

Crime Victim Rights

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



Your Presenter Today

Michelle Parks, Crime Victims' Rights/Notifications

michelle.parks@dps.mo.gov

573/526-1464

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



The OVC Team

Connie Berhorst, Program Manager

Victim Services Grants

- Tina Utley, Kristina Kirchhoff-Welch, Adriana (Ada) Budean

Crime Victims' Rights, Witness Protection Program, Notifications, Juvenile Justice

- Michelle Parks

Crime Victims' Compensation

- Juanita Monteer, Jeanette Wiggins, Amanda Koetting, Malana Tivis, Stacy Bubach, Brittany Kriesler, Allie Sumpter

Juvenile Protections/Compliance

- Chris Yeager



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

Crime Victim Defined

Victim is defined in differently in statute.

- ▶ 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.

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

General Crime Victim Rights—

- ▶ To speedy disposition of cases and speedy appellate review.

General Crime Victim Rights—

- ▶ 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 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.

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.

Victim Impact Statement (VIS)—

- ▶ Statement given by a victim at bond, plea, and sentencing hearings that explains how a crime has affected them. This statement is the only way for the victim to address the judge, who decides the fate of the accused. The statement is given to the prosecuting attorney, who forwards it to the judge after a verdict is reached and prior to sentencing.
- ▶ The goal of the VIS is to help the court “Feel” the victims trauma. Nobody can truly understand what THE VICTIM is feeling, but the VIS can help the court and others identify with THE VICTIM’S TRAUMA by using words to create an image.
- ▶ Victim Advocates are available to assist in writing Victim Impact Statements.
- ▶ While not mandatory, Victims are encouraged to write a VIS. It is their right!

Some of the benefits of a VIS:

- The judge/court hears from the victim how the offenders actions impacted them and their family
- Victim’s have the chance to weigh in with the judge re: sentencing
- It’s an opportunity to address the court and the offender in court, on record

Ex Parte Order of Protection—Adult

Pursuant to the Missouri Domestic Violence Act, [chapter 455, RSMo](#), a person may seek an order of protection from acts, attempts or threats to him or her from a family or household member or intimate partner; or from acts of stalking or sexual assault. The petitioner must be 17 years of age or older or must otherwise be emancipated ('on your own', such as married or a member of the military)

- ▶ Petition for Order of Protection - Adult
- ▶ Motion for Renewal of Full Order of Protection - Adult
- ▶ Motion to Terminate Full Order of Protection - Adult:
- ▶ Request to Dismiss Petition for Order of Protection - Adult

FOR FURTHER INFORMATION ON EX PARTE ORDERS OF PROTECTION PLEASE CONTACT LOCAL LAW ENFORCEMENT, A VICTIM ADVOCATE OR THE CIRCUIT CLERK'S OFFICE. THESE DOCUMENTS REQUIRE FILING WITH THE LOCAL COURT.

Ex Parte Order of Protection—Child

Under the Missouri Child Protection Orders Act, [Sections 455.500 through 455.538, RSMo](#), a person may seek an order of protection on behalf of a child (person under 17 years of age unless otherwise emancipated) who has been the victim of child abuse, sexual assault, or stalking. The petitioner must be a parent, guardian, guardian ad litem, a court appointed special advocate or a juvenile officer.

- ▶ Petition for Order of Protection - Child
- ▶ Petition for Order of Protection - Children (2-5 children)
- ▶ Petition for Order of Protection - Children (6-10 children)

- ▶ Motion for Renewal of Full Order of Protection - Child
- ▶ Motion for Renewal of Full Order of Protection (2-5 children)
- ▶ Motion for Renewal of Full Order of Protection (6-10 children)

Ex Parte Order of Protection—Child con't

- ▶ Affidavit of Changes in Circumstance and Motion to Modify Judgement/Full Order of Protection - Child
- ▶ Affidavit of Changes in Circumstance and Motion to Modify Judgement/Full Order of Protection - Children (2-5 children)
- ▶ Affidavit of Changes in Circumstance and Motion to Modify Judgement/Full Order of Protection - Children (6-10 children)
- ▶ Motion to Terminate Order of Protection - Child
- ▶ Motion to Terminate Order of Protection (up to 10 children)

Victim Rights Inquiry

If a victim feels their rights have been violated according to Statute 595.209, they may complete a complaint/inquiry form provided on our website:

www.dps.mo.gov



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

Connie Berhorst, Program Manager
connie.berhorst@dps.mo.gov

Michelle Parks, Crime Victims' Rights/Notifications
michelle.parks@dps.mo.gov

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