presence of the victim would impair the conduct of a fair trial.

Additionally, in any case involving a victim who is under the age of eighteen, the court may permit an adult chosen by the victim to remain in the courtroom as a support person for the victim.

VICTIM INPUT

Interpreters

If you cannot speak English or you are hearing impaired, a court-approved interpreter may be appointed to assist you during the criminal justice process, at no cost to you.

Closed Preliminary Hearing

In cases of sexual assault, preliminary hearings may be closed to the public. You may wish to speak to the commonwealth's attorney to find out if your preliminary hearing can be closed. However, trials are open to the public.

Closed Circuit Television Testimony

To reduce the trauma experienced by child victims and witnesses when they must testify, the law permits the use of closed-circuit television in certain criminal proceedings, including preliminary hearings, involving alleged offenses against children and murder of a person of any age.

Right to Plea Agreement Consultation

If you are a victim of a felony and you submit a request in writing, the Commonwealth's Attorney must consult with you, either verbally or in writing, regarding the contents of a proposed plea agreement and your views concerning plea negotiations. If you submit to the

Commonwealth's Attorney a written request to receive notice of any proceeding in which a plea agreement will be offered to the court, the Commonwealth's Attorney is required to provide advance notice, if practicable.

It is important to understand that 1) the Commonwealth's Attorney directs the prosecution and has authority to enter into a plea agreement, whether or not you agree with it, and 2) the court can accept a plea agreement, about which you were not consulted, given good cause.

Victim Impact Statement

After the defendant is found guilty in circuit court, the judge may consider a Victim Impact Statement(s) in determining the offender's sentence. The Victim Impact Statement gives the victim the opportunity to tell the court, in writing, the impact of the crime(s). Victims may also be given the opportunity to testify, at the sentencing hearing, regarding the impact of the crime(s).



POST-TRIAL ASSISTANCE AND OTHER NOTICES

Post-Trial Assistance Available

After the trial is over, you are eligible to be informed of certain information about the outcome of the case (disposition). The commonwealth's attorney can, except in some cases involving juvenile offenders, provide case disposition information. If the defendant was convicted, this information includes the crimes for which the defendant was convicted and the sentence imposed. If known, information about the defendant's appeal rights can also be provided. Additionally, the commonwealth's attorney may be able to assist you, or provide the telephone number of offices to contact, if the defendant fails to pay restitution, as ordered. Your local victim/witness program can provide further information about available post trial assistance and procedures.

Notice of Release on Bail

Defendants are sometimes able to appeal their convictions or sentences and may be released on bail while those appeals are being considered.

The law indicates that when a defendant is released on bail pending the outcome of an appeal, the jail, or other agency that had custody of the defendant, must notify the victim of the defendant's release, as soon as it is "practicable" to do so.

The sheriff or jail superintendent must have your name, address, and telephone number, in writing, in order to provide this notice. Please talk with jail or sheriff's office staff or victim/witness program staff about whether this notice is available in your case.

Notice of Direct Appeals and Habeas Corpus Proceedings
You must give the Attorney General's Victim Notification Program your current name, address, and telephone number, in writing, if you wish to be notified of the filing, status, and disposition of:

- A direct appeal to the Court of Appeals of Virginia and/or Supreme Court of Virginia
- A state and/or federal petition for a writ of habeas corpus

For more information, contact the Attorney General's Victim Notification Program at (804) 371-7763 or (800) 370-0459.

Notice of Defendant or Prisoner Status

You must give the sheriff, jail superintendent or Department of Corrections (DOC) your current name, address, and telephone number, in writing, if you wish to be notified of the following events relating to the custody of the defendant:

- Escape from jail, prison, etc.
- Transfer from one jail or prison to another
- Legal change of name
- Release (including work release) or discharge from jail, prison, etc.

To be notified of state prisoners' statuses, contact the Victim Services Unit of DOC at (800) 560-4292.

You may be required to provide additional information (e.g. prisoner's name, date of sentencing, type of offense) when requesting notification.

Parole Input

Parole was abolished in Virginia for any offender who commits a felony crime, on or after January 1, 1995. Such an offender is not eligible for parole and will serve at least 85 percent of his or her prison sentence.

However, most offenders who committed crimes before January 1, 1995, are eligible to be considered for parole. Crime victims, who wish to have input into the parole process, for parole eligible prisoners, may do so by contacting the Virginia Parole Board, Victim Input Program, 6900 Atmore Drive, Richmond, VA 23225, (800) 560-4292.

FOR ADDITIONAL INFORMATION AND ASSISTANCE IN YOUR CASE

To receive further information and assistance regarding your rights, please contact your local victim/witness program. The name, address, and telephone numbers of the **victim/witness program** are as follows:

The name, address, and telephone numbers of the **commonwealth's attorney** are as follows:

The name, address, and telephone numbers of the **investigating law enforcement agency** are as follows:

For information, assistance, and referrals you can also call statewide toll-free numbers including:

- Virginia Crime Victim Assistance INFO-LINE 1-888-887-3418 (Hours of operation: Monday through Friday 9 a.m.-5 p.m.)
- Virginia Family Violence and Sexual Assault Hotline 1-800-838-8238 (V/TTY)

This project is supported in part by Grant #04-B3957VW03 awarded to the Virginia Department of Criminal Justice Services by the U.S. Department of Justice. Points of view or opinions contained in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.