



Office of the State Attorney Katherine Fernandez Rundle



VICTIM RIGHTS BROCHURE

YOUR RIGHTS AS A VICTIM OR WITNESS:

As a victim or witness, you have certain rights. This brochure is being provided to inform you of those rights and to assist you with questions you may have regarding the Criminal Justice System.

For further information regarding these rights please contact the Miami Dade State Attorney's Office at 305 547-0100.

ASSISTANT STATE ATTORNEY: _____

PHONE _____

COURT CASE # _____

DEFENDANT'S NAME _____

VICTIM WITNESS COUNSELOR _____

PHONE _____

CRIMINAL JUSTICE PROCESS

The stages of the criminal justice system are as follows:

CRIME COMMITTED- After a crime is reported to law enforcement an investigation will be conducted. If law enforcement is able to collect enough evidence, they may make an arrest.

ARREST- Suspect(s) taken to jail, fingerprinted and photographed. Some are immediately released or have to post a bond to ensure they will show up in court.

(or)

INTAKE - Victim reports certain misdemeanor crimes to the local State Attorney's Office. A Prosecutor will interview witnesses and may file charges and summon the suspect into court if the case is provable.

BOND HEARING - 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 will also consider whether a bond should be set and if so how much. The Judge will also consider conditions of release and appoint a defense attorney if the suspect cannot afford one.

FILING OF FORMAL CHARGES - The State Attorney's Office may file formal charges after a Prosecutor interviews all witnesses, including law enforcement officers and reviews all available evidence, if the case is legally provable. Generally, charges are filed 21 or 30 days after an arrest is made.

ARRAIGNMENT - The accused is formally charged and enters a plea of guilty, not guilty, or no contest.

TRIAL PREPARATIONS - The prosecutor and defense attorney interview witnesses and exchange evidence in preparation for trial.

TRIAL - The prosecutor presents evidence to either the judge or a jury about the case. The defendant may be found guilty or not guilty. The process ends if the defendant is found not guilty.

PLEA- Defendant pleads guilty or no contest without a trial.

SENTENCING- If the defendant is found guilty, the Judge reviews sentencing guidelines, plea agreements, etc., and determines what type of sentence the defendant should receive.

YOUR CONSTITUTIONAL RIGHTS “MARSY’S LAW”

Article I, Section 16 of the Florida Constitution gives crime victims the following rights:

- to receive due process from the courts and to be treated with fairness and respect for your dignity.
- to be free from intimidation, harassment and abuse.
- within the judicial process, to be reasonably protected from the accused and any person acting on behalf of the accused.
- to have the safety and welfare of you and your family considered when setting bail or pretrial release conditions that could affect you or your family.
- to prevent disclosure of information or records that could be used to locate or harass you or your family or which could disclose confidential or privileged information about you.
- to prompt return of your property when no longer needed as evidence.
- to full and timely restitution in every case and from each offender convicted of the crime for all losses suffered, both directly and indirectly, as the result of the criminal conduct.
- to proceedings free from unreasonable delay and to a prompt and final conclusion of the case and any related post-judgment proceedings. (In appropriate cases, the prosecutor may file a good faith demand for a speedy trial, allowing the case to be tried within sixty days, assuming the defendant's due process rights can be met by such, and advancement in the trial date. In non-capital cases, all state level appeals, and post-conviction proceedings must be completed within two years, and capital cases within five years, unless the court enters an order with specific findings concerning why the court was unable to do so and the circumstances causing the delay.)
- to be informed of these rights and to seek an attorney's advice regarding these rights.
- You, your attorney, your lawful representative, or, upon your request, the state's attorney, may assert and seek enforcement of your constitutional rights, or any other right you have under the law, in any trial or appellate court or before any other authority with jurisdiction over the criminal case.

Also, upon your specific request, you have these additional rights:

- 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 you are a witness at the proceeding.
- to reasonable, accurate, and timely notice of any release or escape of the defendant or delinquent.
- to reasonable, accurate, and timely of any proceeding during which one of your rights is implicated.
- 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 in which your rights are implicated.

- to confer with the prosecutor concerning any plea agreements, restitution issues, release, participation in pretrial diversion or release programs by the defendant and sentencing or any other disposition of the case.
- to provide information to anyone conducting or compiling a pretrial investigation regarding the crime's impact on you and your family, and to have such information considered by the court. Once the report is completed, you have a right to receive a copy of it, except for portions made confidential by law.
- to be informed of the conviction, sentence, adjudication, place and time of incarceration or other dispositions of a convicted offender, his or her release date, or the date of their escape or release from custody.
- to be informed of all post-conviction processes and procedures, to provide information to the release authority to be considered before any such release, and to be notified of any release decision regarding the offender. This right is extended to every person harmed by the offender.
- to be informed of any clemency or expungement procedures regarding the offender, 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 given notice of that authority's decision before the offender's release.

If you are a victim of a crime or a witness because you have seen, heard, or know something about a crime that has been committed, you are important to the case. Your testimony may be necessary to establish the facts. Understandably, you might feel anxious about testifying in court. However, without your testimony the defendant might go unpunished.

The Florida Constitution defines a victim as a person who suffers direct or threatened harm as a result of the commission or attempted commission of a crime. Some victims suffer physical injury or property damage, and some have psychological injury or both. Victims have both constitutional and statutory rights in Florida. Others who can claim these rights are the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, and the next of kin of a homicide victim.

As a victim of a crime, you have the following statutory rights pursuant to Florida Statute 960.001:

1. Either you or the State Attorney's Office with your consent, have standing to assert any legal rights of a crime victim as provided by law.
2. In some cases, victims (or their relatives where the victim is deceased) may be eligible for financial compensation from the State of Florida. Information regarding eligibility may be obtained from the State Attorney's Office, local Witness Coordination Office (where available), law enforcement agency or from the Bureau of Crimes Compensation, Office of the Attorney General 1- 800-226-6667.

3. The right to receive information on available crisis intervention services and local community services to include counseling, shelter, legal assistance, or other types of help, depending on the particular circumstances. Telephone numbers of these services are provided at the end of this brochure.

4. The right to receive information regarding the role of the victim in the criminal or juvenile process, including what the victim may expect from the system as well as what the system may expect from the victim.

5. The right to receive information regarding the stages of the criminal or juvenile justice process and the manner in which information about such stages may be obtained.

Important Note: We can only notify you if we have your current contact information. It is your responsibility to keep the State Attorney's Office informed of any changes to your address or telephone number.

6. The right to be informed, present, and heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent the right does not interfere with the constitutional rights of the accused.

7. The right, if you are incarcerated, to be informed and submit written statements at all crucial stages of the criminal and juvenile proceedings.

8. The right to a prompt and timely disposition of the case as long as it does not interfere with the constitutional rights of the accused.

9. The right to be notified of the arrest and release of the offender, including release to community control and/or work release. When an arrest is made in a reported case, the victim, relatives of minor victims and relatives of homicide victims, where those persons have provided current addresses and telephone numbers to the Sheriff/Police/SA shall be notified.

10. The right to receive information on the steps available to law enforcement and the State Attorney's Office to protect you from intimidation and/or harassment. It is a third-degree felony to knowingly use intimidation or physical force, or threaten another person, or attempt to do so, or engage in misleading conduct toward another person, or offer pecuniary benefit or gain to another person. If you are being threatened or intimidated, please contact the appropriate agency or any law enforcement officer.

11. The right of the victim of domestic violence to be informed of the address confidentiality program administered through the Attorney General's Office. You may contact the Attorney General's Office at 1-800-226-6667. The State Attorney's Office may assist with this paper work if necessary.

12. The right of each victim or witness who has been scheduled to attend a criminal or juvenile justice proceeding to be notified as soon as possible by the agency or person

scheduling his/her appearance of any change in scheduling which will affect the victim's appearance

13. The right to receive advance notification of judicial and post judicial proceedings relating to the case, including all proceedings or hearings relating to:

- The arrest of the accused.
- The release of the accused pending judicial proceedings, any modification of release condition to include release to community control or work release.
- Proceedings in the prosecution or petition for delinquency of the accused, including the filing of the accusatory instrument, the arraignment, disposition of the accusatory instrument, trial or adjudicatory hearing, sentencing or disposition hearing, appellate review, subsequent modification of sentence, collateral attack of a judgment, and when a term of imprisonment, detention, or involuntary commitment is imposed, the release of the defendant or juvenile offender from such imprisonment, detention or juvenile offender from such imprisonment, detention or commitment by expiration of sentence or parole and any meeting held to consider such release.

14. The right to not be excluded from any portion of any hearing, trial or proceeding pertaining to the offense based solely upon the fact that such person is subpoenaed to testify, unless the court determines otherwise.

15. In addition to the provisions of s. 921.143, F.S., the rights of the victim of a felony involving physical or emotional injury or trauma, or in a case in which the victim is a minor child or in a homicide, the guardian or family of the victim shall be consulted by the State Attorney in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case brought about as a result of such crime, including their views about:

- The release of the accused pending judicial proceedings.
- Plea Agreements.
- Participation in pretrial diversion programs.
- Sentencing of the accused.

16. The right to review certain portions of a pre-sentence investigation report for adult and youthful offenders prior to the sentencing of the accused.

17. The right to a prompt return of property unless there is a compelling law enforcement need to retain it.

18. The right to request that the State Attorney or law enforcement agency help you explain to employers and creditors that you may face additional burdens by taking time off from work to assist law enforcement and you may undergo serious financial strain either because of the crime or by cooperating with authorities.

19. Law Enforcement agencies and the State Attorney shall inform you of your right to request and receive restitution and of your rights of enforcement in the event an offender does not pay. The State Attorney shall seek your assistance in the documentation of your losses for the purpose of requesting and receiving restitution.

If an order of restitution is converted to a civil lien or civil judgment against the defendant, the clerks shall make available at their office, as well as on their website, information provided by the Secretary of State, the court, or The Florida Bar on enforcing the civil lien or judgment.

The State Attorney shall inform you if and when restitution is ordered.

20. The right to submit an oral or written impact statement to the court, pursuant to s. 921.143 F.S., prior to sentencing of the offender. The State Attorney or any assistant state attorney shall advise all victims or, when appropriate, the victim's parent, guardian, next of kin, or lawful representative that statements, whether oral or written, shall relate to the facts of the case and the extent of any harm, including social, psychological, or physical harm, financial losses, loss of earnings directly or indirectly resulting from the crime for which the defendant is being sentenced, and any matter relevant to an appropriate disposition and sentence.

21. The right to receive reasonable consideration and assistance from employees of the State Attorney's Office, Sheriff's Office, or Police Department. When requested, you will be assisted in locating accessible transportation and parking and shall be directed to separate pretrial waiting areas when such facilities are available. When requested, you shall receive assistance in attempting to locate translators when practicable.

22. The right to be notified when the offender escapes from custody. The State Attorney shall make every effort to advise the victim, material witness, parents or legal guardian of a minor who is a victim or witness, or immediate relative of a homicide victim of the escape of a criminal defendant. The State Attorney shall also notify the Sheriff of the county where the criminal charge or petition for delinquency arose. The Sheriff shall offer assistance upon request.

23. The right of the victim to request that a victim advocate be permitted to attend and be present during any deposition. The victim advocate may be designated by State Attorney's Office, Sheriff's Office, or Municipal Police Department, or one representative from a not-for-profit victim services organization, including, but not limited to, rape crisis centers, domestic violence advocacy groups, and alcohol abuse or substance abuse groups.

24. The right of the victim of a sexual offense to have the courtroom cleared, with certain exceptions during his or her testimony, regardless of the victim's age or mental capacity.

25. The right to request, in certain circumstances that the offender be required to attend a different school than the victim or siblings of the victim. If the victim of an offense committed

by a juvenile is a minor, and the victim or any sibling of the victim attends or is eligible to attend the same school as that of the offender, the Department of Juvenile Justice or the Department of Corrections shall notify the victim's parent or legal guardian of the right to attend the sentencing or disposition of the offender and request that the offender be required to attend a different school.

26. A victim who is not incarcerated is not required to attend discovery depositions in any correctional facility.

27. The statutory obligation of the victim, or next of kin of a homicide victim, that any information gained pursuant to FS Chapter 960, regarding any case handled in juvenile court, must not be revealed to any outside party, except as reasonably necessary in pursuit of legal remedies.

28. The right to know in certain cases and at the earliest possible opportunity, if the person charged with an offense has tested positive for hepatitis and human immunodeficiency virus (HIV) infection. In such cases, upon request of the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, the court shall order such person to undergo hepatitis and HIV testing. In some cases, you can be notified of the results of the test within two weeks of the court's receipt of the results.

29. The right to request that your home and work telephone numbers, home and work addresses, and personal assets not be disclosed to anyone.

30. The right of a victim of a sexual offense to request the presence of a victim advocate during the forensic medical examination. An advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination.

31. No law enforcement officer, prosecuting attorney, or government official shall ask or require a victim of a sexual offense to submit to a polygraph examination or other truth-telling device as a condition of the investigation.