

Crime Victim Rights

Presented by the Missouri Department of Public Safety
OFFICE FOR VICTIMS OF CRIME



Your Presenter Today

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<https://dps.mo.gov/dir/programs/cvsu/>



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DPS OVC Role— specifically related to Crime Victim Rights

- ▶ **IS CHARGED** with reviewing crime victim rights' inquiries about alleged violations
 - ▶ Provides referral and resource information to anyone concerned about a possible crime victim rights' violation
 - ▶ Provides outreach and education related to crime victim rights

- ▶ **IS NOT** directly involved in the criminal justice system
 - ▶ Does not conduct formal investigations
 - ▶ Does not have authority to discipline law enforcement agencies or intervene in their investigation or processes
 - ▶ Complaints/Inquiries regarding a specific law enforcement officer are referred to the DPS Peace Officer Standards and Training (POST) unit of DPS
 - ▶ Does not have authority to discipline prosecuting attorneys/offices or intervene in their practice and/or processes
 - ▶ For complaints/inquiries regarding a prosecuting attorney or advocate; DPS-OVC works with the Missouri Office of Prosecuting Attorneys

Establishment of Crime Victim Rights in Missouri

- ▶ Victims of crime are guaranteed certain notification rights and participation in the criminal justice system under an amendment to the Missouri Constitution and laws that took effect in 1993.
- ▶ Section 595.209 of the Missouri Revised Statutes specifies that victims of certain dangerous felonies are automatically afforded these rights. Victims of all other crimes and witnesses of crimes are also guaranteed these rights but they must submit a written request to the appropriate agency (i.e. law enforcement agencies, juvenile authorities, custodial authorities, prosecutors, probation and parole, etc.) to ensure that their rights are afforded to them.

Crime Victim Defined

Victim is defined differently in the following statutes.

- ▶ Per Missouri Revised Statue 595.010.1(28) a crime victim is defined as:
“**Victim**”, a person who suffers personal injury or death as a direct result of a crime...”
- ▶ Per Missouri Revised Statue 595.200.(6) a crime victim is defined as:
“A natural person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime.”

The term “victim” also includes the family members of a minor, incompetent or homicide victim or a person who is injured as a direct result of witnessing an act of crime.

Crime Victim Rights-Dangerous Felonies

CVR's automatically apply to victims of "dangerous felonies" which may include:

- ▶ Arson in the first degree
- ▶ Assault in the first degree
- ▶ Forcible rape and forcible sodomy
- ▶ Statutory rape and sodomy in the first degree (victim under 12 years old)
- ▶ Kidnapping, Child Kidnapping, Parental Kidnapping
- ▶ Murder in the first or second degree
- ▶ Voluntary Manslaughter
- ▶ Elder abuse in the first degree
- ▶ Robbery in the first degree
- ▶ Abuse of a child
- ▶ Including attempt of any of these crimes

General Crime Victims Rights-

- ▶ To be present at all criminal proceedings where the defendant has that right, even if the victim is called to testify or may be called to testify as a witness in the case

This includes juvenile proceedings if the offense would have been a felony if committed by an adult.

General Crime Victim Rights—

Includes the right to be
INFORMED and HEARD at:

- Guilty Pleas
- Bail Hearings
- Sentencing
- Probation Revocation Hearings
- Parole Hearings

Includes the right to be informed of trials and preliminary hearings.

General Crime Victim Rights—

- ▶ To confer with the prosecutor regarding bail hearings, guilty pleas, pleadings of insanity, hearings, sentencing and probation revocation hearings.

*Final decisions regarding the filing of charges are ultimately up to the Prosecutor

General Crime Victim Rights—

- ▶ To speedy disposition of cases and speedy appellate review.
- ▶ To fair employment rights (including the right of a victim, witness or member of a victim's family not to be discharged or disciplined by an employer for honoring a subpoena or for participating in the preparation of a criminal proceeding).

VICTIMS OF DOMESTIC OR SEXUAL VIOLENCE

LEAVE TIME ALLOWED

See [Section 285.630, RSMo.](#), and refer to [Sections 285.625 to 285.670 RSMo.](#) for definitions.

EMPLOYEES who are victims of domestic or sexual violence, or have a family or household member who is a victim of domestic or sexual violence, may take unpaid leave from work to address such violence by: _____

- Seeking medical attention for, or recovering from, physical or psychological injuries caused by such violence.
- Obtaining services from a victim services organization.
- Obtaining psychological or other counseling.
- Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or employee's family or household.
- Seeking legal assistance or remedies to ensure health and safety.

In the case of domestic or sexual violence as defined by statute, an individual who works for a business with 50 or more employees is entitled to up to two workweeks of unpaid leave within any 12-month period to address the related matters above. An individual who works for a business employing 20 to 49 employees is entitled to up to one workweek of unpaid leave within any 12-month period to address such matters.

Leave may be taken intermittently or on a reduced work schedule. The employee shall provide to the employer 48 hours notice unless such notice is not practicable.

EMPLOYER: _____

- May request certification that the employee or member of family or household is a victim as described above.
- Must restore the employee to the position of employment held prior to the reporting of domestic or sexual violence or an equivalent position.
- Must maintain coverage for the employee and any family or household member under any group health plan for the duration of such leave at the level and under the conditions coverage would have been provided had the employee continued in the employment previously held.
- May, under many circumstances, recover from the employee the premium paid for maintaining coverage if the employee fails to return from leave after the leave period has expired.

8/28/2021, MO employers with at least 20 employees in the state must provide unpaid leave for employees who are victims of domestic or sexual violence—as defined by state statute—or have family or household members who are victims of such violence. Covered employers were required to notify current employees of their right to leave under the law by 10/27/2021 or upon commencement of employment for future employees.



General Crime Victim Rights—

- ▶ To regain property from a prosecutor or law enforcement officer once it is no longer needed for evidence or retention during an appeal (within five working days upon request) unless it is contraband or subject to forfeiture proceedings.

General Crime Victim Rights—

- ▶ To be provided by the court, a secure waiting area during proceedings

General Crime Victim Rights—

- ▶ To creditor intercession services by the prosecuting attorney if the victim is unable, as a result of the crime, to temporarily meet financial obligations.

This means the prosecuting attorney can intervene with creditors (debts) if the victim is temporarily unable to pay their bills.

General Crime Victim Rights—

- ▶ To limited compensation for out-of-pocket loss and for qualified medical care necessary as a result of the crime.

Visit Our

CRIME VICTIMS' COMPENSATION PROGRAM for more information

See <https://dps.mo.gov/dir/programs/cvc/>

CVC may provide financial assistance to people who sustained traumatic injuries resulting from certain violent crimes. We know that injuries can be more than just physical! The CVC may assist with crime related trauma, emotional and mental health.

ELIGIBILITY CAN ONLY BE DETERMINED BY SUBMITTING AN APPLICATION

Crime Victim Notification Requirements

The following agencies/individuals are required to automatically inform victims of dangerous felony crimes of certain rights and information:

- ▶ Law Enforcement
- ▶ Juvenile Authorities
- ▶ Prosecuting Attorneys
- ▶ Custodial Authorities
- ▶ Board of Probation and Parole
- ▶ Missouri Attorney General

Notifications-

Law Enforcement & Juvenile Authorities:

Victims/Witnesses to certain other crimes not classified as a “dangerous felony” may take advantage of these rights by written request to the appropriate agency. If not requested in writing, there will be no notification.

- ▶ Case status
- ▶ Availability of victims' compensation services
- ▶ Emergency crisis intervention services
- ▶ Assistance in obtaining loss of documentation
- ▶ Return of certain property no longer needed for evidentiary reasons
- ▶ Releases on bond or for any other reason
- ▶ Any escape (within 24 hours) or recapture

NOTE: Contact the Appropriate Agency for instructions for submitting a written request to receive crime victim notification.

Notifications-

Law Enforcement & Juvenile Authorities:

Every victim of a crime should be made aware of their rights and be notified of court procedures in the criminal case resulting from the crime that impacted them. Those rights are outlined in [RSMo 595.209.](#)

- ▶ Law Enforcement and Juvenile Authorities must, within twenty-four hours, provide notification of any escape from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person.
- ▶ If notification utilizing the statewide automated notifications system (MOVANS) cannot be used, “written notification shall be sent by certified mail to the most current address provided by the victim.”

Notifications-Prosecuting Attorneys:

Victims/Witnesses to certain other crimes not classified as a “dangerous felony” may take advantage of these rights by written request to the appropriate agency.

- ▶ Case status (including submitted cases before a charging decision has been made, charged cases, and any final decision not to file charges), filing of charges, preliminary hearing dates, trial dates, continuances, and final disposition (within five days)
- ▶ Bail hearings, guilty pleas, pleas of not guilty by reason of insanity, hearings, sentencing and probation revocation hearings
- ▶ Availability of victim services (including compensation, financial assistance, and emergency crisis intervention)
- ▶ Right to restitution and the availability of, and application process for, any witness fee to which a victim is entitled

NOTE: Contact the Prosecutor’s Office for instructions for submitting a written request to receive crime victim notification.

When submitting a written request, a victim impact statement may be included.

Notifications-Prosecuting Attorneys:

Under [Section 595.212](#), prosecuting attorneys are required to create and maintain a program to afford victims and witnesses of crime the rights and services described in [Section 595.200 to 595.215](#).

Every victim of a crime deserves to know their rights and be notified of court procedures in the criminal case resulting from the crime that impacted them.

Those rights are outlined in [RSMo 595.209](#).

Notifications-Custodial Authorities:

Victims/Witnesses to certain other crimes not classified as a “dangerous felony” may take advantage of these rights by written request to the appropriate agency. If not requested in writing, there will be no notification.

- ▶ Upon written request to the appropriate custodial authority, including municipal or county detention or jail facilities, juvenile detention facilities, correctional facilities operated by the Department of Corrections, mental health facilities, and the Division of Youth Services.
- ▶ A defendant's projected release date and actual release date - on bond, work release, trial release or for any other reason, or escape (within 24 hours).
- ▶ Parole or release hearings, rescheduling of any hearings (no hearing shall be conducted without giving the victim a 30-day advance notice), and decision by a parole board, juvenile releasing authority, or circuit court presiding over releases for persons found not guilty by reason of insanity.
- ▶ Decision by the governor to commute a sentence or grant a pardon, or death of a defendant (must be notified within 30 days).

Notifications-Board of Probation & Parole:

Victims/Witnesses to certain other crimes not classified as a “dangerous felony” may take advantage of these rights by written request to the appropriate agency. If not requested in writing, there will be no notification.

- ▶ Probation and revocation hearings initiated by the board and parole hearings.
- ▶ Final decisions to release the defendant made by the board.

Notifications-Missouri Attorney General:

- ▶ Case status information throughout the appeal process. Crime victims and witnesses to crimes can, on request, obtain case status information throughout the appellate process from the Missouri Attorney General's Office.

Complaints/Violations

- ▶ Victims may file a complaint/inquiry form provided on our website:
www.dps.mo.gov
- ▶ Complaints/Inquiries may be filed against
 - ▶ Law Enforcement agencies
 - ▶ Prosecutor Offices
 - ▶ County Clerk
 - ▶ Judges
 - ▶ Jails
 - ▶ State agencies
 - ▶ 501©3

Complaint vs. Violation

Complaint

- ▶ A crime victims' rights complaint occurs when procedurally and statutorily there is not violation but the victim is experiencing an unwanted outcome

Violation

- ▶ A crime victims' rights violation occurs when there is a statutory infringement on a victims' rights per statute 595

RSMo 595.218

Pursuant to the Missouri RSMo 595.218, nothing in sections 595.200 to 595.215 shall be construed as creating a cause of action on behalf of any person against any public employee, public agency, the state or any agency responsible for the enforcement of rights and provisions of services set forth in section 595.200 to 595.215.

With that being said, there is NO recourse for a victim IF their rights have been violated according to statute.

Why file a complaint?

- ▶ Victims deserve to be heard
- ▶ Encourage compliance as the case progresses
- ▶ Promote collaboration between Law Enforcement, Prosecutors, Victim Advocates and Victims
- ▶ Ensure entities have the correct information regarding RSMo 595.209

Victim Notification

- ▶ Notification for victims of case information
 - ▶ MOVANS shall constitute compliance with the victim notification requirement
 - ▶ If MOVANS is not able to be utilized, written notification shall be sent by certified mail to the most current address provided by the victim
 - ▶ Some agencies provide victims with a victim information packet

MOVANS

▶ Custody

- ▶ Information is submitted by the participating county sheriff and municipal police departments.
- ▶ Information is updated to MOVANS every 15 minutes.

▶ Courts

- ▶ Information is submitted by the Office of the State Courts Administrator (OSCA). The information is updated daily at 6pm.
- ▶ Separate cases require separate registrations

▶ Protective Orders

- ▶ Known as VPO
- ▶ Information is submitted by the MULES system.
- ▶ Provides information regarding the status of a temporary or permanent order of protection

MOVANS Registration

- ▶ Victims may register for custody, court, and protective order:
 - ▶ www.vinelink.com
 - ▶ MOVANS Mobile App
 - ▶ Calling 866-5-MOVANS (866-566-8267)
 - ▶ Court information may also be accessed through the [BLUE](#) hyper link within case.net.

Post Conviction Victim Services

- ▶ RSMo 595.509 ensures victims receive notification and are invited to participate in specific matters pertaining to an offender in custody of MODOC
- ▶ Handles post conviction notification regarding custody status

Contact MODOC Victim Services at 573-526-6516 for more information

Protection Program for Victims/Witnesses of Violent Crime (PPVVC)

- ▶ The Protection Program for Victims/Witnesses of Violence Crime is for Missouri law enforcement agencies who may seek reimbursement for the health, safety and welfare of victims/witnesses of violent crime and their family members, if their testimony might subject them to danger or bodily injury.
- ▶ Fund amount is a little under \$2m, as of March 2022
- ▶ Available until June 30, 2022

Protection Program for Victims/Witnesses of Violent Crime (PPVVC)

General Requirements

- ▶ The crime must have been committed in Missouri *or* the crime victim must be a resident of Missouri
- ▶ The crime must have involved the threat, or the use of force or violence
- ▶ The victim/witness of crime cannot be the perpetrator or principal/accessory involved in the commission of the crime
- ▶ Injuries sustained by the victim/witness cannot be a result of the operation of a motor vehicle, boat, or airplane unless the same was used as a weapon, or a result of the crime of driving while intoxicated or vehicular manslaughter



The information in this presentation is provided by the Missouri Department of Public Safety, Office for Victims of Crime. It contains general information. It does not contain a complete statement of the law in this area and is not a substitute for legal advice.

If you need legal advice, please contact a lawyer. If you need assistance in finding a lawyer, please visit the Missouri Bar Lawyer Search website at <https://mobar.org/public/LawyerSearch.aspx>

FOR MORE INFORMATION PLEASE CONTACT THE MISSOURI DEPARTMENT OF PUBLIC SAFETY, OFFICE FOR VICTIMS OF CRIME

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