

# Summary of Ohio's Crime Victims Rights Law

[Numbers below refer to sub-sections of Ohio Revised Code Section 2930] Sept. 7, 2016

## Eligible Victims

Eligible victims include victims or their designated representative [2930.01 & .02], such as Victim Advocate or family member, when a victim of [.01A]:

- **Felony crimes** (both property and violent).
- **Misdemeanor crimes** (including similar municipal ordinances) of:
  - **Aggravate menacing** (2903.21)
  - **Assault** (2903.13)
  - **Domestic violence** (2919.25)
  - **Drunk Driving injury** (4511.19)
  - **Intimidation of a crime victim or witness** (2921.04)
  - **Menacing** (2903.22)
  - **Negligent homicide** (2903.05)
  - **Sexual imposition** (2907.06)
  - **Stalking** (2903.211)
  - **Vehicular manslaughter & Vehicular homicides** (2903.06)
- **The above crimes if committed by a juvenile**, and rights in similar proceedings in Juvenile Court.

\* \* \* \* \*

Notices to victims may be oral or written [.03A].

It is the responsibility of the victim to keep their address or phone contact current with authorities [.03C, .16A].

A judge may limit any of these rights if the victim is an inmate [.19E].

## Responsibility for Compliance

Prosecutors must seek compliance with victim rights [.19A], but failure of any right does not change results [.06A and .19C] or allow for damage claims by victims [.19B].

## Required Notices To Victims

Law enforcement and prosecutors must promptly give certain information included in the "Ohio Crime Victim Rights" pamphlet prepared by the Attorney General, including available victim's rights, assistance, victim's compensation, and protective order information [.04A]. Law enforcement must provide contact information of investigator and prosecutor, notice of an arrest, name of defendant or alleged juvenile offender, eligibility for accused pre-trial release, the victim's right to know if the accused has been arrested or released and to know of the right to be free from intimidation [.05A].

Prosecutors must, "to the extent practicable," confer with the victim or designated representative before a plea bargain, amendment, dismissal, or trial. Judges must note on the record any known time a prosecutor fails to confer and the prosecutor's reason [.06A].

If the Juvenile Court amends, dismisses, grants diversion, or has an adjudicatory hearing on a case prior to the Prosecutor's involvement, the Court "shall notify the victim" of the action the court will take [.06A].

A Court shall not dismiss charges or juvenile complaints solely at the request of the victim and over the objections of the Prosecutor.

Prosecutors (or designee [.06B]) also must, to the extent practicable, inform victims of the name of the accused, charge, case number, procedural steps, victim's right to attend all proceedings, summary of rights, intimidation response procedures, person and phone contact, need to request notices and the right to select a representative to receive these notices on the victim's behalf [.06B], and notify all victims of misdemeanor crimes of their right to make an oral or written victim impact statement [.06E].

## Required Notices If a Victim Requests

The Prosecutor, or Court if it is a delinquency hearing without a Prosecutor, must notify the victim of:

**1) All court proceedings and changes to those proceedings** or to the schedule in the case, including date, time, and location [.06C];

**2) Acquittal or conviction** [.12].

If convicted, then notified of:

A) crimes convicted of [.12A]

B) phone number and address of probation office or person preparing pre-sentence investigation (PSI) [.12B]

C) right of the victim to make a statement as part of the PSI. Judge may show the victim's statement to the defendant [.12C].

D) the date, time, and place of sentencing [.12E], and the right to speak at sentencing [.12D];

E) the sentence and any change of the sentence [.12F];

**3) An appeal being filed and information on** [.15A]:

A) the appeal process [.15A];

B) the release of defendant [.15A2];

C) time and place of appeal [.15A3]; &

D) results of the appeal [.15A4], and;

## Victims who requested **any other notifications, must also be notified of:**

A) incarceration of the accused or any commitment of the juvenile;

B) the likely release date;

C) the contact information of the custodial agency and its victim services

D) automatic notices of any actions the release authority takes and all judicial release or sentence modification hearings [.16 A,B,C] (see last column for state required notices)

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## **Revoking Bond or Release**

If a defendant or an alleged juvenile offender is released on bond or personal recognizance, and the victim or victim's family has been harmed or threatened, then the victim may request the prosecutor to motion for the court to reconsider bond or release conditions [.05B].

## **Confidentiality**

1) Prosecutor may motion for the court to suppress victim or victim representative identifying information if there are reasonable grounds to fear from threats or violence. The "court shall hold" the recorded hearing in chambers [.07A].

2) The court may suppress victim information from files, except when determining the location of the crime or delinquent act, and seal the transcript of the hearing [.07B].

## **Speedy Prosecutions**

If practical, the prosecutor must inform each victim who requested notices of any possible delays, and if the victim objects, the prosecutor must inform the judge and the judge must consider the victims' concerns before approving delays [.08].

## **Be Present**

Victims may attend any hearing the defendant or alleged juvenile offender is present (except Grand Jury), unless the judge rules exclusion of the victim or victim representative is necessary to guarantee a fair trial or proceeding [.09].

## **Support Person**

At a victim's request, the judge must permit a support person to accompany the victim unless the judge rules this will cause an unfair trial or delinquency proceeding [.09].

## **Separate Waiting Area**

The court must attempt to minimize unwanted contacts between victims and the accused [.10A]. The court must attempt to provide a separate victim waiting area from the accused [.10B].

## **Property Return**

Law enforcement must promptly return property to the victim unless it is contraband, ownership is disputed, prosecutor certifies it must be kept instead of photographed, or the judge promptly rules evidentiary value to defendant or alleged juvenile offender is greater than the victims need for the property [.11].

## **Victim Impact Statement**

Victims may make a written or oral statement for the victims section of any Disposition Information Report (DIP) or Pre (or Post) -Sentence Investigation (PSI) that a judge orders. The victim's statement must be included as part of a Victim Impact Statement, and if requested by the victim, the victim's written statement must be included in the DIP or PSI [.13A].

Victim Impact Statements may include physical, psychological, and emotional harm, property damage or economic losses, restitution needs, and the victim's opinion on sentencing / disposition [.13C].

Before sentencing of an adult in all felony [.01(A)1] and misdemeanor [.06E] crimes, or disposition of an alleged juvenile offender, the judge must permit a statement from the victim. The judge may give a copy of any written statement to defendant or juvenile and their attorney, and give the victim and prosecutor any written statement by the offender or juvenile. The judge may redact irrelevant information. [.14A]

Written statements are not public record, and must be returned to the court immediately after the hearing. New information may require a response from the defendant or juvenile [.14B].

Before a release hearing from prison or Dept. of Youth Services (DYS), the judge must permit and consider a victim's statement and, if statement is written, a copy given the defendant or juvenile, DHS or adult parole authority [.17A & .17B].

## **Release and Hearing Notices**

Victims are provided automatic notifications (oral or written) in violent felony levels 1-3 and life imprisonment for release and discharge reviews, with an "opt out" choice [.03, .06]. Victims of felony levels 4-5 must "opt in." Victims may request notices. Notices are to be provided 60 days prior to following events:

1) Adult system: Victims notified of judicial release hearing and results by the prosecutor;

2) Juvenile system: Victims notified of judicial release hearings by the prosecutor and of the results by the juvenile court;

3) Recommendation for pardon or commutation, parole hearing, placement in transitional control or released onto post-release control - including the victim's rights and the process to be heard [.16C,D] and notice of right to having a victim conference for a parole hearing [.16E]. - notice by Dept. of Corrections

Automatic notices may end after victims do not respond 3 times and records of notice attempts must be kept and are not public. Notices are done promptly when inmate escapes, is absent, is recaptured [.16C4], and defendant dies [.16C5].

With the above notices, the victim must be informed of the right to submit a victim impact statement [.16A,B,C] and attend certain full board hearings (not institutional panel hearings) [.16C].

## **Employee Protections**

Employers cannot punish victims for preparing for or attending hearings at the prosecutor's request or by subpoena. Violation is contempt of court [.18].

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