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Office of Justice Programs  
Office for Victims of Crime

# Victim Rights and Services: A Legislative Directory 1985

Prepared by

The National Organization  
for Victim Assistance

U.S. Department of Justice  
National Institute of Justice

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December 1985

Dear Colleague,

Here, at the end of 1985, I am proud to report to you that:

The pace of legislation reform in behalf of crime victims quickened this past year;

The scope of those reform efforts broadened to cover new victims and previously-neglected victim concerns;

Legislators are spelling out "victim rights" with increasing clarity and greater insistence that they be honored;

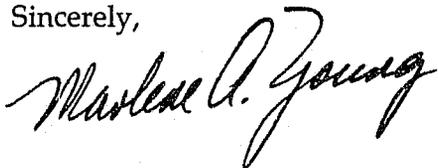
Both Congress and state legislatures are steering increasing public funds to support state compensation programs and local programs of victim assistance;

And the great majority of these acts of justice and compassion are distilled for you in this, our third annual VICTIM RIGHTS AND SERVICES: A LEGISLATIVE DIRECTORY.

We at the National Organization for Victim Assistance are proud of the work our Assistant Director for Public Affairs, Christine Edmunds, performed in compiling, verifying, cross-checking, and synthesizing for publication the hundreds of bills and statutes reported on here. We are very grateful to the state officials, legislative aides, and victim advocates in all fifty states who were her source of information. And we are forever indebted to the conscientious legislators of all shades of political belief who wrote the record of achievement contained in this directory.

Thanks to ongoing support from the Office of Victims of Crime of the U.S. Justice Department, NOVA will maintain its legislative tracking system and clearinghouse through 1986—an information service designed to serve all who are banding together to insure that the United States of America provides justice for all...even the victim.

Sincerely,



Marlene A. Young, Ph.D., J.D.  
Executive Director

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# Guide to Abbreviations and Forms

## Abbreviations:

Allocution	Alloc.
Amendment	Amend.
Annotated	Ann.
Appropriation	Approp.
Assembly Bill	AB
Bill of Rights	BOR
Chapter(s)	Chpt(s).
District Attorney	DA
Domestic Violence	Dom. Viol.
General Revenue(s)	Gen. Rev(s).
House Bill	HB
Penalty Assessment(s)	Pen. Assmt(s).
Pre-Sentence Investigation Report	PSI
Public Act	PA
Public Law	PL
Section(s)	Sec(s).
Senate Bill	SB
Statute	Stat(s).
Supplemental	Supp.
Victim Impact Statement	VIS
Victim Statement of Opinion	VSO

## Format:

Statutes have been listed under each state in the following order, chronologically:

- Victim Compensation
- Service Funding
- Victim Bill of Rights
- Victim Involvement in Sentencing
- Victim Statement of Opinion
- Victim Participation
- Restitution
- Victim and Witness Notification
- Protection from Intimidation
- Domestic Violence
- Sexual Assault
- Children Victims
- Notoriety-for-Profit
- Drunk Driving
- Other Summaries

State legislation is divided into two categories—Enacted and Introduced. Legislation which was introduced in 1985 and had not passed by August 15, 1985 is listed as introduced.

## PART ONE: LEGISLATION BY SUBJECT

### VICTIM COMPENSATION

**43 STATES PLUS THE DISTRICT OF COLUMBIA AND THE VIRGIN ISLANDS HAVE ESTABLISHED VICTIM COMPENSATION PROGRAMS.**

**STATE COMPENSATION PROGRAMS AWARDED APPROXIMATELY \$68,000,000 TO VICTIMS OF CRIME IN 1984.**

Victim compensation legislation establishes a fund to provide financial assistance to certain victims of violent crime resulting in physical injury or death. Claimants are usually required to report the crime and cooperate with the investigation and prosecution. However, the victim or his dependants may be granted compensation whether or not there has been an arrest. In many cases the definition of victim includes intervenors who are injured in an attempt to assist the original victim or the police. Eligibility is frequently limited to situations where "financial hardship" can be demonstrated. Sometimes emergency awards are provided.

In Colorado, for example, special emergency awards are made available for the replacement of doors, locks, and windows. New York grants special emergency awards to replace critical property, such as hearing aids and glasses, and to provide reasonable, necessary transportation. In addition, 1985 amendments to New York's compensation statute now allow local victim service programs to grant emergency awards to needy persons, reimbursable by the Crime Victims Board, in order to expedite the awards process.

Key issues in compensation legislation include: the requirement of financial hardship (a "means test"); the use of "deductible," as in private insurance plans; the requirement of a "minimum loss" before benefits are awarded; the ineligibility of victims who live with or are related to the offender (the "family exclusion"); the ineligibility of victims of drunk or otherwise criminally-reckless driving; delays in compensation awards; and inadequacy of funding provisions that are reflected in a low "ceiling" on maximum awards.

Many programs provide for special funding mechanisms, such as penalties assessed on all offenders. Some states have experienced financial difficulties where the statute requires a dependence on general revenue appropriations, or where their penalty-assessment system is not working effectively.

The chart that follows summarizes compensation legislation in the U.S. (*See next page.*)

## Victim Compensation\*

All programs cover the injured victim(s) of crimes causing physical injury and compensate for medical losses. Two types of physical injury crimes may be excluded: those which involve a perpetrator who lives in the same household, is a relative of or has had a continuing relationship with, the victim; and those which have been the result of a motor vehicle crime. The following chart indicates the variation on those issues and others affecting eligibility and benefits. For a detailed report on compensation programs, the reader should refer to *Compensating Victims of Crime: An Analysis of American Programs* by Daniel McGills and Patricia Smith, prepared for the National Institute of Justice by Abt Associates, Inc.

Program Elements	States																			
	AL	AK	CA	CO	CT	DE	FL	HI	IL	IN	IA	KS	KY	LA	MA	MD	MI	MN	MO	MT
<b>Eligibility:</b>																				
Intervenor		X	X		X		X	X	X	X		X	X	X	X	X	X	X	X	X
Dependents	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Third Parties	X	X	X	X		X		X	X			X		X			X	X		
Family Exclusion				X						X		X	X	X	X	X	X	X	X	X
Residents Only**			X	X	X	X	X	X					X	X	X		X		X	
Motor Vehicles Excluded				X	X			X			X	X				X				X
Reckless MV Included	X		X					X	X					X						
Means Test					X		X					X	X			X	X			
<b>Recovery:</b>																				
Counseling**	X	X	X	X	X	X	X	X	X	X	?	X	X	X	X	X	X	X	X	X
Disability	X	X		X	X	X	X		X	X	?		X	X		X	X			
Rehabilitation	X	X	X	X	X	X	X		X	X	?	X	X			X	X	X		X
Loss/Earnings	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Loss/Support	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Funeral	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Replacement Services	X	X		X	X		X		X	X		X					X	X		X
Pain/Suffering						X		X												
Other Expenses	X	X	X		X	X	X	X		X	X	X		X	X		X			X
<b>Benefits:</b>																				
Maximum (in thousands)	10	25	25	10	10	20	10	10	15	10	21	10	15	10	10	45	15	50	10	25
Minimum Loss	0	0	100	25	100	25	0	0	200	100	0	100	100	100	100	100	100	100	200	0
Deductible	0	0	0		100	0	0	0	200	100	0	100	100	100	100	100	0	0	200	0
Attorney Fees	?	X	X		X	X		X	X	X		X	X	X	X	X	X	X	X	X
Emerg. Award	?	1500	1000	500	500	X	500	500	0	500	500	0	500	500	0	1000	0	500	100	0
Reduced by Contribution	X	X	X		X	X	X	X	X	X					X	X	X	X	X	X
Denied by Contribution	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
<b>Source of Funds:</b>																				
General Rev.		X						X	X	X	X	X	X		X	X	X	X		
Penalty Assess.	X		X	X	X	X	X				X		X	X					X	X
Fines	X			X	X	X	X				X			X					X	X
Other			X							X		X								X

\*See Legislative Summaries, Part II, for a description of each state's compensation program.

\*\*Subject to change by 1987:

The Victims of Crime Act of 1984 requires that states which receive federal funding must provide benefits to the residents and non-residents, as well as victims of federal crime. In addition, states that receive federal compensation grants must also provide benefits for mental health counseling.

## Victim Compensation (Cont.)

Program Elements	States																			
	NC	NE	NV	NJ	NM	NY	ND	OH	OK	OR	PA	RI	SC	TN	TX	VA	WA	WV	WI	DC
<b>Eligibility:</b>																				
Intervenor	X	X	X	X			X	X	X	X	X		X	X	X	X	X	X	X	X
Dependents	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Third Parties	X	X	X	X	X			X	X	X	X	X			X	X	X	X	X	
Family Exclusion	X	X			X		X	X		X		X	X					X	X	X
Residents Only			X		X								X	X						X
Motor Vehicles Excluded	X	X	X	X	X		X		X			X				X	X			X
Reckless MV Included	X												X		X		X	X	X	
Means Test			X			X									X				X	X
<b>Recovery:</b>																				
Counseling	X		X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X
Disability	X					X	X		X					X	X		X	X	X	
Rehabilitation	X	X	X		X	X	X	X	X	X	X		X	X			X	X	X	X
Loss/Earnings	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Loss/Support	X			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Funeral	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Replacement Services	X						X	X	X		X					X		X	X	X
Pain/Suffering												X		X						
Other Expenses		X		X	X		X		X	X	X				X		X	X	X	
<b>Benefits:</b>																				
Maximum (in thousands)	20	10	15	25	12	20	25	25	10	23	35	25	10	5	25	15	15	20	12	25
Minimum Loss	100	0	100	100	0	0	100	0	0	250	100	0	300	100	0	100	200	0	0	100
Deductible	0	0	0	0	0	0	0	0	0	250	0	0		0	0	100	200	0	0	0
Attorney Fees	X	X	X	X		X	X	X			X	X	X	X	X			X	X	X
Emerg. Award	0	500	500	1500	X	1500	100	X	500	1000	1000	0	500	1500	1500	2000	0	0	1000	1000
Reduced by Contribution	X			X	X	X			X	X	X		X		X	X		X		
Denied by Contribution	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X
<b>Source of Funds:</b>																				
General Rev.	X	X		X	X	X	X	X	X	X							X		X	
Penalty Assess.				X				X	X	X	X	X	X	X	X	X	X	X		X
Fines								X	X		X	X	X	X	X	X				
Other			X							X										

## **New Programs in 1985**

Three additional states, Arizona, Utah and Wyoming, enacted compensation statutes in 1985. Two of these states, Arizona and Wyoming, provide for the development of comprehensive programs. Arizona's program will be funded by penalty assessments (\$100 per individual felon and \$500 per corporate felon).

Utah's new compensation program limits benefits to only victims of drunk driving accidents. It will be funded by a \$100 additional fee on each drunk driving fine. Public officials in Utah anticipate enacting a full compensation program in 1986.

In addition, Arkansas is now counted among the forty-three states with compensation programs due to a unique statute passed in 1983 that allows individual counties to pass ordinances to establish compensation programs. Pulaski County (Little Rock) passed such an ordinance in 1983 and currently is in the process of establishing a compensation program funded by \$5 penalty assessments imposed by the county circuit court.

## **Pending Legislation**

Since the establishment of the first compensation program in California in 1965, all but seven states have passed some form of victim compensation legislation. The remaining seven states are the following: Georgia, Idaho, Maine, Mississippi, New Hampshire, South Dakota, and Vermont. Several of these states introduced compensation bills in 1985 which met with varying degrees of success in committee hearings and floor debate. While these bills have not yet passed, important groundwork has been laid. Two states, New Hampshire and Vermont, have active compensation bills that will be carried over to the 1986 legislative session. Vermont's bill establishes funding for the compensation program through a penalty assessment (\$2 or 15%) on every crime, penalty or forfeiture except parking, with a maximum award of \$5,000. In addition, Georgia and Idaho introduced bills which were defeated in the 1985 legislative session. Both states are currently holding hearings on compensation and plan to reintroduce compensation legislation in the 1986 legislative session.

## **Changes in Existing Programs**

The primary focus of legislative activity in 1985 concerned amending compensation statutes to bring state programs into compliance with the statutory requirements of the Victims of Crime Act of 1984 (VOCA), in order to qualify for VOCA funding. The major changes required under VOCA include expanding medical benefits to include payment for mental health counseling and extending eligibility to include non-residents and victims of federal crimes victimized within the state's borders.

VOCA was the major catalyst for compensation program expansion in 1985 due to the requirement that the new federal funding, a grant equaling 35 percent of the awards paid out in the prior year in each participating state program, could not be used to offset or "supplant" existing state funding. As states began exploring new avenues to utilize expanded funding, two controversial issues were addressed: family and drunk driving exclusions.

### **Family Exclusion**

Few states completely eliminated the family exclusion provision in 1985; most chose instead to extend benefits to certain relatives or children. The most comprehensive amendments to family exclusion provisions occurred in the states of Alaska, Pennsylvania, and Texas. These states now provide comprehensive benefits to victims of crime, regardless of their relationship to the offender (although they still bar awards if the offender would be "unjustly enriched" or if the claim was fraudulent,

and can diminish the award if the claimant contributed to his or her own victimization—all of which were policy concerns behind the broad-brush family exclusion rule).

Other states more narrowly opened up family exclusion provisions in 1985. Florida amended its statute to extend benefits to abused children; Nevada redefined personal injury to include sexual abuse and extended the definition to include sexually abused minors; and Washington State now allows compensation for family members under certain conditions. New York, as part of its omnibus compensation bill, extended compensation benefits to cover shelter costs of domestic violence victims.

In addition, Virginia amended its program to include victims of incest or victims who are mentally deranged, and victims who separate from, and cooperate in the prosecution of, the offender. Iowa established a three-tiered system for compensating victims of family violence: a family member can qualify for compensation if, after the first offense, the offender receives counseling; after the second offense, the victim files charges; and after the third offense or beyond, the offender is prosecuted. Iowa's 1985 revisions also included special provisions for child victims under which children now qualify for immediate counseling and medical benefits, regardless of parental notification.

### **Drunk Driving Exclusion**

Several programs also amended their compensation statutes in 1985 to allow victims of drunk driving crashes to qualify for compensation benefits. This again was largely in response to the new VOCA funding. Alaska instituted the most comprehensive changes, opening up its program to victims of all vehicular crimes, including boats, planes, and automobiles. At least six other states—Florida, Louisiana, Minnesota, New York, Pennsylvania, and Wisconsin—amended their statutes to include victims of drunk driving crashes. Florida raised the penalty assessment funding base for its program from \$15 to \$20 to ensure, in addition to the new federal funding, adequate resources for this expanded coverage. In 1984, Iowa sought to do the same by transmitting the substantial fines levied against Driving-Under-the-Influence violators to the victim compensation fund. In addition, the District of Columbia currently has legislation pending to amend its compensation program to include drunk driving victims.

## **Changes in Maximum Awards**

Another trend in state compensation programs in 1985 was to raise the maximum award amount allowed per claim. For example, Delaware raised its maximum award from \$10,000 to \$20,000; Virginia, from \$12,500 to \$15,000; and Minnesota, from \$25,000 to \$50,000. Massachusetts has legislation pending which would raise its maximum award from \$25,000 to \$50,000.

West Virginia amended its statute to allow up to \$50,000 for death claims while maintaining a \$20,000 cap on all other awards. Alaska currently is the only other state with a two-tiered maximum award system. It allows \$40,000 for death claims while maintaining a \$20,000 cap on all other awards. Two states, however, lowered their maximum awards in 1985. Texas lowered its maximum award from \$50,000 to \$25,000 and Tennessee lowered its maximum award from \$10,000 to \$5,000.

Nebraska, faced with a serious farm recession and depressed state revenues, defunded its compensation and services funding (both paid out of tax dollars) in 1985. However, the reports are that this will prove to have been a temporary suspension of its funding programs, which are likely to be restored in 1986.

## **Minimum Loss/Financial Means Test**

One of the most controversial areas of victim compensation is the requirement of a financial means test for compensation awards. This sometimes discriminates against special victims, such as the elderly on a fixed income or sexual assault victims who then must bear the cost of a rape exam. It also discourages many to file a claim, whether or not they are "over-income," and offends those who believe that compensation should be paid by the public to any of its members, regardless of financial status, when they are the losers in the public's efforts to prevent crime. New York's omnibus compensation amendments this year eliminated the financial means provision for all claims under \$500.

Minimum loss provisions, requiring that victims must incur, typically, \$100 to \$200 worth of losses in order to qualify for compensation, have also discriminated against special victims, like the elderly poor for whom a \$95 loss represents a significant hardship. New Jersey recognized this problem and has eliminated the minimum loss requirement for senior citizens and the disabled. Massachusetts currently has legislation pending that would eliminate the minimum loss provision for sexual assault victims and the elderly.

## **Notable Innovations**

Two states, Alabama and Oklahoma, now require that members of their Compensation Board include at least one former victim of crime.

Alabama's program, established in 1984, remains among the most innovative programs in 1985. Its statute allows the board to make grants to local public or private non-profit organizations for specific activities, such as the collection of outstanding restitution. The board can also make preliminary awards of up to \$400 for loss of cash or \$1,000 for essential personal property.

Iowa amended its statute in 1985 to provide for emergency awards to child victims for medical and counseling expenses. It also extended compensation benefits to parents of missing children; the Compensation Board may now contract for counseling services for parents of missing children and for the family upon return of the child.

Other notable innovations include Louisiana's program, which provides awards for loss of one's home to arson, for example; New York, which permits local victim service programs to make recompensible emergency awards to needy victims; Indiana, which allows awards up to \$1,000 for child care; and again, Alabama, which

now compensates dependants of firemen and peace officers killed in performance of their duties. Wisconsin currently has legislation pending which would provide up to \$1,000 for securing and cleaning up the scene of the crime.

## FUNDING OF VICTIM SERVICES

In 1980, California became the first state to enact statewide funding for general victim services (as distinguished from funding of services to sexual assault, domestic violence or child abuse and neglect victims – targets of special funding programs in many states). Since 1980, twenty-eight states have made some provision for ensuring that general victim or victim/witness services be provided at the local level. The more ambitious states have sought to use their funding support to encourage comprehensive services to all crime victims.

Finding the funds for such programs is often difficult for legislators to do. However, the trend has been to fund general victim and witness services through penalty assessments or fines on all convicted offenders, while funding for domestic violence shelters has often been derived from a marriage license fee. Sexual assault program funding is generally from a mixture of state appropriations and federal block-grant funding. Kentucky instituted a unique funding mechanism for its 1984 Child Trust Fund by allowing a \$2 checkoff for the fund on each taxpayer's income tax form. Over \$160,000 was raised by this means in 1984-85, the first year of the program.

In addition to state funding for victim services, the Victims of Crime Act (VOCA) is expected to provide at least \$41,000,000 to the states in late 1985 for distribution to local victim service programs. A copy of VOCA is provided in Part III.

The following chart outlines the various revenue sources for general victim service funding across the fifty states.

### GENERAL FUNDING PROVISIONS

STATES	SOURCE OF FUNDING
Alabama	Statutory authority to make grants to local programs through Compensation Board; its revenue derived from penalty assessments.
Alaska	General revenues
Arizona	Penalty assessment
Arkansas	No state funding, but legislation makes it mandatory for prosecutors to provide victim services as a part of their statutory duties.
California	Penalty assessment
Colorado	Penalty assessment
Connecticut	(Same as Alabama)
Delaware	General revenues
Florida	Fines and penalties (for "witness coordinator" in courts)
Illinois	Penalty assessment and fines
Kentucky	General revenues, fines, penalties
Massachusetts	Fines
Minnesota	General revenue, restitution, refunds, fines, and penalties

Missouri	Penalty assessment
Nebraska	General revenues
New Jersey	General revenue, fines, and penalties (funding for centralized state hotline and counseling administered by the compensation program)
North Carolina	General revenue (limited to salaries of 7 witness coordinators)
New York	General revenues
Ohio	Fines and penalty assessment
Oklahoma	Fines and penalties
Oregon	Penalty assessment
Pennsylvania	Fines and penalties
Rhode Island	Lien on prisoners' wages
South Carolina	Fines and penalty assessment
Texas	General revenues
Virginia	General revenues
Washington	General revenues, fines, and penalties
Wisconsin	Penalty assessment

## VICTIM BILLS OF RIGHTS

Bills of Rights (BOR) for crime victims focus primarily on criminal justice system procedures. While such legislation is denominated as "rights," they are sometimes called standards of fair treatment of victims and witnesses because there are no remedies explicitly provided, should a criminal justice agency fail to live up to the standards.

Indeed, most of the statutes end with a provision that (typically) says that "... nothing in this statute shall be construed as creating a cause of action against the state, a county or municipality, or any of its agents." While this would bar a suit for money damages when a "right" was violated, it still leaves open the possibility that a judge could order an agency to honor the bill of rights.

In fact, Yale law professor Abraham Goldstein argues that, when Congress enacted such a provision as part of the "fair standards" section in the Victim and Witness Protection Act of 1982, it could not have meant to disallow a suit calling for such a judicial order, for the separation-of-powers doctrine always gives courts the power to order executive-agency compliance with legislatively-created policies. (Goldstein, "The Victim and Prosecutorial Discretion: The Federal Victim and Witness Protection Act of 1982," *Law and Contemporary Problems* 47, no. 4 (Fall 1984)).

The Idaho legislature seemed to have wanted to emphasize this distinction—one that differentiates a suit for damages for past infractions from one seeking future compliance but no damages—when it barred "causes of action for money damages" in its victims' Bill of Rights.

Wisconsin passed the first Bill of Rights for victims and witnesses in 1980. In the five years following, a total of thirty-one states have enacted Bills of Rights, six of them in 1985: Idaho, Indiana, Michigan, Montana, Texas, and Utah.

Currently, Kentucky, New Jersey, and North Carolina have introduced legislation to establish a Bill of Rights. A 1985 citizens' initiative in Oregon to strengthen

its existing rights for victims failed to get a majority of the votes; at present, victim rights provisions are part of the state's victim service funding legislation and do not carry the force of a separate statute.

Bills of Rights for victims vary tremendously in their provisions. Many states have passed individual pieces of legislation on one or more victim rights issues; two states, Oklahoma and New York, passed packages of single-issue statutes that were collectively called a Bill of Rights; but the Bills of Rights in most other states reflects a more comprehensive approach.

The National Organization for Victim Assistance, under a grant from the U.S. Department of Justice, is currently drafting a model Bill of Rights statute (called a Fair-Treatment Standards Act for Victims and Witnesses). It incorporates many of the existing rights for victims of crime and can be used as a guideline for states that want to broaden their current Bills of Rights or for those states that plan to introduce such legislation.

The types of issues addressed in comprehensive Bills of Rights include some combination, or all, of the following:

- Information about available financial aid and social services
- Protection from intimidation
- Property return
- Secure waiting areas
- Victim participation in criminal justice proceedings
- Victim/witness notification
- Employer intervention
- Creditor intervention
- Speedy disposition
- Court attendance

*States where legislation has been enacted:*

Alaska  
Arkansas  
California (Proposition 8, passed by citizens' initiative)  
Colorado  
Delaware (by Joint Resolution)  
Florida  
Idaho  
Illinois  
Indiana (by a series of separate statutes)  
Louisiana  
Maine  
Massachusetts  
Michigan  
Minnesota  
Montana  
Nebraska  
Nevada  
New York (by a package of separate statutes)  
Ohio  
Oklahoma (by a package of separate statutes)  
Oregon  
Pennsylvania  
Rhode Island  
South Carolina  
Texas  
Utah

Vermont  
Virginia (by Joint Resolution)  
Washington  
West Virginia  
Wisconsin

*States where legislation is pending:*

Kentucky  
New Jersey  
North Carolina  
Oregon

## **VICTIM INVOLVEMENT IN SENTENCING AND VICTIM STATEMENT OF OPINION**

Modern legislation affords crime victims two basic ways to be involved in the sentencing of their offenders: the *Victim Impact Statement (VIS)* and *Victim Statement of Opinion (VSO)*. These are not mutually exclusive. Indeed, in a growing number of jurisdictions, judges are routinely getting both forms of communication from victims.

The *Victim Impact Statement (VIS)* is the more common of the two. It involves a written "objective" description of the medical, financial, and emotional injuries caused by the soon-to-be-sentenced offender. Usually, the VIS is prepared by a probation officer, and it is often included in the probation department's "Pre-sentence Investigation Report" (PSI) describing the background and circumstances of the offender.

However, the practice in some jurisdictions is to have the VIS prepared by others, including victim/witness advocates or even the victims themselves, even though the latter practice may detract from the perceived objectivity of the statement.

Currently, thirty-nine states have passed legislation requiring the use of the VIS. The American Bar Association is currently drafting a model statute on victim impact statements that can be used by states in drafting their own legislation. The states that have enacted VIS legislation to date are the following (the list also notes states which have enacted a VIS in their Bills of Rights):

Alaska (BOR for felony cases)  
Arizona  
Arkansas (mandated in DWI cases)  
California (BOR)  
Colorado (BOR)  
Connecticut  
Delaware  
Florida (BOR and individual statute)  
Georgia  
Idaho (BOR)  
Illinois  
Indiana  
Iowa  
Kansas  
Louisiana  
Maine (BOR)  
Massachusetts (BOR)  
Maryland  
Michigan (BOR)  
Minnesota  
Montana  
Nebraska (see also "Participation" section)  
Nevada (see also "Participation" section)  
New Hampshire

New Jersey  
New Mexico\*  
New York  
Ohio  
Oklahoma  
Oregon  
Pennsylvania (BOR)  
Rhode Island  
South Carolina (BOR)  
Texas (BOR)  
Vermont (BOR)  
Virginia\*\*  
Washington (BOR)  
West Virginia (BOR)  
Wisconsin

\*The *Victim Impact Statement* is now a state judicial policy in New Mexico but may be strengthened by legislation that has been proposed.

\*\*Virginia provides for *Victim Impact Statements* at the PSI but it is not mandatory.

The second method of involvement is what we term a *Victim Statement of Opinion* (VSO). Here the sentencing judge gets the victim's opinion as to the appropriate sentence to be ordered. Note the distinction between the "facts" presented in a VIS and the "opinion" given in a VSO—even though, in practice, victims often buttress their views with facts. The most common legislatively-mandated VSO is the "right of allocution," whereby victims are permitted to express their opinions orally—to "allocute"—the sentencing hearing itself (in just the same way that offenders have traditionally been allowed to address the sentencing judge in most jurisdictions). Other methods of presenting a VSO is by a written statement or letter to the judge. In the state-by-state charts, legislation that makes allocution a permissive or exclusive technique of presenting a VSO is noted as "VSO" (Allocution).

Currently, nineteen states have enacted legislation providing for victim allocution or other ways of directly presenting a victim's opinion. These states are the following:

California (BOR)  
Colorado (BOR and individual statute)  
Connecticut  
Florida (BOR)  
Georgia  
Idaho (BOR)  
Illinois  
Indiana  
Maine (BOR)  
Massachusetts (BOR)  
Michigan (BOR)  
Minnesota (BOR)  
New Hampshire  
Ohio (BOR)  
Rhode Island (BOR)  
Texas (BOR)  
Vermont (BOR)  
Washington (BOR)  
Wisconsin (BOR)

VSO legislation has been considered in:

New Jersey

Some states, listed below, mandate a presentation of both the objective impact and the victim's opinion, noted in the charts as "VIS/VSO" or "VIS/VSO (Allocution)". Note, however, that in a number of the VIS-only states, the practice in some local jurisdictions is to include a separate *Victim Statement of Opinion* regarding sentencing along with the material dealing with the impact of the crime on the victim's life. Check with the courts in your locality to see if the VIS in practice includes VSO materials, or whether local judges permit allocution without a statute requiring it.

- California (VIS/VSO Allocution)
- Colorado (VIS Allocution-BOR)
- Connecticut (VIS Allocution)
- Florida (VIS Allocution-BOR)
- Georgia (VIS Allocution)
- Idaho (VIS Allocution-BOR)
- Indiana (VIS Allocution)
- Illinois (VIS Allocution)
- Maine (VIS Allocution-BOR)
- Massachusetts (VIS/VSO Allocution for felony-BOR)
- Michigan (VIS Allocution-BOR)
- Minnesota (VIS/VSO Allocution-BOR)
- New Hampshire (VIS Allocution)
- Ohio (VIS/VSO Allocution-BOR)
- Rhode Island (VIS/VSO Allocution)
- Texas (VIS Allocution-BOR)
- Vermont (VIS Allocution-BOR)
- Washington (VIS allocution-BOR)
- West Virginia (VIS allocution-BOR)

VIS/VSO legislation has been considered in:

- Alabama
- Maryland

## VICTIM PARTICIPATION

Several states have extended the victim-involvement requirements discussed above to areas other than sentencing, and we have listed these requirements here under the rubric of Victim Participation. For example, Arizona involves the victim in parole, discharge, and supervised release hearings as well as all mitigation hearings. Nebraska requires a "good faith" effort by DAs to consult with victims regarding plea negotiations and decisions. Ohio passed legislation in 1984 which permits victims of felonies to attend sentencing, dispositional, parole or early release hearings.

The following states have enacted some limited participation measures either as separate statutes or as part of their Bill of Rights:

### *Plea-Bargaining Participation (11 states):*

- Arizona (for surviving families of homicide victims)
- Florida (BOR)
- Indiana
- Michigan (BOR)
- Nebraska
- New York (BOR)
- Oregon
- South Carolina (BOR)
- South Dakota
- Utah (BOR)
- West Virginia (BOR)

*Introduced:*

Rhode Island

*Parole Hearing/Victim Impact Statement (21 states):*

Alabama  
Alaska (BOR-post conviction discretionary release)  
Arizona  
Arkansas  
California  
Colorado  
Georgia  
Idaho (BOR)  
Illinois (BOR)  
Maryland  
Massachusetts  
Michigan (BOR)  
Nebraska  
Nevada  
New Hampshire  
New Jersey  
New York  
Ohio (BOR)  
Rhode Island  
South Carolina (BOR)  
Texas (BOR)

*Introduced:*

Kentucky  
Pennsylvania

*Parole Allocution (15 states):*

Arizona	Michigan (BOR)
Arkansas	Montana
California (BOR)	Nebraska
Colorado	Nevada
Delaware	New Hampshire
Idaho (BOR)	New Jersey
Illinois (BOR)	Ohio (BOR)
Massachusetts	

*Introduced:*

Kentucky  
Pennsylvania

The American Bar Association, under a grant from the U.S. Department of Justice, is currently drafting a model statute on victim participation at parole hearings to serve as a guideline for states in enacting such legislation. The theory behind developing such a statute is that victims, witnesses, and members of the general public are often dismayed to discover that offenders are released on parole months, years or even decades before their nominal sentences have been served.

Notice of forthcoming hearings is rarely given. Even if notice is given, the reasons for release decisions are likely to be shrouded in secrecy, since parole hearings are generally closed to the public. The President's Task Force on Victims of Crime has attributed to closed hearings the insulation of Parole Boards from accountability for decisions which may directly affect the safety of the community. Accordingly, the Task Force called for open parole hearings.

Under the model statute, certain notices of parole hearings and decisions are required. Moreover, hearings must be open, unless the Board finds for the record that one or several designated exceptions would warrant holding all or part of a hearing behind closed doors.

State laws governing public access to parole hearings currently vary considerably. For example, Florida and Nevada explicitly require open parole hearings. In Nebraska, North Dakota, Oklahoma, Tennessee, and Utah parole hearings are governed by general open-meeting acts. Colorado has open parole meetings as a result of a Parole Board ruling, rather than legislation.

In some states, whether or not the general public may attend, victims may not only attend but also participate in the hearings. Arizona, Arkansas, California (BOR), Colorado, Idaho (BOR), Illinois (BOR), Michigan (BOR), New Hampshire, New Jersey, and Ohio (BOR) are examples of such states.

## RESTITUTION

Restitution is a method of victim reparations predicated on the apprehension and conviction of the criminal. Judges have always had authority to order restitution. It is an ancient feature of our legal heritage. However, judges have often been reluctant, or have simply forgotten, to use the restitution sanction. Most restitution laws provide statutory reinforcement of courts' common law authority.

In some states, such legislation goes even further and requires a judge to order restitution, unless he provides a written statement indicating the reason for not making such an order. The American Bar Association is currently drafting a model restitution statute that addresses innovative provisions that states may use to both invoke and collect restitution.

Approximately thirty states have enacted legislation which either requires that restitution be ordered or mandates that it be considered at sentencing. The following is a summary of restitution legislation in the U.S.:

- Alabama (required)
- Alaska (permitted)
- Arizona (required)
- Arkansas (required)
- California (required)
- Colorado (required)
- Connecticut (permitted)
- Delaware (required)
- Florida (required/BOR)
- Georgia (permitted)
- Hawaii (permitted)
- Idaho (required/BOR)
- Illinois (permitted)
- Indiana (required)
- Iowa (required in felony cases)
- Kansas (required)
- Kentucky (required)
- Louisiana (permitted)
- Maine (required/BOR)
- Maryland (permitted)
- Massachusetts (permitted/BOR)
- Michigan (permitted/BOR)
- Minnesota (permitted/BOR)
- Mississippi (permitted)
- Missouri (required)

Montana (required)  
 Nebraska (permitted)  
 New Hampshire (permitted)  
 New Jersey (permitted)  
 New Mexico (required)  
 New York (permitted)  
 Nevada (required)  
 North Carolina (required)  
 North Dakota (permitted)  
 Ohio (permitted)  
 Oklahoma (required)  
 Oregon (permitted/DA is required to report damages if no VIS)  
 Pennsylvania (required/BOR)  
 Rhode Island (permitted)  
 South Carolina (required/BOR)  
 South Dakota (required)  
 Tennessee (required)  
 Texas (required)  
 Utah (required)  
 Vermont (required/BOR)  
 Virginia (required/BOR)  
 Washington (required/BOR)  
 West Virginia (required/BOR)  
 Wisconsin (permitted)  
 Wyoming (required)

In addition, thirty-one states have also enacted legislation that permits judges to order restitution, typically as a condition of probation. These states are the following:

Alabama	Utah
Alaska	Vermont (BOR)
Arizona	West Virginia (BOR)
Arkansas	Wisconsin
California	Wyoming
Colorado	<i>Introduced:</i>
Connecticut	Michigan
Florida (BOR & individual statute)	
Georgia	
Iowa	
Kansas	
Louisiana	
Maine (BOR)	
Maryland	
Minnesota (BOR)	
Mississippi	
Montana	
Nebraska	
Nevada	
New Mexico	
New York	
North Carolina	
Pennsylvania (BOR)	
Rhode Island	
South Dakota	
Texas	

## VICTIM/WITNESS NOTIFICATION

A number of states have begun to respond to the natural desire of victims to be kept informed about the progress of their case investigations, other important events in the criminal justice process, and the status of incarcerated offenders. A number of states give advance notice of critical proceedings, while others notify victims after an important event occurs. In jurisdictions where parole is still used, victims have sought and won more direct involvement in, and notification of, parole hearings and decisions. Also, other methods of release—such as work furloughs—have been the targets of victim involvement and notification efforts. It should be noted that notification of any event does not imply that participation is also mandated. These are two separate issues.

The following is a breakdown of notification statutes, some of which were enacted as part of a Bill of Rights law:

### *Pre-trial Release (9 states)*

Colorado (BOR)  
Florida (BOR)  
Illinois (BOR)  
Nevada (BOR)  
New York (BOR)  
Rhode Island (BOR)  
South Carolina (BOR)  
West Virginia (BOR)  
Wisconsin (BOR)

### *Bail (4 states)*

Illinois (BOR)  
New York (BOR)  
Rhode Island (BOR)  
Texas (BOR)

### *Plea Agreements (11 states)*

Arkansas (BOR)  
Idaho (BOR)  
Minnesota (BOR)  
Montana (BOR)  
Nebraska  
Nevada  
New York  
Oklahoma  
Pennsylvania (BOR)  
South Carolina (BOR)  
Texas (BOR)  
West Virginia (BOR)  
Vermont (BOR)

### *Probation (3 states)*

Hawaii  
New York  
Pennsylvania (BOR)

### *Sentencing (15 states)*

Arizona  
California (BOR)  
Connecticut

Florida (BOR)  
Illinois (BOR)  
Louisiana  
Maine (BOR)  
Michigan (BOR)  
Minnesota (BOR)  
Montana (BOR)  
New York (BOR)  
South Carolina (BOR)  
Vermont (BOR)  
Washington (BOR)  
West Virginia (BOR)

*Final Disposition (13 states)*

Florida (BOR)  
Massachusetts (BOR)  
Montana (BOR)  
Nebraska (BOR)  
Nevada (BOR)  
New York (BOR)  
Ohio (BOR)  
Pennsylvania (BOR)  
Rhode Island (BOR)  
South Carolina (BOR)  
Washington (BOR)  
West Virginia (BOR)  
Wisconsin (BOR)

*Parole (28 states)*

Alabama  
Alaska (BOR, upon request)  
Arizona  
Arkansas  
California (BOR)  
Colorado  
Connecticut  
Florida (BOR)  
Georgia  
Hawaii  
Idaho (BOR and individual statute)  
Illinois (BOR and individual statute)  
Indiana  
Maryland  
Massachusetts  
Michigan (BOR)  
Minnesota (BOR)  
Mississippi  
New Mexico  
New York  
Nevada  
Ohio (BOR)  
Oklahoma  
Pennsylvania (BOR)  
Rhode Island (BOR and individual statute)  
South Carolina (BOR)  
Texas (BOR)  
Utah  
Washington (BOR)

*Pardon (10 states)*

Alaska (BOR)  
Idaho (BOR)  
Minnesota (BOR)  
Nevada  
New York  
Oklahoma  
Pennsylvania (BOR)  
South Carolina (BOR)  
Washington (BOR)  
Wisconsin (BOR)

*Work Release (9 states)*

Alaska (BOR)  
Delaware  
Illinois  
Hawaii  
New York  
Pennsylvania (BOR)  
Rhode Island (BOR)  
South Carolina (BOR)  
Washington (BOR)

## PROTECTION FROM INTIMIDATION

Spurred by a study by the Victims Committee of the America Bar Association, there has been a growing effort to develop more effective laws for controlling pre-trial intimidation of, and post-trial retaliation against, victims and witnesses. New legislation is being enacted in some states to broaden the definition of witness to include non-subpoened witnesses and third parties. Some legislation makes intimidation a felony where threats or conspiracy are involved. Judges have been given increasing scope in issuing "protective orders." Many laws treat attempted intimidation as seriously as successful intimidation.

One aspect of protection is the confidentiality of witnesses' addresses in order to reduce defendants' access to them. This topic is discussed below in the section "Legislative Issues for 1985—Privacy Protection."

States where legislation has been enacted (27 states):

Alabama  
Alaska (BOR)  
Arkansas (BOR and individual statute)  
California  
Colorado (BOR and individual statute)  
Delaware (BOR)  
Florida (BOR)  
Idaho  
Kansas  
Maine (BOR)  
Massachusetts (BOR)  
Minnesota (BOR)  
Nebraska (BOR and individual statute)  
Nevada (BOR and individual statute)  
New Jersey  
New York (BOR and individual statute)

Ohio (BOR)  
Oklahoma (BOR)  
Pennsylvania (BOR)  
Rhode Island (BOR)  
South Carolina (BOR)  
Texas (BOR)  
Utah (BOR)  
Virginia (BOR)  
Washington (BOR)  
West Virginia (BOR)  
Wisconsin (BOR and individual statute)

## **NOTORIETY-FOR-PROFIT**

Recently, there have been several instances where offenders who have committed particularly sensational crimes have received substantial sums of money as a result of their notoriety. Books, magazine articles, and movies describing heinous crimes have resulted in significant royalties to criminals (or relatives they designated), while their victims languished without any form of restitution.

The most notorious case of this type occurred in New York, where the "Son-of-Sam" murders occurred. David Berkowitz, the convicted murderer, was sought out by the media with financial offers to tell his story. In response, the New York State Legislature passed a law in 1977 which prevents convicted criminals from receiving such financial remuneration. As a result, this type of legislation has come to be known by the name of "Son-of-Sam" statutes. This is unfortunate because such a title works against one major purpose of this legislation: avoid glorifying a notorious criminal. Hence our preferred term, "Notoriety-for-Profit."

The President's Task Force on Victims of Crime proposed that Notoriety-for-Profit monies be used to provide full restitution to criminals' victims, pay the costs of prosecution, and assist state crime victim compensation programs. Accordingly, the American Bar Association, under a grant from the U.S. Department of Justice, is drafting model legislation which sets up a mechanism to divert publicity profits to such purposes. To some extent, the model statute parallels laws enacted by a number of states in recent years. These laws make offender profits available for satisfaction of judgments resulting from successful victim suits against their offenders and for other specific purposes.

Approximately thirty-two states have enacted Notoriety-for-Profit statutes. In many states this legislation is part of the victim compensation legislation, and the accounts are administered by the agency which administers the compensation fund. Most states require the establishment of an escrow account for all such proceeds. The first claim on such accounts is usually for civil damages awarded to victims. Remaining funds, or funds from accounts where no victim claims are made, usually go to pay court costs and attorney fees or are deposited in the victim compensation fund or given to the offender.

## **LEGISLATIVE ISSUES FOR 1985: IMPORTANT VICTIMS RIGHTS INNOVATIONS**

Several victim rights have recently gained much attention. They are the victim's right to privacy protection; attendance and sometimes participation in court proceedings involving their case; a speedy trial (and appeal); and acknowledgment of the special needs of certain groups of victims, such as children.

## **Victim Privacy Protection**

Crime victims' privacy interests are under increasing attention. In one particularly troublesome area—the way news media often publicize victims' names, addresses and other information, all tending to compound their misfortunes—victim advocates have no clear legislative agenda. Since the U.S. Supreme Court has ruled unconstitutional laws which make it a crime to publish victim-identifying information when it has previously appeared in public documents, the advocates' only remedy seems to be to protect such documents (such as crime reports) under state privacy statutes. Many are reluctant to pursue this remedy, however, since crime reports are used by many grassroots and non-police-based victim services agencies as a means to reach out to the victimized. Thus, in some counties, advocates prefer to try to persuade the news media to adopt a policy of self-restraint. Names of certain types of victims would never be mentioned, as a result; street addresses of others would be omitted.

A second privacy concern arises out of the victim's fear of harassment or intimidation by the defendant or his or her associates. The President's Task Force on Victims of Crime recommended that prosecutors not divulge the victim's address to the defense except in extraordinary circumstances, and that this policy idea be carefully formulated into draft legislation. Accordingly, the National Association of Attorneys General is currently drafting a model statute for address protection. This statute will also help prevent victim intimidation by mandating that prosecutors, police, court officials, and other government employees not disclose the addresses and telephone numbers to the public or the defense, absent a court order.

Four states have enacted legislation to ensure that victims names and addresses are kept private. These states are: California, Idaho (BOR), Michigan (BOR), and Maryland. Wisconsin has introduced a privacy protection bill providing victims and witnesses exemption from giving their address or place of employment when they testify, unless there is a showing of good cause.

States have also recognized the need to protect the identity of certain victims involved in court procedures. Three states—Alabama, Iowa, and Wisconsin—have enacted child privacy protection statutes. Wisconsin's and Iowa's statutes were enacted as part of Children's Bill of Rights legislation. In addition, California, Connecticut, and Minnesota have enacted legislation to extend privacy protection to victims of sexual assault. However, the need remains for legislation to protect all categories of crime victims.

## **Court Attendance**

Victims have a natural interest in all proceedings relevant to their case. However, this interest is often overlooked or simply denied. Our Constitution provides the defendant the right of confrontation. All potential or actual witnesses are subject to sequestration (exclusion from the courtroom when not actually testifying), since they may alter their testimony. Obviously, there is one potential defense witness to whom this rule does not apply—the defendant. Victims feel they also deserve to be exempted from the rule.

The first state in the country to pass a court attendance statute was Alabama in 1983. Alabama's law grants victims the following rights: to be present in the court with jurisdiction over the offense and to be seated at the prosecutor's table; not to be excluded from that court or counsel table during any pertinent hearing or trial or portion thereof (except for reasons that would also justify a defendant's removal); and to be exempt from rules and regulations or other laws that separate or exclude witnesses from court in criminal trials or hearings (i.e., sequestration).

The Alabama statute was developed in response to two factors. First, the President's Task Force on Victims of Crime Report recommended a constitutional amendment that would ensure a victim's right "to be present and to be heard at all critical

stages of judicial proceedings." While the Alabama statute does not contain a clause relative to "the right to be heard," it is the first effort to codify the proposed amendment. Second, some counties in Alabama already had such a practice in their courts; this statute simply codified it for the whole state.

At present, nine states have enacted court attendance statutes. These states are: Alabama, Arkansas, Florida (BOR), Georgia, Indiana (BOR), Maryland, Michigan (BOR), Texas (BOR), and Washington (BOR). To strengthen the ambiguous court-attendance provisions in Florida's Bill of Rights, and to ensure that a victim or surviving family members are granted the right to remain in court after testimony, victim advocates in Florida are supporting a citizens' initiative to make court attendance a state constitutional amendment.

### **Speedy Disposition**

Defendants in our criminal justice system have certain due process rights, including the right to a speedy trial. Defendants often (and properly) invoke this right when they are incarcerated pending trial. Otherwise, they tend to ignore it, hoping—it often seems—that delays in the system will wear out prosecution witnesses and undermine the government's case.

Crime victims are not accorded the same constitutional right to have their cases hastened through the system to a just disposition. Many of them describe a special anguish over enforced waiting for months and even years before the criminal justice system brings their case to resolution. Consequently, victims and their advocates are working to overcome the stresses they have endured at the hands of a sluggish justice system.

Ten states have enacted statutes calling for the speedy disposition of cases involving clearly-traumatic crimes: California, Colorado (BOR), Delaware (BOR), Massachusetts (BOR), Nebraska (BOR), Nevada, Oregon, South Carolina (BOR), Texas, and Wisconsin (BOR). Nevada's statute gives prosecutors the right to demand a speedy trial on behalf of certain victims (the elderly, children, and sexual assault victims). Unless judges exercise one of the strict postponement clauses, the state can demand a trial within sixty days after the defendant has been arraigned on charges. The legislation has no enforcement provision.

Wisconsin's Bill of Rights specifies that the state has the right to call for a trial within ninety days. While this law does not have an enforcement provision, it has been suggested that one could be fashioned to require that the presiding judge of the judicial district bar any civil case from going to trial before the improperly-delayed criminal case. There is authority to do that in Oregon, where court rules state that no civil case can go forward while a criminal trial is pending.

### **Children's Rights**

Because our laws at every turn recognize a duty to treat children with special care—witness our juvenile justice system—it has been argued that children need special protections when involved as victims and witnesses in the justice system.

The first step is to extend typical Bill-of-Rights protections to minors. In addition, children need age-specific explanations of the criminal justice process, that is, explanations given with appropriate vocabulary and reasoning; their own counselors and advocates to speak for their interests in discussions among judges, parents, and lawyers; specialized services for themselves and their families aimed at helping them recover from the crime's effects; and the right to a speedy disposition of cases in which they are key witnesses.

Certain states recognize the extraordinary stress under which a child gives testimony in an imposing courtroom setting—in the presence of someone to whom, often, the child has looked for love and protection. In an effort to make testifying

less traumatic for the child, those states use the technology of television. Admissible testimony includes videotape of the victim's statement to a specially-trained investigator (an interrogatory) or a statement under oath followed by cross-examination (a deposition). Other states allow the child to give "live" testimony transmitted from another room by way of closed-circuit television.

Three states—Iowa, Washington and Wisconsin—have enacted Child Victim's and Witnesses' Bills of Rights to provide some combination of these protections.

Wisconsin passed the first "Children's Bill of Rights" in 1984. In addition to extending the existing Bill of Rights for adults to children, the act states that the court shall appoint a guardian of the child's rights and protections who will do as follows: explain, in understandable language, all legal proceedings in which the child will be involved; act as a friend of the court, to advise the judge, whenever appropriate, of the child's ability to understand and cooperate with any court proceeding; assist the child and the child's family in coping with the emotional impact of the crime and subsequent criminal proceedings which involve the child; advise the District Attorney on the ability of a child witness to cooperate with the prosecution and on the potential effect of the proceedings on the child; and advise the judge concerning the possible use of a videotaped deposition.

Two other states, Iowa and Washington, passed Bills of Rights for Children in 1985. Iowa establishes nine rights for children. Its law prohibits the disclosure of the child's identity; lengthens the statute of limitations by one year for the prosecution of offenses against children; allows videotaping of pre-trial interviews and closed circuit testimony for children under fourteen years of age; requires speedy trials for offenses against children; prohibits a requirement of corroboration of a child's testimony; establishes that children are presumed to be competent witnesses; mandates that children under ten years of age cannot be forced to appear before a grand jury; grants child victims and witnesses the right to have a "guardian ad litem" to act as a representative throughout the criminal justice proceedings; and liberalizes the rules for children seeking victim compensation awards.

Many states enacted child-related legislation in 1984-85. At last count, twenty-four states have enacted laws that allow videotaped interrogatories and depositions or permit a child witness to give live testimony through closed-circuit television.

Other legislative developments to protect child witnesses include:

- amending child competency requirements (9 states);
- amending hearsay admissibility requirements (10 states);
- requiring counselors or "guardians ad litem" for children (10 states);
- extending the statute of limitations for child offenses (6 states);
- requiring speedy trials for offenses against children: (4 states);
- protecting children's privacy during prosecution (4 states).

In addition, legislation covering the reporting, collection of information, and investigation of cases involving missing children was enacted in twelve states in 1984-85. Many of these statutes established statewide clearinghouses for reporting, investigating, and coordinating statewide efforts to find missing and exploited children.

On the national level, the U.S. Department of Justice has provided a grant to the National Association of Attorneys General to draft a model statute to protect children and other sensitive victims, such as the elderly and the disabled. The model legislation attempts to make the system more responsive to the needs and special requirements of these victims, and in doing so, facilitate the truth-seeking process. The model provides guidelines to: (1) eliminate competency requirements for child

victims of sex offenses; (2) mandate expedited proceedings; (3) set up procedures for videotaping children's testimony and admitting their out-of-court statements; (4) extend the statute of limitations for sex crimes against young victims; and (5) ensure that a child will be able to have a supporting person at all stages of a criminal proceeding.

The U.S. Justice Department is also supporting the work of the National Center for Missing and Exploited Children, which in 1985 published "*Selected State Legislation: A Guide for Effective State Laws to Protect Children.*" Its thirteen chapters cover such topics as: missing children; sexual abuse; the child in the courtroom; and the guardian ad litem in criminal proceedings. For a copy, contact the Center at 1835 K Street, N.W., Washington, D.C. 20006—tel. (202) 634-9821.

In addition, the American Bar Association, under a grant from the U.S. Department of Justice, is drafting a model statute which will give employers in child-caring occupations access to records of arrest and conviction that are sex-offense related. The rationale behind developing such a statute is that child molesters often seek employment which will bring them into contact with children. In addition, statistics have shown that child molesters tend to repeat the crime, and in many cases have a history of arrests for molestation but few, if any, convictions. Among the reasons for this pattern is the fact that parents may fear the trauma of a prosecution may further injure the child; the child may be deemed a less-than-persuasive potential witness; or, lacking corroborative physical evidence, the child's testimony would be the entire basis of the prosecution's case.

The problem for employers in child-caring occupations is that their state privacy laws generally limit their access to an applicant's conviction record, not his or her arrest record. Indeed, in many states, even conviction records are withheld from employers on privacy grounds.

At least six states have adopted legislation to provide for background checks of employees working with children. Statutes which do allow access to criminal records are one of three general types: "open record" laws, laws allowing all or certain employers access to records, or laws addressed specifically to employers whose employees work with children.

## **OTHER SIGNIFICANT LEGISLATION**

The 1984 edition of this Directory described legislation on the issues of compensation for counseling, counselor confidentiality, rights for victims of drunk driving crashes, and the insanity defense. These issues continue to be high on the agenda of victim rights advocates, and additional legislation will be brought before a number of state legislative bodies during their 1986 session.

### **Compensation for Counseling**

Victims of traumatizing crimes are most often left in some degree of emotional distress. The long-term effects of this distress can be debilitating to both the victims and their families. To take one obvious example, the families of homicide victims continue to suffer from depression, grief, anger, and other forms of emotional pain long after the crime has been forgotten by the media and processed by the courts.

Victims and survivors are often in need of some form of counseling. The victim of rape, for example, may need the opportunity to talk with a counselor or therapist familiar with methods for prevention of some of the more devastating psychological effects of rape. The same is true of children who have been subjected to sexual abuse as well as their families. Other victims may require long-term therapy in order to ameliorate the symptoms of post-traumatic stress. The cost involved in getting these

services are typically well beyond the budgets of most victims. Without supplemental funds these services may be unavailable for many.

At present, about thirty states have some provision for "trauma counseling" included in their compensation statutes. But many of these are limited to short-term crisis counseling. These laws may need to be broadened so that victims who need help can receive financial assistance for longer-term psychological and family counseling services, thereby avoiding the personal and social cost of leaving their emotional wounds unattended. The Victims of Crime Act of 1984 will provide federal grants to only those compensation programs which compensate for mental health counseling. That may help to spur the needed reform.

### **Counselor Confidentiality**

Counseling is a significant aspect of comprehensive victim services. While some service programs refer victims to psychiatrists or psychologists, the majority of programs do in-house counseling with a corps of social workers, nurses, and "lay" staff and volunteers, many of whom have been victims themselves. Counseling typically involves helping victims speak about their fear, anger, guilt, and other feelings arising out of the crime and their involvement with the criminal justice system. Such personal feelings—in which self-blame is extremely common, even with victims who had taken every precaution to avoid victimization—may be difficult to elicit or discuss where confidentiality is not guaranteed. In some jurisdictions, such assurances of client confidentiality are essential, since Defense Attorneys routinely seek to obtain counselors' notes as a tool to discredit the victim.

The issue was dramatized in Rhode Island, where a rape crisis center burned its records on the courthouse steps to avoid having them opened to the defense, and the director of the center went to jail rather than disclose records. In Connecticut, on the other hand, a battered women's shelter won a protective order in which names and addresses were to be removed from the shelter's records and were to be sealed separately within the grand jury file. Other courts which have acknowledged a privilege have been a New Mexico court in an unreported opinion and the Pennsylvania Supreme Court in the *Matter of Pittsburgh Action Against Rape* (423 A.2d 126).

The National Organization for Victim Assistance has been on record since 1979 as supporting counseling confidentiality for victims of sexual assault. It participated in the Pennsylvania appeal cited above as an *amicus curiae*. But NOVA, like the appellants in Pennsylvania, has concluded that the issue should not ultimately be decided by appeals courts but by state legislatures. To that end, NOVA has provided testimony to a number of states contemplating legislation making client/counselor communications privileged.

The general reasoning behind legislative proposals on counselor confidentiality is as follows:

One major principle of criminal jurisprudence is that anyone who has knowledge of a crime may be compelled to provide that information during the truth-seeking process. However, society has recognized certain exceptions to that rule where a private relationship is deemed so important that a witness may keep his or her private thoughts to the other party confidential (e.g., priest/penitent, doctor/patient, attorney/client, and the spousal relationship).

The President's Task Force on Victims of Crime recommended that legislation should be enacted to ensure that victim counseling is legally privileged and not subject to defense discovery. This recommendation takes confidentiality a step farther than had been proposed in the past by including all counselors, not just those aiding victims of sexual assault or domestic violence. The American Bar Association, under a grant from the U.S. Department of Justice, is drafting a model statute to extend

the type of testimonial privilege which is applicable to these relationships to the relationship between crime victims and their counselors.

Only three states, Connecticut, New York, and Ohio, have enacted legislation establishing counselor confidentiality between all victim service counselors and victims. At least eighteen states have enacted statutes providing either absolute or partial protection of confidential communications between victims and sexual assault counselors. The state of Pennsylvania has one of the most comprehensive statutes for protecting sexual assault counselor and victim communication. A copy of this statute is provided in the Appendix. In addition, thirteen states have passed counselor confidentiality statutes for domestic violence counselors and victims.

Counselor confidentiality raises a number of issues. For example, do counselors who are employed by law enforcement agencies or prosecutors have the same duty as their host agencies to divulge exculpatory evidence they come across? Do counselors who claim the privilege need certification or special training to qualify them as "counselors?" These and other ramifications of the new privilege will no doubt be explored in the years to come.

### **Drunk Driving Laws**

More and more states are allowing victims of drunk driving crashes to qualify for victim compensation programs. By 1984, California, Colorado, Delaware, Illinois, Iowa, Kentucky, Missouri, New Mexico, Oregon, South Carolina, Texas, Utah, Washington, and West Virginia had either opened up their compensation programs to victims of drunk drivers or had chosen not to exempt them in the first place. In 1985, at least seven other programs stopped excluding such victims: Alaska, Florida, Louisiana, Minnesota, New York, Pennsylvania and Wisconsin.

Organizations such as Mothers Against Drunk Driving (MAADD), Remove Intoxicated Drivers (RID), and Students Against Drunk Driving (SADD) have contributed to the increasing awareness of the harm done by drunk driving. Within the last few years, 360 new laws have been enacted on the subject. In addition, the legal drinking age has been raised in Connecticut (twenty years of age), New York (nineteen years of age), New Jersey (twenty-one years of age), and Maryland (beer and wine, twenty-one years of age); and several other states are considering such changes, partly as a result of the of Federal inducement described below.

Current legislative goals include passing Bills of Rights for victims of drunk driving, inclusion of such victims in compensation programs, administrative revocation of drivers' licenses at the time of arrest, license plate confiscation, mandatory incarceration for repeat offenders, open container laws, color-coded embossed driver's licenses (unable to be duplicated or altered), and "dram shop" laws which impose strict liability on drinking establishments that serve alcohol to intoxicated drivers.

Other drunk driving legislation includes the following:

#### **Federal "21" Law**

This law penalizes states which do not have a minimum drinking age of twenty-one by withholding 5 percent of their Federal Highway Funds in 1987 and 10 percent of their Federal Highway Funds in 1988. At the time the law was passed, twenty-three of the fifty states had "21" as a minimum drinking age. Of the remaining twenty-seven, twenty-two states have introduced "21" legislation during the 1985 legislative year.

#### **Host Liability**

The New Jersey Supreme Court decided in *Kelly v. Guinnell et al.* (1984) that the host of a private party was liable for having served Don Guinnell thirteen drinks of scotch on the rocks, walking him to his car, and watching him drive off. The court

held that a host who serves liquor to an adult social guest, knowing that the guest is intoxicated and will thereafter be operating a motor vehicle, is liable for injuries inflicted on a third party as the result of the negligent operation of a motor vehicle by the guest, when such negligence is caused by the intoxication. The decision was the first in the country to extend such liability beyond licensed bar owners.

### Happy Hour Bans

The Ohio Liquor Control Commission outlawed bartenders from serving more than one drink at a time, and from offering reduced prices for alcoholic beverages within two hours of closing time. The Massachusetts Alcoholic Beverage Control Commission has provided the most comprehensive ban to date, which prohibits giving away free drinks or selling more than two drinks at one time, offering to sell drinks at a reduced price, selling unlimited numbers of drinks for a fixed price, selling drinks to individuals at prices less than those charged to the general public ("Ladies' Night" being the prime example), selling pitchers of beer to single individuals, increasing the volume of alcohol in drinks without increasing the price, and advertising any of the above prohibited practices.

The Texas Alcoholic Beverage Commission, taking a more conservative approach, banned two-for-ones but allowed other happy hour promotions to continue. In addition, New Jersey and Michigan prohibit two-for-ones and Oregon prohibits the advertising of happy hour promotions.

The chart that follows summarizes Drunk Driving Legislation in the United States (See next page.)

### Insanity Defense

NOVA adopted a policy in September 1982 that reflected a growing legislative trend to limit, revise or abolish the insanity defense. NOVA's policy supported the general idea of providing for "a guilty but mentally ill" verdict.

The American Psychiatric Association, The American Bar Association's House of Delegates, and the U.S. Justice Department have supported modifications which would redefine insanity so that the party seeking to assert the defense of insanity must show that he was incapable of understanding the nature of the act in which he was engaged. Currently, the rule in Federal courts and in most states allows acquittal of a defendant found "to lack substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law." The latter clause is the one now opposed in the new modifications.

Montana and Idaho have abolished the insanity defense. Idaho's abolition on July 1, 1982 made it the first state in over fifty years to take that approach. The Idaho statute requires the court to consider a number of factors when sentencing a defendant who has some degree of mental illness, including: (1) the extent of the defendant's condition; (2) the degree of mental illness and the level of impairment; (3) the possibility of rehabilitation; (4) the availability of treatment; (5) the danger posed by the defendant to society if released; and (6) the ability of the defendant to appreciate the wrongfulness of his or her conduct and conform it to law.

At least eight states have enacted legislation providing for guilty but mentally ill verdict alternatives. These statutes require that if a defendant is found guilty but mentally ill he should be provided with treatment in a mental institution, but that subsequent to the treatment, he must complete the remainder of his sentence in prison.

*Those eight states are:*

Alaska (1982)  
Delaware (1982)

## Drunk Driving Legislation\*

State	Legal Purchase/Sale Age for Alcoholic Beverages	Pre-Arrest Breath Test	Illegal Per Se and Level (%)	Presumptive and Level (%)	Dram Shop	Open Container
Alabama	19 P		0.10		Statute	
Alaska	21	X	0.10		Statute	
Arizona	21		0.10			X <sup>12</sup>
Arkansas	21		0.10			
California	21	X <sup>16</sup>	0.10			X
Colorado	18 <sup>1</sup> , 21 <sup>2</sup> P		0.15	>0.15. 0.10 <sup>11</sup>	Statute <sup>16</sup>	P
Connecticut	20 P		(0.07-0.10) <sup>8</sup>	(0.10) <sup>9</sup>	Statute	
Delaware	21	X	0.10		Case Law	
District of Columbia	18 <sup>1</sup> , 21 <sup>2</sup> P		0.10	(0.05) <sup>9</sup>	Case Law	
Florida	19	X	0.10		Case Law <sup>16</sup>	P
Georgia	19 P		0.12			
Hawaii	18		0.10		Case Law	X
Idaho	19		0.10	>0.08	Case Law	X L
Illinois	21		0.10		Statute	X
Indiana	21	X	0.10		Case Law	
Iowa	19 P	X <sup>6</sup>	0.13		Statute	X
Kansas	18 <sup>1</sup> , 21 <sup>2</sup> P		0.10			X
Kentucky	21	X		0.10	Case Law	
Louisiana	18		0.10			
Maine	20		0.10		Statute	
Maryland	21	X		(0.08, 0.13 <sup>11</sup> ) <sup>9</sup>		X L
Massachusetts	20 P		P	0.10	Case Law	X
Michigan	21	X	0.10	0.07, 0.10 <sup>11</sup>	Statute	X
Minnesota	19	X	0.10		Statute	X
Mississippi	18 <sup>1</sup> , 21 <sup>2</sup>	X	0.10		Case Law	
Missouri	21		0.10		Case Law	
Montana	19		0.10			X
Nebraska	21	X	0.10			
Nevada	21	X	0.10			L
New Hampshire	20	X	0.10			
New Jersey	21		0.10		Case Law	
New Mexico	21		0.10		Case Law <sup>13</sup>	
New York	19	x <sup>7</sup>	0.10	(0.08-0.10) <sup>9</sup>	Case Law	
North Carolina	19 <sup>1</sup> , 21 <sup>2</sup>	X	0.10		Statute <sup>14</sup>	X
North Dakota	21	X	0.10		Statute	X
Ohio	19 <sup>1</sup> , 21 <sup>2</sup>		0.10		Statute	
Oklahoma	21		0.10			X
Oregon	21		0.08		Statute	X
Pennsylvania	21	X	0.10		Statute	X
Puerto Rico	18	X		0.10		
Rhode Island	21	X	0.10		Statute <sup>16</sup>	
South Carolina	20, 21 <sup>3</sup>			0.10		X
South Dakota	19 <sup>4</sup> , 21	X	0.10		Case Law	X
Tennessee	21			0.10		
Texas	19 (20—Eff. 9/85)		0.10		Case Law	
Utah	21		0.08		Statute	X
Vermont	18	X	0.10		Statute	
Virginia	19, 21 <sup>4</sup>	X	0.15			
Washington	21		0.10		Case Law	X
West Virginia	19 & 21 <sup>5</sup> P	X		0.10 <sup>10</sup>		X
Wisconsin	19	X	0.10		Statute <sup>16</sup>	X
Wyoming	19			(0.10) <sup>9</sup>	Statute	
Total	21 = 23    20 = 4 19 = 11    18 = 4 (incl. P.R.) Combination = 10 (Includes D.C.)	25	0.08 = 2 0.10 = 37 0.12 = 1 0.13 = 1 0.15 = 2		Case Law— 1 Statute— 19	23

CHART A

**Footnotes:**

1. Beer (alcohol content limitations range from 3.2% to 4%)
2. Fortified wine and distilled spirits (by weight to 6% by volume) and unfortified wine
3. 18—beer & wine; 21—liquor
4. 19—beer; 21—wine & liquor
5. 19 for state residents; 21 for out of state residents
6. Applies only when there has been either an injury or death related accident
7. Limited to drivers involved in accidents
8. Infraction if BAC level is between these limits
9. BAC level or levels which indicated prima facie evidence

10. This state has both prima facie and presumptive evidence laws with BAC levels of 0.10
11. Lower of two numbers is driving while impaired (DWI); higher is driving while under the influence (DUI)
12. For Drivers only
13. With statutory limitations on liability
14. The statute applies specifically to actions of intoxicated minors, but the law does not foreclose developing case law as to other types of dram shop actions
15. Limited to intoxicated
16. Only if prior written notification not to serve individuals is given

X—yes    P—Pending    L—Limited

\*Prepared by Mothers Against Drunk Drivers (MADD): 1984-85

## Drunk Driving Legislation (Cont.)

State	Implied Consent (arrest requires) <sup>1</sup>	Administrative Per Se	Vehicle Impoundment	Community Services (1st & 2nd offenses)	Mandatory Jail— 1st Offense	Mandatory Jail—2nd or Other Offense
Alabama	Yes		X	X		X
Alaska	Yes	X				X
Arizona	Yes			X	X	
Arkansas	Yes		X	X		
California	Yes		X SP			X
Colorado	Yes	X		X		X
Connecticut	Yes					X
Delaware	No	X				X <sup>3</sup>
District of Columbia	Yes	X				
Florida	Yes			X		X
Georgia	Yes			X		X
Hawaii	Yes		P	X		
Idaho	Yes					X
Illinois	Yes			X		X
Indiana	Yes	X		X		X
Iowa	Yes	X				X
Kansas	Yes			X	X	
Kentucky	Yes	X				X
Louisiana	Yes	X		X	X	
Maine	No	X			X	
Maryland	Yes			X		X <sup>3</sup>
Massachusetts	Yes			X		X
Michigan	Yes			X		
Minnesota	No	X		X		X
Mississippi	No	X		X		
Missouri	Yes	X	P	X		X
Montana	Yes				X	
Nebraska	Yes					X
Nevada	Yes	X		X	X	
New Hampshire	Yes					X
New Jersey	Yes			X		
New Mexico	Yes	X				X
New York	Yes					
North Carolina	Yes	X			X <sup>2</sup>	
North Dakota	Yes	X		X		X
Ohio	Yes	X			X	
Oklahoma	Yes	X	P	X		
Oregon	Yes	X	X	X		
Pennsylvania	No			X		X
Puerto Rico	Yes					
Rhode Island	Yes			X		X
South Carolina	Yes		X	X	X	
South Dakota	Yes					
Tennessee	Yes		P	X	X	
Texas	Yes		X	X		X
Utah	Yes	X		X	X	
Vermont	No		P			
Virginia	Yes					X
Washington	Yes	X			X	
West Virginia	Yes	X	P	X	X	
Wisconsin	Yes					
Wyoming	Yes	X			X	
<b>TOTAL</b>	No—6 Yes—46	23	6	29	14	<sup>25</sup> (+ 14 1st off.)

**Footnotes:**

1. All states have implied consent laws. This column identifies whether arrest is required to invoke implied consent.
2. A mandatory imprisonment sanction is required for a first DWI conviction where there has been a DWI related injury/accident
3. The law appears to require a mandatory imprisonment sanction via indirect language

X—yes    S—Stricter Legislation    P—Pending

CHART B

## Drunk Driving Legislation (Cont.)

State	Sobriety Checkpoints	REDDI	2nd Degree Murder	Qualified for Federal 408 Highway Funds (Basic)	Happy Hours
Alabama		X	X	X	
Alaska		X	X	X*	
Arizona	X	X		X*	
Arkansas	X	X			
California		X	X		
Colorado	X	X			
Connecticut	X				
Delaware	X	X		X*	
District of Columbia	X	X			
Florida	X	X			
Georgia	X				
Hawaii	X				
Idaho	(X)	X		X	
Illinois	X	X			
Indiana	X	X		X*	
Iowa	X	X			
Kansas	X	X			
Kentucky	X	X	X		
Louisiana		X			
Maine	X			X*	
Maryland	X	X			
Massachusetts	X	X			X
Michigan		X			
Minnesota	X		X		
Mississippi	X			X*	
Missouri	X	X			
Montana	X	X		X*	
Nebraska	X	X			
Nevada	X	X		X*	
New Hampshire	X	X		X*	
New Jersey	X	X		X	X**
New Mexico	X			X*	
New York	X				
North Carolina	X	X			
North Dakota		X		X	
Ohio		X			X**
Oklahoma					
Oregon	X	X			
Pennsylvania	X	X			
Puerto Rico					
Rhode Island	X	X		X*	
South Carolina		X			
South Dakota	(X)				
Tennessee	X				
Texas	X				X**
Utah	X	X		X*	
Vermont	X				
Virginia	X	X	X		
Washington	(X)	X			
West Virginia			X		
Wisconsin		X			
Wyoming		X			
<b>Total</b>	<b>36/(3)</b>	<b>37</b>	<b>7</b>	<b>16</b>	

\*Supplemental & Basic both  
 \*\*Two for One only

CHART C

Georgia (1982)  
Illinois (1981)  
Indiana (1980)  
Kentucky (1982)  
Michigan (1975)  
New Mexico (1982)

California's Constitutional Amendment, passed by voter initiative in 1982, voids judicial decisions granting acquittal to defendants for "diminished capacity" and eliminates the defense. It also established stricter procedures for the use of the insanity plea. Hawaii also has established stricter procedures for the use of the plea. Connecticut has enacted a law which would preclude the use of the insanity plea if the defendant has voluntarily consumed alcohol or drugs. In addition, Illinois currently has legislation pending which would amend the Notoriety-for-Profit victim escrow account to include persons who have been found not guilty by reasons of insanity or guilty but mentally ill. Currently, those offenders have not fallen under the jurisdiction of the Notoriety-for-Profit statute.

## OTHER MODEL LEGISLATION

In addition to the model statutes drafted by the National Association of Attorneys General (NAAG), the American Bar Association (ABA), and the Center for Women Policy Studies (CWPS) that have been cited throughout this text, four other model statutes are being developed. They are the following:

- **Bail reform (NAAG)**

The model statute allows courts to deny bail to persons found by clear and convincing evidence to present a danger to the community, and gives the state the right to an expedited appeal of adverse bail determinations. It also requires defendants to refrain from criminal activity as a mandatory condition of release, and reverses, in the case of serious crimes, any standard that presumptively favors release of convicted persons awaiting sentence or appealing their convictions.

The state of Texas addressed this issue in its new Bill of Rights for Victims of Crime in 1985. Under the statute, the court must take into consideration the safety of the victim or the victim's family in setting the amount of bail.

- **Sentencing reform (NAAG)**

The model statute restricts parole and mandates guidelines to limit judicial discretion in sentencing. The result will be less disparity in sentencing similar offenders for similar offenses, and greater certainty in the actual amount of time a criminal serves, commonly known as "truth-in-sentencing."

- **Hearsay (NAAG)**

Victims frequently are required to return to court again and again to testify at pretrial proceedings as well as at trial. The model statute allows a victim's testimony to be presented by affidavit or through an appropriate law enforcement officer at certain preliminary hearings.

- **Payment for Rape Exam (CWPS)**

The model statute gives a guideline for states to enact legislation providing that victims of sexual assault will not be required to assume the cost of physical examinations or materials used to obtain evidence. In addition, the Center is developing a model sexual-assault evidence collection kit to help provide uniformity in evidence collection across the states.

**PART TWO:  
LEGISLATIVE SUMMARIES BY STATE**

## Summary of State Crime Victims Legislation—July 1985

### Alabama - Minnesota

KEY  
 I—Introduced Bills      X—Enacted Legislation  
 B—Bill of Rights      B/X—Bill of Rights/Individual Statute

LEGISLATION	TOTAL (50 States)	AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	
1. Funding for Services	28 <sup>1</sup>	X	X	X	X	X	B/X	X	X	-	X	-	-	-	X	X	-	-	X	-	I	-	B	-	X	
2. Funding/Domestic Violence	49	X	X	X	X	X	X	X	X	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
3. Funding/Sexual Assault	19 <sup>2</sup>	X	X	-	-	X	X	-	X	-	-	X	-	-	X	-	X	-	-	-	X	X	-	I	X	
4. Compensation	44 <sup>3</sup>	X	X	X	X	X	X	X	X	X	-	X	-	X	X	X	X	X	X	X	-	X	X	X	X	
5. Bill of Rights	31 <sup>4</sup>	-	X	-	X	X	X	-	X	-	X	-	-	X	X	X	-	-	-	X	X	-	X	X	X	
6. Victim/Witness Information	29	-	B	-	B	B	B	X	B	-	B	-	-	B	-	-	-	-	-	-	-	B	X	B	B	
7. Protection from Intimidation	27	X	B	-	B/X	X	B/X	-	B/X	-	B	-	-	X	-	-	-	X	-	-	B	-	B	-	B	
8. Property Return	25	-	-	-	B/X	X	B/X	-	B	-	B	-	-	B	B	-	X	X	-	-	B	-	B	-	-	
9. Secure Waiting Areas	18	-	-	-	B	X	B	-	B	-	-	-	-	B	-	-	-	-	-	-	-	-	B	-	-	
10. Employer Intercession	22	-	B	-	B	X	B	-	B	-	B	-	-	-	X	X	-	-	-	-	-	-	B	B	-	
11. Creditor Intercession	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	B	-	-	
12. Speedy Disposition/Trial	10 <sup>5</sup>	-	-	-	-	X	B	-	B	-	-	-	-	-	-	-	-	-	-	-	-	-	B	-	-	
13. Victim Impact Statement	39	-	B	X	X	B	B	X	X	-	B/X	X	-	B	X	X	X	X	X	-	B	B	X	B	B	B
14. Victim Statement of Opinion	6	-	-	-	-	B	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	B	-	B	
15. Allocution/ Oral Statement Sentencing	19	-	-	-	-	B	B/X	X	-	-	B	X	-	B	X	X	-	-	-	-	B	-	B	B	B	
16. Plea Bargain Participation/ Consultation	11	-	-	X	-	-	-	-	-	-	B	-	-	-	-	X	-	-	-	-	-	-	-	B	-	
17. Court Attendance	9 <sup>6</sup>	X	-	-	X	-	-	-	-	-	B	X	-	-	-	X	-	-	-	-	-	X	-	B	-	
18. Parole Hearing/VIS	21	X	B	X	X	X	X	-	-	-	-	X	-	B	B	-	-	-	I	-	-	X	X	B	-	
19. Parole Allocution	15	-	-	X	X	X	X	-	X	-	-	-	-	B	B	-	-	-	I	-	-	-	X	B	-	
20. Restitution/* General	50	X	X	X	X	X	B/X	X	X	-	B	X	X	B/X	X	X	X	X	X	X	X	B/X	X	B	B	B
21. Restitution a Condition of Probation/ Parole/ Work Release	31	X	X	X	X	X	X	X	-	-	B/X	X	-	-	-	-	X	X	-	X	B	X	-	I	B	
22. Mandatory Restitution	30	X	-	X	X	B/X	X	-	X	-	B	-	-	B	-	X	X	X	X	-	B	-	-	-	-	
23. Notification/ Court Proceedings/Schedule Changes	24	-	B	X	B	-	B	X	B	-	B	-	-	-	-	-	-	-	-	-	X	-	-	B	B	
24. Notification/ Pre-Trial Release	9	-	-	-	-	-	B	-	-	-	B	-	-	-	B	-	-	-	-	-	-	-	-	-	-	
25. Notification/ Bail	4	-	-	-	-	-	-	-	-	-	-	-	-	-	B	-	-	-	-	-	-	-	-	-	-	

**FOOTNOTES:**

<sup>1</sup> Funding includes general appropriations, fines, penalty assessments and executive department appropriations.

<sup>2</sup> The National Coalition Against Sexual Assault (NCASA) estimates that 34 states have sexual assault funding.

<sup>3</sup> Arkansas law permits compensation on a county basis; Utah's compensation program only covers drunk driving victims; Nebraska's program did not receive funding for FY 85-86 due to state budgetary problems.

<sup>4</sup> Indiana and Oklahoma have passed a package of legislation considered an omnibus Victim Rights statute; Oregon's Victim Rights are outlined in the victim services funding statute.

## Summary of State Crime Victims Legislation—July 1985

### Mississippi - Wyoming

KEY  
 I—Introduced Bills      X—Enacted Legislation  
 B—Bill of Rights      B/X—Bill of Rights/Individual Statute

LEGISLATION	MS	MO	MT	NE	NV	NH	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY	
1. Funding for Services	-	X	-	-	-	-	X	-	X	X	-	X	X	X	X	X	X	-	-	X	-	-	X	X	-	X	-	
2. Funding/ Domestic Violence	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	-	X	X	X	X	X	X	X	X
3. Funding/Sexual Assault	-	-	-	-	X	-	-	X	-	X	-	X	-	-	X	-	X	-	-	X	-	I	X	-	-	-	-	
4. Compensation	-	X	X	X	X	I	X	X	X	X	X	X	X	X	X	X	X	X	-	X	X	X	I	X	X	X	X	
5. Bill of Rights	-	-	X	X	X	-	I	-	X	I	-	X	X	X	X	X	X	-	-	X	X	X	X	X	X	X	-	
6. Victim/Witness Information	-	-	-	B	B	-	-	-	B	-	-	B	X	X	B/X	B	B	-	-	B	B	B	B	B	B	B	-	
7. Protection from Intimidation	-	-	-	B	B/X	-	X	-	B/X	-	-	B	X	-	B	B	B	-	-	B	B	-	B	B	B	B/X	-	
8. Property Return	-	-	-	B	B	-	-	-	B/X	-	-	B	X	X	B	B	B	X	-	-	-	-	-	B	B	B	-	
9. Secure Waiting Areas	-	-	-	B	B	-	-	-	B	-	-	B	X	-	B	B	B	-	-	-	-	-	-	B	B	B	-	
10. Employer Intercession	-	-	-	B	-	-	-	-	B/X	-	-	B	X	X	-	B	B	-	-	-	B	-	B	B	B	B/X	-	
11. Creditor Intercession	-	-	-	-	-	-	-	-	B	-	-	-	-	-	-	-	-	B	-	-	-	-	-	-	-	-	-	
12. Speedy Disposition/Trial	-	-	-	B	X	-	-	-	-	-	-	-	-	X	-	-	B	-	-	X	-	-	-	-	-	B	-	
13. Victim Impact Statement	-	-	X	X	X	X	X	X	X	-	-	B/X	X	X	B	B	B	-	-	B	-	B	X	B	B	X	-	
14. Victim Statement of Opinion	-	-	-	-	-	-	-	-	X	-	-	B	-	-	B	-	-	-	-	-	-	-	-	-	-	-	-	
15. Allocation/ Oral Statement Sentencing	-	-	-	-	-	X	I	-	-	-	-	B	-	-	B	-	-	-	B	-	B	-	B	B	-	-		
16. Plea Bargain Participation/ Consultation	-	-	-	X	-	-	-	-	B	-	-	-	-	X	-	I	B	X	-	-	B	-	-	-	B	-	-	
17. Court Attendance	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	B	-	-	-	B	-	-	-	
18. Parole Hearing/VIS	-	-	-	X	X	X	X	-	X	-	-	B	-	-	I	X	B	-	-	B	-	-	-	-	-	-	-	
19. Parole Allocation	-	-	X	X	X	X	X	-	-	-	-	B	-	-	I	I	-	-	-	-	-	-	-	-	-	-	-	
20. Restitution/* General	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	-	B	X	X	X	B/X	B	B	B	X	X
21. Restitution a Condition of Probation/ Parole/ Work Release	X	-	X	X	X	-	-	X	X	X	-	-	-	-	B/I	X	-	X	-	X	X	B	-	-	B	X	X	
22. Mandatory Restitution	-	X	X	-	X	-	I	X	-	X	-	-	X	-	B	-	B	X	X	X	X	X	B	B	B	B	-	X
23. Notification/ Court Proceedings/Schedule Changes	-	-	-	B	B	-	-	-	B	-	-	B/X	X	-	B	B	B	-	-	B	B	-	B	B	B	B	-	
24. Notification/ Pre-Trial Release	-	-	-	-	B	-	-	-	B	-	-	-	-	-	-	B	B	-	-	-	-	-	-	-	B	B	-	
25. Notification/Bail	-	-	-	-	-	-	-	-	B	-	-	-	-	-	-	B	-	-	-	B	-	-	-	-	-	-	-	

**FOOTNOTES:**

<sup>5</sup> State Judicial policy in Oregon states that no civil case is allowed to go forth if a criminal trial is pending.

<sup>6</sup> Florida currently has a citizens' initiative pending to make court attendance a constitutional change.

\* Courts in all 50 states plus the District of Columbia have the authority to order restitution to the victim at least in certain cases. Applicable statutes are cited, otherwise it falls within the inherent authority of the court.

# Summary of State Crime Victims Legislation—July 1985

Alabama - Minnesota (continued)

KEY

I—Introduced Bills      X—Enacted Legislation  
B—Bill of Rights      B/X—Bill of Rights/Individual Statute

LEGISLATION	TOTAL (50 States)	AL AK AZ AR CA CO CT DE DC FL GA HI ID IL IN IA KS KY LA ME MD MA MI MN																								
		AL	AK	AZ	AR	CA	CO	CT	DE	DC	FL	GA	HI	ID	IL	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	
26. Notification/ Plea Agreements	11		B								B				X										B	
27. Notification/ Sentencing	15			X		B		X			B			B					X	B			B	B		
28. Notification/ Final Disposition	13										B												B			
29. Notification/ Parole/ Hearings	28	X	B	X	X	B	X	X			B	X	X	B/X	B/X	X						X	X	B	B	
30. Notification/ Pardon	10		B											B											B	
31. Notification/ Work Release	9		B					X				X		B												
32. Notification/ General Release/Felony	17						B	X				X	B	B	X								B	B	B	
33. Notification/ Escape	10				X	X							B	B									B	B		
34. Counselor Confidentiality/ General	3							X																		
35. Counselor Confidentiality/ Domestic Violence	13					I		X									X					X		X		
36. Counselor Confidentiality/ Sexual Assault	18					X		X			X			X		X				X		X	X	X	X	
37. Victim Privacy/ Address Protection	4					X							B									X		B		
38. Notoriety-for- Profit	32	X	X	X		X	B	X	B/X		X	X		X	X	X	X		X	X			X		X	
39. Children's Bill of Rights	3 <sup>7</sup>										I						X									
40. Child Videotaped/ Closed Circuit Testimony & Depositions	24	X			X	X		X	X			X	X			X	X	X	X	X	X		X	I	I	
41. Children/Fund- ing Services	7		X		X									X			X		X							
42. Child Competency	9	X				X								X			X								X	
43. Missing Children's Act	12	X			X			X	X		X			X					X			X	I			
44. Child/Statute Limitations	6 <sup>8</sup>		X			X								X	I		X								X	
45. Child/Back- ground Check	6	X	X			X													X						X	
46. Child/Hearsay Admissibility	10		X	X	X	X	X						X						I						X	
47. Child Speedy Trial	4				X														X						B	
48. Child Privacy Protection	4	X																	X							
49. Child Coun- selor/Court Proceedings	10				X		B				B/X		X	X			X	X								
50. Domestic Violence/ Protection Orders	17	X	X	X		X					X	X					X		X	I					X	

**FOOTNOTES:**

<sup>7</sup> Iowa enacted a package of Children's Rights in 1985 considered an omnibus Children's Bill of Rights.

<sup>8</sup> California law provides that the statute of limitations for all felonies is to be based on the severity of the crime. 1984 amendments eliminated the statute of limitations for crimes where the punishment is life imprisonment.

# Summary of State Crime Victims Legislation—July 1985

## Mississippi - Wyoming (continued)

### KEY

I—Introduced Bills  
B—Bill of Rights

X—Enacted Legislation  
B/X—Bill of Rights/Individual Statute

LEGISLATION	MS	MO	MT	NE	NV	NH	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY		
26. Notification/ Plea Agreements	-	-	B	X	-	-	-	-	B	-	-	-	-	-	-	-	B	-	-	B	-	B	-	-	B	-	-		
27. Notification/ Sentencing	-	-	B	-	-	-	-	-	B	-	-	-	-	-	-	-	B	-	-	-	-	B	-	B	B	-	-		
28. Notification/ Final Disposition	-	-	B	B	B	-	-	-	B	-	-	B	-	-	B	B	B	-	-	-	-	-	-	-	B	B	B	-	
29. Notification/ Parole/ Hearings	X	-	-	-	-	-	-	X	X	-	-	B	X	-	B	B/X	B	-	-	B	X	-	-	B	-	-	-		
30. Notification/ Pardon	-	-	-	-	X	-	-	-	X	-	-	-	X	-	B	-	B	-	-	-	-	-	-	-	B	-	B	-	
31. Notification/ Work Release	-	-	-	-	-	-	-	-	X	-	-	-	-	-	B	B	B	-	-	-	-	-	-	-	B	-	-	-	
32. Notification/ General Release/Felony	-	-	-	B	B/X	-	-	X	X	-	-	-	-	-	B	B	B	-	-	-	-	-	-	-	B	-	-	-	
33. Notification/ Escape	-	-	-	-	X	-	-	X	I	-	-	-	-	-	-	-	-	B	-	-	-	-	-	-	B	-	-	-	
34. Counselor Confidentiality/ General	-	-	-	-	-	-	-	-	X	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
35. Counselor Confidentiality/ Domestic Violence	-	X	-	X	-	X	-	-	X	-	X	X	-	-	-	-	-	-	-	-	-	X	-	-	-	X	-	X	
36. Counselor Confidentiality/ Sexual Assault	-	-	-	-	-	X	X	-	X	-	-	X	-	-	X	-	-	-	-	X	X	-	-	X	-	-	X	-	
37. Victim Privacy/ Address Protection	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	I	-	
38. Notoriety-for- Profit	-	-	X	X	-	-	X	X	X	-	-	B/X	X	-	B/X	X	X	-	X	X	X	-	-	X	-	X	-	X	-
39. Children's Bill of Rights	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	I	-	-	-	-	-	-	-	-	X	-	X	-	
40. Child Videotaped/ Closed Circuit Testimony & Depositions	-	X	-	-	X	X	-	X	X	-	-	I	X	-	I	-	B	-	X	X	X	-	-	-	-	-	X	-	
41. Children/Fund- ing Services	-	-	-	-	X	-	-	-	-	-	X	-	-	-	I	-	-	-	-	-	-	-	-	-	-	-	-	-	
42. Child Competency	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	X	-	-	X	-	-	-	-	-	X	-	
43. Missing Children's Act	-	X	-	-	-	-	-	-	I	-	-	-	-	-	I	-	X	-	-	X	-	-	X	-	-	-	-	-	
44. Child/Statute Limitations	-	-	-	-	-	-	-	-	-	-	-	-	-	-	I	-	-	-	-	-	-	X	-	-	-	-	-	-	
45. Child/Back- ground Check	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	-	
46. Child/Hearsay Admissibility	-	-	-	-	-	-	-	-	-	-	-	-	X	-	I	-	-	-	-	X	X	-	-	-	-	-	-	-	
47. Child Speedy Trial	-	-	-	-	-	-	-	-	-	-	-	-	-	-	I	-	-	-	-	-	-	-	-	-	-	-	X	-	
48. Child Privacy Protection	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	-	
49. Child Coun- selor/Court Proceedings	-	-	-	-	X	-	-	-	X	-	-	-	-	-	I	-	-	-	-	-	-	-	-	-	-	-	X	-	
50. Domestic Violence/ Protection Orders	-	-	-	-	-	-	X	-	X	-	X	-	X	-	X	-	X	-	X	-	X	-	-	X	-	-	-	-	

## LEGISLATIVE SUMMARIES BY STATE

### ALABAMA

#### Enacted:

**Compensation/Victim Service Funding**      **Code of AL, Sec.15-23-1, Act 84-658**      **1984**

Creates compensation program for victims of crime. Max. Award: \$10,000. Includes a broad range of covered losses, such as, medical and rehabilitative expenses, work loss and replacement services, loss of dependents and other economic losses. Establishes a board that includes a victim. Provides reciprocity for non-residents and for certain Alabama residents temporarily in another state. Other notable innovations include grants and loans to certain public and non-profit groups for specific activities (e.g., collection of outstanding restitution). Allows funding of local programs.

**Compensation**      **Code of AL, Sec. 36-30-2, Act 84-659**      **1984**

Provides compensation for dependants of Firemen and Peace Officers killed in performance of their duties.

**Victim Service Funding/Domestic Violence**      **Code of AL, Sec. 30-6-1 to 30-6-13, Chpt. 6**      **1981**

Establishes dom. viol. facilities (e.g., funding for shelters and services). Provides for confidentiality of records, establishes eligibility requirements and sets forth administrative responsibilities.

**Court Attendance**      **Code of AL, Sec. 15-14-50, Act 83-622**      **1983**

Grants victim the right to attend trials and hearings, and to sit at counsel table with prosecutor, during entire proceedings. Excludes victim from rules requiring separation of witnesses.

**Restitution**      **Code of AL, Art. 4A, Secs. 15-18-65 to 15-18-77**      **1981**

Establishes mandatory restitution hearing, award and payment procedures. Mandates that sentencing court shall order that restitution be paid by convicted offenders. Provides for monitoring and enforcement of court ordered restitution, establishes restitution centers. Victim has right to be present and to be heard during any restitution hearing.

**Restitution**      **Code of AL, Sec. 15-18-75, Act 83-508**      **1983**

Makes restitution a civil judgment. Allows victims to seek remedies for non-payment of restitution orders.

**Restitution**      **Code of AL, 1975, Sec. 41-9-80, (1983 supp.)**      **1983**

Requires offenders to disclose assets and income where there is an outstanding restitution order.

**Restitution**      **Act of AL, #84-370 (HB 362)**      **1984**

Provides for court orders such that employers may withhold employee income for restitution award payments. Allows attachment of other income and assets of convicts on work release, parole or probation and others with outstanding restitution payments.

**Notification/Parole Hearings**      **Code of AL, Sec. 15-22-37, Act #83-750**      **1983**

Requires parole board to provide advance notice of hearings and right to comment for victims. The legislation also requires the notification of victims of violent crimes (or their families) before paroling a criminal.

**Protection from Intimidation**      **Code of AL, Sec. 13A-10-123 to 13A-10-124**      **1977**

Prohibits intimidation of, and tampering with, a witness. Provides definitions and sanctions.

**Domestic Violence Protection Act**      **Code of AL, Sec. 30-5-1-11, Act #81-476**      **1981**

Protection from family/household member abuse. Provides for protection orders, emergency relief, hearings, injunctive relief, custody determinations and other rights and services.

**Missing Persons Center**      **Act of AL, #85-538**      **1985**

Creates a statewide information center to receive reports and enter information on the National Crime Information Center computer.

**Child Videotaped Testimony/Competency**      **Act of AL, #85-743**      **1985**

Allows videotaped deposition (with defense and prosecution present) of children under sixteen years of age to be admitted as evidence or testimony. Also establishes that, notwithstanding any rule, a child sexual assault victim is considered competent to testify.

**Child Privacy Protection**      **Act of AL, #85-742**      **1985**

States that the court records of a victim of child abuse under the age of eighteen years shall not be open to the public.

**Child Protection/Background Check**      **Act of AL, #85-537**      **1985**

Requires a background check for felonies on adoptive parents through the National Crime Information Center computer.

**Child Protection/  
Background Check**      **Act of AL,  
#85-681**      **1985**

Requires employers who have supervisory responsibility over children to check with the Department of Public Safety for history of sex crimes of prospective employees. Mandates that no one may be hired by a licensed child-care facility if they have been convicted of murder, rape, assault or child abuse.

**Child Protection**      **Act of AL,  
#85-699**      **1985**

Requires law enforcement and social services to share information to prevent and discover child abuse and neglect.

**Child Services**      **Act of AL,  
#85-862**      **1985**

Establishes multi-disciplinary child protection teams composed of medical, state agencies, prosecutors and law enforcement personnel.

**Notoriety-for-Profit**      **Code of AL,  
Sec. 41-9-84**      **1983**

Prohibits offenders from benefiting from profits gained from notoriety due to crime. Profits may be seized by Governor and held in trust for use and benefit of indigent crime victims for five years.

## ALASKA

### Enacted:

**Compensation/  
Notoriety-for-Profit**      **AK Stats.,  
Secs. 18.67.010  
-18.67.180**      **1971  
Amended  
1974 & 1979**

Max. Award: \$25,000 (\$40,000 for death claim); Emerg. Award: \$1,500; Source: gen. revs., restitution and supp. approps. Includes: Notoriety-for-Profit provision. Profits must be held in escrow for victims of convicted offenders who obtain a civil judgment within five years.

**Compensation**      **AK Stats.,  
Secs. 18.67.101 & 130**      **1984**

Amends compensation law to specify that applicants for awards must cooperate with law enforcement and prosecutorial agents to further the prosecution and to avoid further injury or harm. Extends compensation coverage to include victims of vehicular crimes, including drivers of cars, boats, and planes; extends benefits to family members.

**Victim Bill of Rights**      **AK Stats., Chpt. 154,  
Amend. Rule  
32(d)(2), AK Rules of  
Criminal Procedures**      **1984**

Establishes the following rights and services for crime victims: (1) VIS in PSI; (2) Information on court schedules; (3) Notification of trial and sentencing; (4) Notification of continuations of subpoenaed proceedings; (5) Protection from intimidation; (6) Information about compensation procedures; (7) Employer intercession; (8) Immediate medical assistance; (9) Notification and written comment (upon request) on parole decisions, work furloughs, and other post conviction discretionary release decisions; and (10) Notoriety-for-Profit law substantially strengthened to absolutely preclude offender's profiting.

**Victim Service  
Funding/Domestic  
Violence**      **AK Stats.,  
Secs. 18.66.010  
-18.66.900**      **1981  
Amended  
1985**

Funds basic shelter and other dom. viol. services with \$4.2 million state approp. Also exempts shelter from multiple dwelling licenses. Creates Domestic Violence Council. Amended in 1985 to extend program authorization until 1989.

**Service Funding/  
Domestic Violence/  
Sexual Assault/Children**      **Sess. Laws of 1985  
(SB 447)**      **1985**

Makes a \$238,000 approp. to the Department of Public Safety, Council on Domestic Violence and Sexual Assault, for a training center for the prevention of sexual abuse of minors.

**Restitution**      **AK Stats.,  
Sec. 12.55.045**      **1980**

Permits courts to make restitution order part of sentencing.

**Restitution**      **Sess. Laws of 1985  
(SB 169)**      **1985**

Allows for attachment of "permanent fund dividends" on defendant for purposes of restitution.

**Domestic Violence**      Sess. Laws of 1984      1984  
(HB 477)

Expands definition of domestic abuser to blood-related parents and grandparents, as well as adoptive relationships. Redefines victim for purposes of issuing restraining orders.

**Domestic Violence/  
Marital Rape**      Sess. Laws of 1985      1985  
(SB 29)

Provides that a spousal relationship is not a defense against a charge of sexual assault. Expands circumstances under which police can make unwarranted arrests.

**Child Protection/  
Records Check**      AK Stats.,      1983  
Secs. 12.62.030(a),  
12.62.035 et seq.

Provides for criminal record checks for persons who would be employed in supervisory or disciplinary positions over minors.

**Child Sexual Abuse**      Sess. Laws of 1984      1984  
(HB 117)

Revision of prior statute: extends time limitations for prosecution of sexual abuse, alters language to reduce definitional ambiguity (e.g., avoids masculine or feminine pronouns), and expands definitions of sexual offenses.

**Child Protection**      AK Stats.,      1985  
Chpt. 39, Sec. 1

Omnibus legislation for the protection of children and dependant adults. Extends statute of limitations for prosecution of child victim cases to five years after commission of crime; restricts introduction of evidence of prior sexual conduct for minors; expands list of persons who must report suspected child abuse to medical, educational and state agency child care workers; and allows state to order injunctions against allowing previous sexual offenders to be employed in professions where contact with children may occur.

**Child Protection/  
Hearsay Admissibility**      AK Stats.,      1985  
Chpt. 41, Sec. 1

Allows admission of hearsay evidence in cases involving children under ten years of age in certain instances.

**Notoriety-for-Profit**      AK Stats.,      1980  
Sec. 18.67.165

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

**Drunk Driving Fines**      AK Stats.,      1983  
Chpt. 77  
(HB 6)

Increases penalties and fines for driving while intoxicated and for refusal to submit to chemical breath tests. Provides that refusal to take breath test is grounds for suspension or revocation of driver's license.

## ARIZONA

### Enacted:

**Compensation/  
Service Funding**      Laws of 1985      1985  
SB 1239

Enabling legislation for victim compensation and victim services. Establishes a \$100 pen. assmt. on individual felonies and a \$500 pen. assmt. on corporate felonies to fund compensation program. Establishes a \$30 per month fee on all probation and parole participants to support victim service programs. Specifics on program to be determined by the Arizona Criminal Justice Commission.

**Service Funding/  
Domestic Violence**      ARS,      1982  
Secs. 36-3001 to 36-3007

Funds basic shelter and other services through \$10.00 marriage and \$6.00 divorce surcharges. \$240,000 expected in FY 83-84.

**Service Funding/  
Domestic Violence**      ARS, Titles 12, 25 &      1984  
36; Chpt. 12, Laws of  
1984 (HB 2438)

Shelters that existed prior to 4-15-82 no longer receive first priority to receive money raised by marriage and divorce surcharges for child abuse and dom. viol. services.

**Victim Participation/  
Notification**      ARS,      1982  
Sec. 12-253

Requires VIS at PSI for felony victims and provides for notification of sentencing proceedings.

**Victim Participation**      ARS,      1983  
Sec. 13-702

Provides that a victim of any felony or the immediate family of a deceased victim may submit a VIS or appear personally at any aggravation or mitigation proceeding to present evidence.

**Victim Notification/  
Participation**      ARS,      1982  
Sec. 31-411

Requires notification of parole hearing and provides for right of victim to appear personally or submit written report of opinion on release of prisoner.

**Restitution/  
Probation**      ARS,      N/A  
Sec. 13-901

Establishes mandatory restitution as a condition of probation.

**Restitution**      ARS,      N/A  
Sec. 13-603

Establishes that the court may require restitution for victims of crime.

**Restitution/  
Parole**      ARS,      N/A  
Sec. 31-412

Establishes mandatory restitution as a condition of parole.

**Restitution**      ARS,      N/A  
Sec. 13-803

Establishes that court may order a fine to be allocated as restitution for offenses causing death or physical injury.

<b>Restitution</b>	<b>ARS, Sec. 13-3941</b>	<b>N/A</b>
States that embezzled or stolen property shall be returned to the owner.		
<b>Restitution</b>	<b>ARS, Sec. 31-3-34</b>	<b>N/A</b>
Court may require that work furlough earnings can be used to pay court ordered restitution.		
<b>Restitution</b>	<b>ARS, Title 13, Chpt. 124, Laws of 1984</b>	<b>1984</b>
Provides that court ordered restitution payments are to be supervised by the clerk of the court who shall collect these payments for disbursement to the victim.		
<b>Domestic Violence/ Protection Orders</b>	<b>ARS, Title 13, Chpt. 307, Laws of 1984</b>	<b>1984</b>
Prescribes conditions under which a peace officer is mandated to make an arrest in a domestic viol. case.		
<b>Child Protection/ Hearsay Admissibility</b>	<b>ARS, Title 13, Chpt. 227, Laws of 1984</b>	<b>1984</b>
Provides that otherwise inadmissible statements by a minor younger than ten years of age would be admitted as evidence in a sexual crime case if: (1) the judge decided in a closed hearing that the statements are reliable, and (2) if the minor testified in person or (3) if there was corroborative evidence.		
<b>Child Abuse Reporting</b>	<b>ARS, Title 36, Chpt. 114, Laws of 1984</b>	<b>1984</b>
Requires that doctors, social workers and other professionals who have contact with children report cases of child abuse that become apparent in examinations or that are otherwise disclosed.		
<b>Notoriety-for-Profit</b>	<b>ARS, Secs. 13-4202</b>	<b>1978</b>
Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.		
<b>Drunk Driving Records</b>	<b>ARS, Title 13, Chpt. 142, Laws of 1984</b>	<b>1984</b>
Provides that at the time of sentencing for a felony, or for drunk or drugged driving, the person's fingerprints, name and circumstances of the sentence shall be put on the sentencing document as part of the permanent public record.		
<b>Drunk Driving Sentences</b>	<b>ARS, Chpt. 2, Sec. 28-692.01, Laws of 1984</b>	<b>1984</b>
Provides sentences for persons convicted of driving while intoxicated.		

**ARKANSAS**

**Enacted:**

<b>Compensation</b>	<b>ASA, Sec. 43-2356 (1983 Supp.)</b>	<b>1983</b>
Permits Circuit Court Judges to collect a pen. assmt. for victim compensation fund. However, no distribution guidelines were provided.		
<b>Victim Bill of Rights/ Service Funding</b>	<b>Act 526 of 1983, ASA, Secs. 24-141 &amp; 24-142</b>	<b>1983</b>
Establishes the following rights and services: (1) Notification of subpoenaed schedule changes; (2) Protection from intimidation; (3) Victim assistance in applying for financial aid, witness fees, and other social services; (4) Secure waiting areas; (5) Property return; (6) Employer intercession; and (7) Establishes funding mechanism for victim services whereby Quorum Courts can levy up to a \$5.00 court cost/fine to pay for a crime victim case coordinator. Grants prosecutors authority to establish victim/witness programs.		
<b>County Surcharges and Victim Services</b>	<b>Pulaski County, Arkansas Ordinance, No. 83-OR-17</b>	<b>1983</b>
Provides that an additional cost not to exceed \$5.00 may be levied by county courts to fund victim/witness service programs. Pursuant to Act 526 of 1983, Arkansas' Bill of Rights, Pulaski County added a \$1.00 cost to all cases filed in their county courts for such purposes.		
<b>Victim Services/ Clearinghouse</b>	<b>Act 408 of 1985</b>	<b>1985</b>
Establishes a state clearinghouse, within the Prosecutor Coordinators Office, to operate as an independent agency to provide direct victim services for prosecutors offices without victim/witness programs and to coordinate and encourage the development of victim services on a statewide basis.		
<b>Sexual Assault/ Examination Funds</b>	<b>ASA, Secs. 41-1820 &amp; 1825 (1983 Supp.)</b>	<b>1979</b>
Medical facilities may be reimbursed for sexual assault victim examinations. Sets forth definitions and required services regarding emergency medical assistance to crime victims.		
<b>Victim Involvement/ Sentencing</b>	<b>ASA, Sec. 75-2502(c) (1983 Supp.)</b>	<b>1983</b>
VIS mandated in DWI cases.		
<b>Court Attendance</b>	<b>Act 462 of 1985</b>	<b>1985</b>
Grants victim the right to be present at the hearing, disposition, and trial.		
<b>Restitution</b>	<b>ASA, Sec. 41-803</b>	<b>1975</b>
Provides general authority to courts to permit restitution.		

<b>Restitution</b>	ASA, Sec. 41-803 (1983 Supp.)	1981	<b>Sexual Assault/ Services</b>	Acts 408 & 838 of 1985	1985
Authorizes restitutionary dispositions in criminal cases, and establishes judicial authority to establish restitution funds.					
<b>Restitution</b>	ASA, Sec. 43-2351	1981	<b>Child Protection/ Videotaped Deposition</b>	ASA, Secs. 43-2035 to 43-2036 as amended by Act 407 of 1983	1981 & 1983
If the defendant pleads guilty or is found guilty of a criminal offense the trial court of criminal jurisdiction shall order restitution in addition to a sentence and impose a mandatory judgment against the defendant.					
<b>Restitution</b>	ASA, Sec. 41-803(4)(d)	N/A	<b>Child Protection/ Counselor</b>	Act 444 of 1985	1985
Establishes that restitution is authorized as a sentence.					
<b>Restitution/ Probation</b>	ASA, Sec. 41-1201 (1d,2f), 41-1203 (2h) and 43-2331	N/A	<b>Child Protection/ Speedy Trial</b>	Act 569 of 1985	1985
Provides that restitution may be a condition of probation.					
<b>Protection from Intimidation</b>	ASA, Secs. 41-2609 & 41-2612 (Repl. 1977)	1975	<b>Missing Children Clearinghouse</b>	Laws of 1985	1985
Makes intimidation of, and retaliation against, a victim or witness a felony.					
<b>Parole Involvement</b>	ASA, Sec. 43-2819 (1983 Supp.)	1981	<b>Child Protection/ Sexual Assault Hearsay</b>	Laws of 1985	1985
Requires that recommendation from court, prosecutor, sheriff and victims/survivors be considered at parole hearings.					
<b>Parole Hearing Prohibitions</b>	ASA, Sec. 43-2819.1 (1983 Supp.)	1983 Amended 1985	Creates new exception to hearsay rule for statements made by child victims if such statements are determined to be "trustworthy."		
Prohibits victims from being required to attend parole hearings in prisons. Allows for two hearings, one in and another out of prison, if necessary. 1985 amendment requires that the prosecuting attorney, at time of the offenders commitment, must obtain the victims approval for notification of the offenders parole hearings.					
<b>Participation/Parole</b>	Act 8 of 1983	1983	Amends ASA Sec. 43-2819 such that victim (and others) are allowed to provide written or oral recommendations to parole board and such that they are notified of the time and place of such parole proceedings.		
<b>Escape Notification</b>	Acts 428 & 470	1985	Requires prosecutors to ask victims of violent crime if they want to be notified of offenders escape.		
<b>Property Return</b>	Ark. Rules of Criminal Procedure, Rule #15	1976	Victim may petition for return of any items seized in an investigation.		

## CALIFORNIA

## Enacted:

**Compensation** CA Govt. Code 1965  
Ann., Amended  
Secs. 13959-74 1974,  
1978-79,  
1981, 1983

Max. Award: \$25,000; Emerg. Award: \$1,000; Source: pen. assmts.

**Compensation** CA Stats. of 1983, 1983  
Chpt. 1378, (AB 656)

Removes "serious financial hardship" provision of state compensation.

**Compensation** CA Stats. of 1983, 1983  
Chpt. 601 (AB 1761)

Sets period for filing compensation claims for financial assistance covering the costs of psychological treatment.

**Compensation** CA Stats. of 1983, 1983  
Chpt. 1310 (SB 1085)

Substantive and technical changes in the victim indemnification process under the auspices of the State Crime Victim Board.

**Service Funding** Adds to CA Penal Code, 1977  
Secs. 13830 & 13835

Establishes pilot project centers for victim/witness assistance.

**Service Funding** CA Govt. Code, 1979  
Sec. 13967,  
Amends, adds &  
repeals

Provides for new pen. assmts. from convicted felons to indemnify victims and provides funds for comprehensive victim witness services.

**Service Funding/  
Compensation  
Amendments** CA Stats. of 1980, 1980  
Chpt. 530 (AB 698)

Consolidates different pen. assmts. into one assmt. fund as revenue for victim services and compensation.

**Service Funding/  
Compensation Amend.** CA Stats. of 1981, 1981  
Chpt. 166 (AB 698)

Increases size of assmt. fund.

**Service Funding/  
Victim-Witness** CA Stats. of 1983, 1983  
Chpt. 1312 (SB 1084)

Repealed existing provisions and now provides that funds be made available directly to nonprofit victim/witness services programs through the office of Criminal Justice Planning. Requires that programs receiving funding provide such services as property return, secure waiting areas and employer intervention.

**Service Funding** AB 1485 1984

Establishes three funding sources: (1) \$15 pen. assmt.; (2) 1st \$20 of drunk driving fines; and (3) \$10-\$10,000 fees for violent crimes. Funds shared by sexual assault and restitution funds. Requires restitution to all victims whenever possible. Funds Prop. 8 rights and services provisions. Allows civil redress in adult and juvenile cases and garnishment of offender income.

**Service Funding/  
Domestic Violence** CA Govt. Code, 1983  
Secs. 26840.7-.8 &  
26841;  
CA Welfare  
& Inst. Code,  
Secs. 18291-18307

Funds basic shelter and other services with \$13 marriage surcharge. Counties may authorize additional \$5 fee for abuser in protection order action. Expect \$2.8 million in FY 83-84. Funds are administered by county.

**Service Funding/  
Domestic Violence** CA Stats. of 1985, 1985  
Chpt. 250 (SB 135)

Establishes a family and dom. viol. prevention program in the Office of Criminal Justice Planning and provides \$200,000 to assist local shelters in FY 85-86.

**Service Funding/  
Child Abuse** CA Stats. of 1983, 1983  
Chpt. 373 (AB 595)

Extends grants to child abuse and sexual exploitation prevention programs and for some victim counseling services.

**Service Funding/  
Child Abuse  
Prevention** CA Stats. of 1984, 1984  
Chpt. 1638

Enacts Child Abuse Prevention and Training Act. Requires Office of Child Abuse Prevention to fund two prevention training centers and to contract for and fund primary prevention training programs in each county. Appropriates \$11.2 million to the Office of Child Abuse Prevention.

**Service Funding/  
Drunk Driving** CA Stats. of 1983, 1983  
Chpt. 140 (AB 1044)

Requires that a \$50.00 deposit be made from each fine for drunk driving or reckless driving for alcohol programs and services for the "general population."

<b>Victim Bill of Rights (Prop. 8)</b>	<b>Repeals Sec. 12 of Article I of the Constitution; adds Sec. 28 to Art. I; adds Secs. 25, 667, 1191.1, 3043, 1767, 1192.7, 1732.5.6331.</b>	<b>1982</b>	<b>Restitution/ Child Sexual Abuse</b>	<b>CA Stats. of 1985, Chpt. 313 (AB 2507)</b>	<b>1985</b>
Victim related initiative provides: (1) Restitution—shall be ordered in all cases where loss is incurred; (2) Public Safety Bail—public safety to be the primary consideration in all cases where bail is considered; (3) Notification of sentencing; (4) VIS/VSO/Allocation: right of victims to attend all sentencing hearings; (5) Parole—VIS/VSO Allocation: right of victims to be notified of and to attend parole hearings (upon request); (6) Safe Schools; (7) Truth in Evidence; (8) Use of prior convictions at sentencing; (9) Limits plea bargaining; (10) Abolishment of insanity defense; and (11) Re-sentencing of mentally disordered sex offenders. This Bill of Rights was passed through a citizen initiative rather than by the legislature.			States that the court may order restitution as a condition of probation for offenders convicted of sexual assault against a minor to cover the cost of medical and psychological treatment incurred by the victim.		
<b>Restitution/ Compensation</b>	<b>CA Stats. of 1983, Chpt. 1092 (AB 1485)</b>	<b>1983</b>	<b>Intimidation</b>	<b>CA Stats. of 1982, Chpt. 1097 (AB 2685)</b>	<b>1983</b>
Increased amounts of fines in criminal cases and establishes them where they were not prescribed. Changes "Indemnity Fund" to "Restitution Fund." Funding for various services originates from these fines.			Authorizes jurisdictions to establish and maintain a facility to provide security for victims and witnesses subjected to (or who may be subjected to) threats and intimidation.		
<b>Restitution</b>	<b>CA Stats. of 1983, Chpt. 568 (AB 306)</b>	<b>1983</b>	<b>Information/ Notification</b>	<b>CA Stats. of 1983, Chpt. 932 (AB 331)</b>	<b>1983</b>
Repeals provisions of existing law. Enacts provisions requiring courts to impose restitution judgments on persons convicted of a crime for payment to victims, or if no victim is involved to make payments to the Restitution Fund.			Requires that probation officers provide victims with information concerning the victim's rights to civil recovery against the defendant and also information about the opportunity to be compensated from the Restitution Fund.		
<b>Restitution</b>	<b>CA Stats. of 1983, Chpt. 954 (AB 2041)</b>	<b>1983</b>	<b>Escape Notification</b>	<b>CA Stats. of 1982, Chpt. 1048 (AB 2845)</b>	<b>1983</b>
Requires the payment of awards from the defendant to the victim of the crime in specified cases.			Requires Dept. of Corrections to notify specific law enforcement officials and victims upon request, when any inmate is placed on work furlough, escapes or is subsequently recaptured.		
<b>Restitution</b>	<b>CA Stats. of 1982, Chpt. 1414 (AB 2940)</b>	<b>1983</b>	<b>Privacy Protection/ Victims and Witnesses</b>	<b>CA Stats. of 1984, Chpt. 236 (SB 1122)</b>	<b>1984</b>
Requires that restitution payments received by Probation Dept. be sent to victim in a prescribed period of time.			Prosecutors are not required to furnish to defendant but may be required to furnish to defense counsel the address and phone number of any victim.		
<b>Restitution</b>	<b>CA Penal Code, Secs. 1205.5 &amp; 1202.6</b>	<b>1983</b>	<b>Speedy Disposition</b>	<b>CA Stats. of 1983, Chpt. 782 (SB 994)</b>	<b>1983</b>
Establishes a support program to provide legal assistance to victims.			Changes law concerning reasonable continuances after a defense witness testifies (excepting the defendant) and similarly after other defense witness statements.		
<b>Restitution/ Juvenile Offenders</b>	<b>CA Stats. of 1983, Chpt. 940 (AB 1087)</b>	<b>1983</b>	<b>Statute of Limitations</b>	<b>CA Stats. of 1984, Chpt. 1270</b>	<b>1984</b>
Revises provisions relative to restitution by a minor as a condition of probation.			Provides that the statute of limitations for felonies is to be based on the severity of the crime and eliminates the statute of limitations for crimes where the punishment is life imprisonment.		
<b>Restitution/ Compensation</b>	<b>CA Stats. of 1984, Chpt. 60 (AB 626)</b>	<b>1984</b>	<b>Domestic Violence/ Protective Orders</b>	<b>CA Stats. of 1983, Chpt. 192 (AB 1148)</b>	<b>1983</b>
Creates Commission on Restitution with mandate to study and report to Governor and legislature on expansion of programs.			Expands court authority to issue protective orders in cases that exclude a party from the family dwelling (or another dwelling), in instances where physical or emotional harm would otherwise result.		
			<b>Domestic Violence/ Arrest Requirements</b>	<b>CA Stats. of 1984, Chpt. 412 (AB 3386)</b>	<b>1984</b>
			Requires arrest and prosecution in cases of physical assault or battery of a spouse, as specified. (No special approp.)		
			<b>Sexual Offenses/ Closed Hearings</b>	<b>CA Stats. of 1983, Chpt. 284 (AB 250)</b>	<b>1983</b>
			Permits magistrates to close preliminary examinations as specified and upon the motion of the prosecution when the witness giving testimony is the complaining witness of a sexual offense.		

**Sexual Assault Counselor** CA Stats. of 1983, 1983  
Chpt. 580 (AB 569)  
Revises definition of "sexual assault counselor."

**Counselor Confidentiality/ Sexual Assault** CA Stats. of 1983, 1983  
Sec. 1035.4-8

Establishes that a victim of sexual assault, whether or not a party, has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication between the victim and the sexual assault counselor if the privilege is claimed by the holder of the privilege, a person authorized to hold the privilege by the holder of the privilege, or the person who was the sexual assault victim counselor at the time of the confidential communication. Qualifier: Information received by the counselor which constitutes relevant evidence of the facts and circumstances involving an alleged sexual assault about which the victim is complaining and which is the subject of the criminal proceeding is *not* a confidential communication.

**Sexual Assault/ Victim Detention** CA Stats. of 1984, 1984  
Chpt. 1644

Prohibits the imprisonment of a victim of sexual assault for contempt when the contempt charge is a result of refusal to testify concerning the assault.

**Sexual Assault/ Privacy Protection** CA Stats. of 1985, 1985  
Chpt. 103 (SB 221)

Permits the name of the victim of a sexual assault crime to be withheld at the request of the victim or a upon request of the parent or guardian if the victim is a minor.

**Child Protection/ Records Check** CA Penal Code, 1981  
Sec. 11105.2

Provides for criminal record checks for individuals who would work in supervisory or disciplinary position with minors.

**Child Protection/ Videotaped Testimony** CA Stats., Chpt. 4.5, 1982  
Sec. 1346

Victims under age of fifteen may be videotaped for preliminary hearing proceedings.

**Child Protection/ Videotaped Testimony** CA Stats. of 1983, 1983  
Chpt. 942 (SB 710)

Makes videotaped testimony of victims of sexual crimes subject to protective orders.

**Child Protection/ Evidence of Sexual Abuse** CA Stats. of 1984, 1984  
Chpt. 401 (AB 3840)

Revises laws concerning methods of, and limitations on, the introduction of evidence in proceedings (civil and criminal) regarding: (1) Testimony of child victims of sexual abuse; (2) Definitions of unavailability of a witness; (3) Corroboration rules; (4) Competency to testify; and (5) Admission of hearsay in certain instances.

**Child Protection/ Treatment Costs** CA Stats. of 1984, 1984  
Chpt. 974

Provides for indemnification for treatment of emotional injury sustained by a minor who is a crime victim.

**Child Protection/ Protection and Custody** CA Stats. of 1984, 1984  
Chpt. 439

In concert with the Uniform Percentage Act and the Domestic Violence Prevention Act, and where physical and/or emotional harm is anticipated, court is authorized to determine temporary custody of any minor child.

**Child Protection/ Hearsay Admissibility/ Videotaped Hearing** CA Stats. of 1984, 1984  
Chpt. 1423

Provides that (in criminal actions) statements made by children under seven years of age concerning sexual or physical abuse are not inadmissible by the hearsay rule. Requires immediate reporting of child abuse and permits videotaping of preliminary hearing. Also, increases felony term for murder of a child while perpetrating child cruelty, deletes intent-requirements for lewd or lascivious acts with a child under the age of fourteen years, and requires that suspected cases of child abuse be reported to the District Attorney.

**Child Protection/ Closed Circuit Testimony** CA Stats. of 1985, 1985  
Chpt. 43 (SB 46)

Allows court, upon motion of the judge in criminal proceedings, to order testimony of a minor ten years of age or younger in sex cases to be taken contemporaneously in another place and communicated by closed circuit television.

**Missing Children/ Reporting** CA Stats. of 1985 1985  
(AB 2512)

Requires police to accept missing children reports on persons under the age of eighteen regardless of legal residence.

**Notoriety-for-Profit/ Felony Cases** CA Stats. of 1983, 1983  
Chpt. 1016 (AB 2102)

Provides that the proceeds from the preparation or sale by a convicted felon of the story of the felony are subject to an involuntary trust to benefit those victims who suffered injuries as a result of the crime.

**Drunk Driving/ Allocation** CA Stats. of 1984, 1984  
Chpt. 841

Requires that for each conviction of drunk or reckless driving in a county of the first class, a \$50.00 deposit be made for allocation to alcohol programs, regardless of whether or not a fine is imposed.

### Introduced:

**Elder Abuse** AB 57 1985

Provides emergency and temporary shelter for abused, neglected or abandoned elderly adults.



**CONNECTICUT**

**Enacted:**

**Compensation** CT Gen. Stats., 1979  
Secs. 54.201 Amended  
-54.218 1980

Max. Award: \$10,000; Emerg. Award: \$500; Source: pen. assmts. of \$20.00 (felony) and \$15.00 (misdemeanor) for convictions. Requires that Notoriety-for-Profit monies to go to victim.

**Compensation** PA 80-90 1980  
**Amendment** (repeals Secs. 54-208,  
209 of CT. Gen. Stats.)

Expanded eligibility to include estate of any victim/survivor for expenses incurred as result of death.

**Compensation/** PA 80-390 (repeals 1980  
**Service Funding** Sec. 54-202 of CT  
Gen. Stats.)

Permits Comp. Board to allocate funds "to implement such programs to assist witnesses and victims of crime as the Board deems appropriate within the resources available." Expands pen. assmts.

**Compensation** PA 81-23 1981  
**Amendment**

Provides reciprocity for claimants from other states.

**Compensation** HB 6722 1985

Amends compensation program to cover non-residents, counseling, child abuse, spousal abuse and homicide survivors. Meets VOCA criteria.

**Service Funding** HB 6239 1985

Creates a statewide victim assistance program to be operated by the Criminal Injuries Compensation Board. Appropriates \$113,508 to the program in 1985.

**Service Funding/** CT Gen. Stats., 1982  
**Domestic Violence** Sec. 17-31K & SB. 206,  
1983 CT Acts

State approp. of \$570,000 (FY 82-83) and \$645,000 (FY 83-84) for all dom. viol. services. Shelter records made confidential.

**Service Funding/** HB 6358 1985  
**Domestic Violence**

Appropriates \$75,000 to the Department of Human Services for shelter services for victims of household abuse.

**Victim Involvement/** CT Gen. Stats., 1978  
**Sentencing** Sec. 54-91a

Probation Department PSI must include statement of victim.

**Victim Involvement/** PA 81-324 1981  
**Sentencing** CT. Gen Stats. Ann.,  
Sec. 54-91c  
(West Supp. 1983)

Requires VIS/Allocution.

**Victim Involvement/** HB 5152 1985  
**Sentencing**

Requires each PSI report to include an assessment of of the cost of injury to the victim.

**Restitution** CT Gen. Stats. 1969  
Sec. 53a-30

Judges may order restitution as a condition of probation.

**Restitution/Mediation** PA 82-383 1982  
1983

Experimental program in five towns where defendants, victims and mediators work out restitution and/or community service arrangements.

**Information/** CT Gen. Stats., 1981  
**Notification** Secs. 54-142c,  
54-91a & PA 83-170 1983

Provides the following:(1) Victim information about case dismissal (even if records erased); (2) Notification of sentencing in A, B, and C felony cases and (3) Prosecutor must notify family members, in the event that the victim died, of the time and place of arraignment and provide other information regarding the case.

**Notification** SB 245 1985

Extends notification requirements to include release from prison and notification of parole hearings.

**Counselor** CT Gen. Stats., 1983  
**Confidentiality** 6290 (PA 83-429)

Establishes that communications between victims and victim service counselors are confidential.

**Counselor** HB 5311 1985  
**Confidentiality**

Amends counselor confidentiality statute to specify that communications between a victim and a battered women's counselor or sexual assault counselor are also to be considered privileged communication.

**Privacy Protection/** PA 82-230; 1982  
**Sexual Assault** CT Gen. Stats.,  
Secs. 54-86D 1983  
& 54-86E

Victims of sexual assault have a right to privacy regarding: (1) Disclosure of their past sexual history not pertinent to the case and (2) Privacy of their name and address during court proceedings.

**Sexual Assault** HB 5996 1985

Strengthens privacy protection of sexual assault victims by making evidence pertaining to the sexual conduct of a victim of sexual assault inadmissible in court regardless of when it took place.

**Sexual Assault/** HB 5163 1985  
**Allocution**

Enables victims of sexual assault to speak at sentencing hearings.

**Child Protection/  
Videotaped Testimony/  
Competency** SB 169 1985

Allows children aged twelve and under to give televised testimony and prohibits the court from automatically ruling a child as incompetent to testify solely because of his age.

**Missing Children  
Clearinghouse** HB 5131 1985

Establishes a Missing Children Information Clearinghouse within the Department of Public Safety to aid in locating missing persons. Requires all state, county and municipal law enforcement agencies to provide information.

**Juvenile Offender  
Identities** CT Gen. Stats., 1983  
Sec. 46 B-124,  
Sub Sec. A

Upon the application to the Juvenile Court indicating an intent to sue a juvenile offender, victims have the right to obtain the identity of the juvenile and information about the case disposition.

**Notoriety-for-Profit** PA 82-328; 1982  
CT. Gen. Stats.,  
Sec. 54-218

Requires profits from notoriety due to crime to be held in escrow for civil judgments awarded within five years. Remaining monies go to compensation fund.

## DELAWARE

### Enacted:

**Compensation** DE Code Ann., 1975  
Secs. 9001-9017 Amended  
(SB 354, Sen. 1984  
Amend. No. 1)

Max. Award: \$20,000; Emerg. Award: none; Source: pen. assmts.; Amended in 1984 to raise max. award from \$10,000 to \$20,000.

**Compensation** Amend. DE Code Amended  
Ann., 1982  
Chpt. 90, Title II

Raises pen. assmt. from 10% to 15%.

**Compensation** Amend. DE Code Amended  
Ann., 1982  
Chpt. 41, Title II

Courts may hold an operator's license as security for payment of fines, costs and restitution.

**Victim Bill of Rights** House Joint Resolu- 1983  
tion 26

Establishes the following rights: (1) Information on final disposition, sentencing, release, financial assistance, social services and witness fees; (2) Notification of schedule changes; (3) Protection from intimidation; (4) Secure waiting areas; (5) Property return; (6) Employer intercession; (7) Speedy disposition; and (8) Notoriety-for-Profit funds go to victims.

**Victim Involvement/  
Sentencing** DE Code Ann., 1984  
Title II, Part II,  
Chpt. 43

VIS must be prepared with or without a PSI.

**Restitution** DE Code Ann., 1982  
Secs. 4101-4106,  
Title II

Police required to prepare "loss statement" for sentencing judge, who must order restitution or, if not, explain reasons on record. Payments received by court first pay offenders pen. assmt., then restitution, then any court costs and fines.

**Victim Participation/  
Parole** DE Code Ann., N/A  
Chpt. 11-4350

Provides the right of parole allocation to immediate family members of victims of 1st degree murder.

**Notification/  
Work Release** DE Code Ann., 1983  
Title II, Chpt. 65,  
Sub. Chpt. 7

Requires that victims of crime against the person be notified prior to work release or supervised custody.

**Protection from  
Intimidation** DE Code Ann., 1982  
Title II,  
Chpts. 5 & 35

Expands definition of witnesses and acts of intimidation. Defines penalties. Allows judges to issue protective orders and to make compliance a part of pre-trial release and bail.

**Child Protection/  
Videotaped Testimony**      **HB 179**      **1985**

Allows videotaped testimony of child under twelve years of age to be used in trials. Applies to all child victims and witnesses upon motion of Attorney General's Office.

**Notoriety-for-Profit**      **DE Code Ann.,  
Title II, Part 6,  
Adds new Chpt. 91**      **1983**

Requires the establishment of escrow accounts in the name of the victim for profits from notoriety due to crime.

**Drunk Driving**      **DE Code Ann.,  
Chpt. 13, Vol 64**      **1984**

Anyone driving a vehicle shall be deemed to have given consent to chemical, blood, breath and/or urine tests for drugs or alcohol.

**Introduced:**

**Bill of Rights**      **HB 254**      **1985**

Replaces Bill of Rights passed in 1983 as a House Joint Resolution with a legislative statute. Strengthens language in previous Bill of Rights. Provides for same rights with the exception of protection from intimidation and Notoriety-for-Profit because separate statutes have been enacted.

**Child Protection/  
Intimidation**      **HB 180**      **1985**

Creates a special felony offense for interfering with a child witness testifying in a criminal matter.

**Child Protection/  
Background Check**      **HB 51**      **1985**

Mandates criminal background checks for the following employees who work with children: school bus drivers, public school teachers and workers in state licensed child care centers.

**Missing Children's  
Clearinghouse**      **SB 234,  
Amends Part 5,  
Title II**      **1985**

Establishes a Missing Children's Clearinghouse and requires immediate police investigation and use of the National Crime Information Center computer for all missing children reports.

**FLORIDA**

**Enacted:**

**Compensation**      **FL Stats., Chpt. 960,  
Secs. 960.01-960.25**      **1978**

Max. Award: \$10,000; Emerg. Award: \$500; Source: fines and pen. assmts.

**Compensation  
Amendment**      **FL Stats., Chpt. 82,  
Sec. 222**      **1982**

Additional pen. assmts. extended to include convicted criminal traffic offenders.

**Compensation**      **FL Stats., Amends  
Secs. 960.03, .04  
& 960.20**      **1985**

Raises penalty assessment from \$15.00 to \$20.00. Extends compensation benefits to include victims of drunk driving and limits family exclusion such that the statute allows compensation to abused children. In addition, statute amended to comply with VOCA requirements.

**Service Funding/  
Witness Coordinator**      **FL Stats., Chpt. 81,  
Sec. 176**      **1982**

Requires court administrator to establish a witness coordinating office in each county within his/her judicial circuit. As of June 1985, fifty-five out of sixty-two counties are participating.

**Service Funding**      **FL Stats.,  
Secs. 27.3455, 27.54,  
914.06, 914.11  
& 939.07**      **1985**

Establishes an additional court fee against offenders to be used for local victim service programs. Mandates that counties which have comprehensive victim services are eligible for state reimbursement of up to 50% of local costs. Defines comprehensive services to include pre-trial and post-trial advocacy and counseling.

**Service Funding/  
Domestic Violence**      **FL Stats. Ann.,  
Secs. 409.602-  
409.605 & 741.01**      **1983**

Funds shelters up to 75% with state appropriation. \$10 surcharge on marriage license, fines may be imposed on abuser in protection order action. Shelter records are confidential

**Victim Bill of Rights** FL Stats., 1984  
Chpts. 84-363,  
Sec. 911.143  
(West Supp. 1985)

Establishes the following rights: (1) Information on compensation, victim services and the criminal justice process; (2) Notification of schedule changes; (3) Protection from intimidation; (4) Notification of arrest, pre-trial release and all phases of case and parole; (5) Consultation on release, plea agreements and pre-trial release; (6) VIS/Allocution at sentencing (includes sentencing as a result of plea agreements.); (7) Employer intervention; (8) Property return; (9) Mandatory restitution (includes incarcerated offender payments); (10) Parole restrictions; (11) Special consultation for child victims and homicide survivors; and (12) Victim services – through establishment of Witness Coordination offices. These offices shall ensure that victims are provided with all pertinent information on compensation and victim rights and services. Also included are bail conditions, and witness tampering and retaliation sanctions.

**Victim Involvement/  
Sentencing** FL Stats., 1984  
Chpt. 84,  
Sec. 921.143

Right to appear before sentencing court and to submit a sworn statement.

**Restitution** FL Stats., 1982  
Chpt. 947,  
Sec. 181

Parole and Probation Commission may require restitution as condition of parole.

**Witness Fees/  
Travel Expenses** FL Stats., 1984  
Chpt. 84-153

Extends travel expenses and provides for full reimbursement of actual travel costs.

**Domestic Violence** Acts of 1984, 1984  
HB 805

Expands scope of dom. viol. protections and duties of the Department of Health and Rehabilitative Services. Includes victim notification, information and referral services.

**Counselor  
Confidentiality/  
Sexual Assault** FL Stats., 1983  
Chpt. 83-284

Allows privileged communication for victims and sexual assault counselors.

**Child Protection/  
Missing Children's Act** FL Stats., 1983  
Chpt. 83-211

Mandates certain actions by Division of Criminal Justice Information Systems to identify and locate missing children.

**Child Protection/  
Adult Attendant** Act 199 of 1983 1983

Child witness may have a parent, attorney or other adult present during a trial.

**Child Protection/  
Sexual Battery** FL Stats., 1984  
Chpts. 84-86

Provides definitions of, and penalties for, victims of child sexual assault. Denies certain defenses (e.g., victim incapability to consent and lack of chastity) and creates a duty to report child sexual abuse.

**Notoriety-for-Profit** FL Stats., 1982  
Chpt. 82,  
Sec. 71

Prohibits criminal from benefiting from victim's death.

### Introduced:

**Victim Participation** SJR 59 1985

Grants victim the right to be present and heard at all stages of judicial proceedings. Also proposed as a citizens initiative in 1984 and 1985 to make this a constitutional change.

## GEORGIA

### Enacted:

<b>Service Funding/ Domestic Violence</b>	GA Ann. Code, Secs. 19-13-20 to 19-13-22 as amend. by HB 142 of 1982 GA Laws	1982 & 1983
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Funds all dom. viol. services up to 75%. Legislation without approp.

<b>Victim Involvement/ Notification</b>	GA Ann. Code, Title 17, Chpt. 10, Art. 1	1985
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VIS/Allocution. Judge *may* consider VIS in determining appropriate sentence or restitution. Allows for VIS at parole if the VIS was not included in the PSI. Within seventy-two hours after the Board of Pardons and Parole approves an inmate's parole, the following individuals must be notified: DA, presiding judge, sheriff of city within which inmate was tried, convicted and sentenced; local law enforcement and victim.

<b>Court Attendance</b>	GA Ann. Code, Title 24, Chpt 9, Art. 3	1985
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Grants presiding judge the authority to allow the victim or guardian/family to be present in courtroom during trial proceedings.

<b>Restitution</b>	GA Ann. Code, Title 17, Chpt. 14, Art. 1	1980
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Court permitted to order restitution as additional remedy.

<b>Restitution</b>	GA Ann. Code, Sec. 42.8.36 (HB 536)	1984
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Amends Chpt. 8 of Title 42 of Official Code of Georgia. Charges probation supervisors with the duty of enforcing restitution orders as a condition of probation, and reporting unpaid monies owed.

<b>Parole Notification</b>	GA Ann. Code, Title 17, Chpt. 10, Art. 1 SB 75	1985
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Parole board must notify District Attorney, sheriff, and presiding judge in county in which inmate was tried, convicted and sentenced within seventy-two hours after board has made parole decision. Mandates that law enforcement shall notify victim.

<b>Witness Fees</b>	GA Stats., Title 42, Chpt. 9, Art. 1	1984
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Provides for fees for campus policeman to secure their participation.

<b>Domestic Violence/ Protection Order</b>	GA Stats., Sec. 19-13-4	1984
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A copy of any order for prevention of family violence shall be given to all those in petition as being in danger of violence, or for other purposes.

<b>Elder Abuse/ Reporting</b>	GA Stats., Title 30, Chpt. 5	1984
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Describes elder abuse and mandates reporting, and provides protective services.

<b>Child Protection/ Molestation Sanctions</b>	GA Stats., Secs. 16-6-4 & 16-6-5	1984
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Child molestation resulting in physical injury or including an act of sodomy shall constitute "aggravated child molestation." Other related charges in sanctions are provided.

<b>Child Protection/ Closed Circuit Testimony</b>	Acts of 1985 HB 27	1985
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Provides for the exclusion of spectators during testimony of victims and witnesses under the age of sixteen. Allows testimony of victims and witnesses under the age of fourteen to be transmitted to jury by closed circuit television.

<b>Notoriety-for-Profit</b>	GA Ann. Code, Title 17, Chpt. 14, Art. 30	1982
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Prohibits criminal from benefiting from crime. Profits are held in escrow for five years for victim with civil judgment. After five years monies may be returned to offender.

<b>Drunk Driving</b>	GA Stats., Title 40	1984
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Provides various sanctions for drunk driving, license suspensions, convictions in other states and habitual violations.

## HAWAII

## Enacted:

<b>Compensation</b>	HI Rev. Stats., Secs. 351-1 to 351-70	1978 Amended 1979-1980
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Max. Award: \$10,000; Emerg. Award: \$500; Source: gen. revs.

<b>Compensation</b>	Acts 110 of 1983 & 180 of 1984	1983 1984
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Makes appropriations for compensation of crime victims, establishes award procedures for certain victims and their dependents, compensates private citizens for personal injury or damage suffered in crime prevention or assistance with apprehension.

<b>Notification</b>	Act 184, Amends HI Rev. Stats., Chpt. 707, Sec. 2	1983
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Requires notification of victims of personal crimes prior to parole, probation, suspension of sentence, placement in half-way house or final unconditional release.

<b>Notification</b>	Act 227 of 1985	1985
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Amends notification statute to require notification of surviving members of immediate family within ten days of prisoner release or parole.

<b>Notification</b>	Act 228 of 1985	1985
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Amends notification statute to require thirty-day advance notification of probation, work furlough or any conditional release.

<b>Domestic Violence/ Protection Order</b>	Act 143 of 1985	1985
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Strengthens protection for all related family and household persons. Allows law enforcement to order immediate evacuation for twelve hours. Mandatory counseling or jail required for violation of order.

<b>Domestic Violence/ Protection Order</b>	Act 136 of 1985	1985
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Household or family member can apply for protection order on behalf of a minor or incapacitated person.

<b>Child Protection/ Videotaped Testimony</b>	Act 279 of 1985	1985
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Allows videotaped or closed circuit testimony, under certain circumstances, for child abuse victims under the age of sixteen years.

<b>Child Protection/ Guardian</b>	Act 185 of 1985	1985
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All child victims under ten years of age have a right to be accompanied by parent or guardian or other adult at all judicial proceedings.

<b>Drunk Driving</b>	Act 117 of 1983	1983
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Establishes 10% blood alcohol levels as legally drunk. Increases sentences for driving while under the influence of alcohol.

## IDAHO

## Enacted:

<b>Compensation/ Evidentiary Exams</b>	ID Code, Sec. 19-5302	1984
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Provides awards for expenses for evidentiary medical exams to be paid by law enforcement agencies in all instances where victims have been directed to take the exam.

<b>Service Funding/ Domestic Violence</b>	ID Code, Secs. 39-5201 to 39-5213	1982
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Funds basic shelter and additional dom. viol. services with \$15 marriage surcharge. Requires 25% local funding. Expects \$200,000 in FY 83-84. Shelter records are confidential.

<b>Service Funding/ Sexual Assault</b>	ID Code, Sec. 19-5303	1985
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Mandates that law enforcement agencies must pay for medical exams of rape victims.

<b>Bill of Rights/ Restitution</b>	ID Code, Chpt. 53, Title 19, 5302-5306, Secs. 16-1814, 20-223 & 19-3008	1985
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Mandates that restitution must be ordered for all crimes resulting in economic loss. Court must enter an order of explanation if restitution is not ordered. Establishes the following rights for felony victims: (1) Speedy property return; (2) VIS in PSI; (3) Consultation during presentence investigation; (4) Allocation at sentencing; (5) Information about disposition; (6) Notification of parole and commutation hearings; (7) Participation (oral or written) at parole hearing; (8) Notification of release or escape; and (9) Address protection.

<b>Restitution</b>	ID Code, Sec. 19-5302	1984
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Requires district courts and magistrates to order restitution and to see that victim is paid-in-full before any government restitution is exacted.

<b>Notification/Parole</b>	ID Code, Sec. 20-234 (SB 1260)	1984
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Requires Board of Corrections to send parole information to sheriff and prosecuting attorney.

<b>Witness Intimidation</b>	SB 1041	1985
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Establishes that the intimidation, obstruction or prevention of witness testimony in a criminal proceeding is a felony and a misdemeanor in a civil proceeding.

<b>Child Protection/ Competency</b>	ID Code, Sec. 9-202	1985
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Establishes procedures for determining the competency of child witnesses under ten years of age in order to protect them from intimidation.

<b>Child Protection/ Counsel</b>	ID Code, Sec. 16-1618	1985
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Provides that the court shall appoint a separate counsel or guardian to assist child victim/witnesses at each phase of the court proceeding.

**Child Protection/  
Statute of Limitations** ID Code, 1985  
Sec. 19-402

Provides that prosecution for any felony committed upon or against a minor child must be commenced within five years after the commission of the offense.

**Missing Children** ID Code, 1985  
Sec. 31-2202

Requires immediate investigation of missing children reports.

**Child Protection  
Abuse Reporting** ID Code, 1985  
Secs. 16-1619  
& 16-1620

Establishes reporting requirements for missing or abused children. Grants immunity to those reporting suspected cases.

**Child Trust Account** ID Code, Chpt. 60, 1985  
Title 39

Establishes statewide trust fund for programs designed to prevent child abuse and neglect.

**Notoriety-for-Profit** ID Code, 1979  
Sec. 19-5301

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

**ILLINOIS**

**Enacted:**

**Compensation** IL Stats. 1973  
Ann., Amended  
Chpt. 70, 1979  
Secs. 70-84 & 1980

Max. Award: \$15,000; Emerg. Award: none; Source: gen. revs. and supp. approps.

**Service Funding** PA 83-908 1983

Funds service programs. Establishes Victim/Witness centers. Establishes study commission. Requires the Attorney General to disseminate information and coordinate grants for services. Centers must provide assistance to victims and families regarding services and financial aid, meet special needs of elderly and dom. viol. victims, provide transportation, hot-line, counseling, public education and training. Funding: fines ranging from \$3 to \$25.

**Service Funding/  
Domestic Violence** IL Stats. Ann., 1982  
Chpt. 40, Secs. 2401-  
2403 as amend. by  
1982 IL Law 2021;  
Chpt. 25, Secs.  
27.1(a)(3)-27.2(c-d)(1);  
Chpt. 53,  
Secs. 35-18; 73-3

Funds basic shelter and other services with a \$10 marriage surcharge. Expects \$1.2 million in 1983 and \$1.7 million in 1984 with some local funding required. State approp.

**Victim Bill of Rights** IL Stats. Ann., 1984  
Chpt. 38.1403

Establishes the following rights: (1) Notification of indictment, bail, pre-trial release, hearings, disposition, probation or other conditional discharges and final discharge; (2) Secure waiting areas; (3) Property return; (4) Translator services; (5) Also establishes the Violent Crime Victims and Witnesses Fund to be based on newly established criminal fines (75% of the money will be used to fund county victim/witness programs and 25% will go to the compensation fund).

**Victim Bill of Rights** PA 83-1499, 1985  
Amend. Amended  
Chpt. 38.1403

Expands definition of victim to include survivors of homicide victims. Expands notification requirements to include work furlough, escape, parole hearing and parole. Provides for VIS and allocation at parole hearing.

**Victim Involvement/  
Sentencing** IL Stats. Ann., 1978  
Chpt. 38, Sec. 1053-2

Requires VIS or allocation.

**Notification/  
Participation** PA 83-1433 1985

Includes right to make statement at sentencing, notice of parole hearings, and instructs courts to consider restitution. Additional \$10 fine levied.

**Employee Intercession PA 81-0808 1981**

States that no employee should lose a job if required to participate as a witness. However, explicitly states that employers do not have to pay workers for days lost in court.

**Elder Abuse IL Stats. Ann., 1984  
Art. III, Amended  
Chpt. 23, Sec. 1 1985**

Requires reporting of suspected cases of elder abuse by medical, social work, nursing homes and employees of state in direct contact with suspected subjects of abuse. Amended in 1985 to extend responsibility for reporting to 'para-professionals working with elders'.

**Child Abuse/  
Sex Offenses PA 83-1117 1984**

Defines sexual abuse offenses and sanctions.

**Notoriety-for-Profit IL Stats., Chpt. 70, 1981  
Sec. 403**

Creates escrow account for victims of crime, procedures for claims, and civil judgment requirements. Funds can be released if no victims make claim within two years of establishment of the account.

**Drunk Driving/  
Minimum Sentences IL Stats. Ann., 1983  
Chpt. 38, Part  
1005-5-3; Chpt. 95 1/2,  
Part 11-501**

Provides a minimum sentence of thirty days for any person convicted of drunk driving while under suspended or revoked license for prior drunk driving or other serious vehicular incident. Also provides jail sentences of forty-eight hours or ten days of community service for persons convicted a second time for DWI.

**Introduced:****Bill of Rights/  
Amendment SB 563 1985**

Amends Bill of Rights to broaden definition of violent crime to include misdemeanors which result in death or physical injury to the victim.

**Bill of Rights/  
Amendment HB 2285 1985**

Amends Bill of Rights to provide that in violent crimes, a VIS shall be automatically prepared and presented to court at sentencing hearing. Specifies factors that must be considered in VIS and provides that VIS must be prepared in cases of misdemeanors which result in death or serious physical injury to a victim.

**Sexual Assault/  
Statute of Limitations HB 1315 1985**

Extends statute of limitations for prosecution of criminal sexual assault crimes where the victim is under eighteen years of age. Permits prosecution during the minority age of the victim and within two years after the victim attains age eighteen.

**Elder Advocate HB 2288 1985**

Provides that the State's Attorney shall make a Senior Advocate available to any senior citizen crime victim, to assist the victim prior to and during all criminal proceedings.

**Notoriety-for-Profit SB 645 1985**

Amends criminal victim escrow account to include persons who have been found not guilty by reasons of insanity or guilty but mentally ill.

## INDIANA

## Enacted:

**Compensation** IN Code Ann., Eff. 1977  
Sec. 16-7-3.6 Amended  
1985

Max. Award: \$10,000; Emerg. Award: \$500; Source: gen. revs. Amended in 1985 to meet VOCA criteria, to provide up to \$1000 for child care or mental health counseling expenses and to provide compensation for the cost of sexual assault exams.

**Service Funding** IN Code Ann., 1985  
Sec. 4-23

Establishes standards and provides funding through an \$18 surcharge on marriage licenses for dom. viol., victim/witness assistance and child abuse prevention programs.

**Service Funding/  
Domestic Violence** IN Code Ann., 1982  
Secs. 4-23-17.5  
to 4-23-17.9

Funds shelter and other dom. viol. services with \$10 divorce surcharge. State provides up to 75% of costs.

**Victim Involvement/  
Sentencing** IN Code Ann., 1981  
Sec. 35-38-1-9  
(Burns 1985)

Requires VIS in PSI.

**Plea Bargaining** IN Code, 1981  
Sec. 35-35-3-2

Victim must be notified of pending plea arrangements & permitted to comment.

**Victim Participation/  
Parole Notification** PL 126-1985; 1985  
IN Code,  
Sec. 11-9-2.2

Permits victim to make a statement to the court concerning any plea agreements. Requires parole board to notify victim or next of kin before submitting recommendations to the Governor for parole.

**Court Attendance** IN Code, 1985  
Secs. 35.33.5.2(E)  
& 35.33.72(B)

Grants the victim the right to be present in court during the trial.

**VIS/Protection from  
Intimidation/Employer  
Intervention/Funding** PL 131; 1985  
IN Code,  
Sec. 11-13-3-3

Provides for notification of victims of any felony release. Grants victim a right to make oral or written statements at sentencing. Makes it a Class B misdemeanor to interfere with employees subpoena. Transfers administration of rape victim services fund to Violent Crime Comp. Board and prohibits hospitals from charging rape victims for services. Creates \$1.00 court fee designated for rape victim services fund (see Compensation).

**Adult Abuse** IN Code, 1985  
Sec. 4-27-1-5.5

Establishes an adult abuse protection agency to provide services to seriously endangered adults and makes it a Class C infraction to fail to report adult abuse.

**Child Exploitation** IN Code, 1984  
Secs. 35-41-1-9,  
35-42-4-2  
& 35-42-4-5

Expands definition of "deviate sexual conduct" making certain crimes felonies, with or without adult participation.

**Child Protection/  
Videotaped Testimony** PL 316; 1985  
IN Code,  
Sec. 35-37-4.6

Adds rape and criminal deviate conduct to list of crimes for which out of court statements or videotapes made by children may be admitted as evidence.

**Notoriety-for-Profit** IN Code Ann., 1979  
Sec. 16-7-3.7  
(Burns 1979)

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

**Drunk Driving** IN Code, 1984  
Secs. 9-4-13,  
9-4-13-4, 9-4-13-19

Changes in Habitual Traffic Offender Laws.

## IOWA

## Enacted:

<b>Compensation</b>	<b>Code of Iowa, Chpt. 912</b>	<b>1982 Amended 1984</b>
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Max. Award: \$21,100; Emerg. Award: \$500; Source: fines & pen. assmts. 1984 amendments expanded benefits including raising the maximum for medical benefits from \$2,000 to \$10,000.

<b>Compensation/ Domestic Violence</b>	<b>Acts of 1985 HF 413</b>	<b>1985</b>
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Redefines eligible recipients to include residents of same household and relatives of offender under the following terms: victims can obtain compensation for medical and counseling expenses if the offender agrees to seek counseling after first offense or if the victim files charges after the second offense. Third offenses and beyond requires a conviction for the victim to qualify for compensation.

<b>Compensation/ Children</b>	<b>Acts of 1985 HB 462</b>	<b>1985</b>
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Child victims qualify for immediate compensation for counseling or medical expenses regardless of parental notification of application.

<b>Service Funding/ Domestic Violence</b>	<b>Acts of 1985 HF 128</b>	<b>1985</b>
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Establishes grants for local dispute resolution centers to provide training and education and appropriates \$49,000 in 1985.

<b>Service Funding/ Children</b>	<b>Acts of 1985 HF 451</b>	<b>1985</b>
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Establishes a \$10 fee on birth certificates for child abuse prevention programs. Also establishes a statewide missing persons clearinghouse.

<b>Victim Participation/ VIS</b>	<b>Iowa Corrections Code, Chpt. 901.3</b>	<b>N/A</b>
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States that if a PSI is ordered the investigator shall promptly inquire into the harm to the victim, the victim's immediate family and the community. Implies VIS is required if PSI is ordered.

<b>Restitution</b>	<b>Code of Iowa, Chpt. 910</b>	<b>1982</b>
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Requires restitution in all felony cases. Restitution plans are required as part of parole, probation or work release.

<b>Restitution</b>	<b>Code of Iowa, Chpt. 910.3</b>	<b>1984</b>
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Relates to the time by which a court shall set out the amount of restitution in a criminal case.

<b>Juvenile Restitution</b>	<b>Code of Iowa, Chpt. 232(A)</b>	<b>1984</b>
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Repeals juvenile restitution program and replaces it with a new Chapter 232A. Provides funding based on juvenile populations, and on implementation strategy.

<b>Property Valuation/ Crime Penalties</b>	<b>Code of Iowa, Chpt. 714.3</b>	<b>1984</b>
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Alters statutory language in code sections 714.3 (Code of 1983) and 714.14 (Code of 1983) to value stolen property at "highest reasonable value."

<b>Fine Increase</b>	<b>Code of Iowa, Chpt. 902.9</b>	<b>1984</b>
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Increases Class "C" felony fine limits to \$10,000 and Class "D" felony fine limits to \$7,000.

<b>Property Return</b>	<b>Code of Iowa, Chpt. 809.3(5)</b>	<b>1985</b>
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Requires speedy property return without hearing.

<b>Counselor Confidentiality/ Privacy Protection/Fees</b>	<b>Code of Iowa, Chpt. 236.17</b>	<b>1985</b>
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Provides that sexual assault and dom. viol. counselors shall not be examined or required to provide evidence concerning client unless the client waives right to confidentiality or the court determines that it is an exceptional circumstance. Also requires strict confidentiality of counselor's identity and shelter location and stipulates that victim counselors are not subject to the rules of exclusion from court. In addition, broadens the ability of law enforcement to make warrantless arrests, establishes a domestic abuse registry and adds a \$15 fee on divorce orders to fund dom. viol. and sexual assault programs.

<b>Sexual Assault</b>	<b>Code of Iowa, Chpt. 709.1</b>	<b>1984</b>
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Provides that if a participant is drugged or intoxicated during the sex act, it falls within the definition of sexual abuse.

<b>Child Protection/ Good Samaritan</b>	<b>Code of Iowa, Chpt. 232</b>	<b>1984</b>
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Provides immunity from liability resulting from assistance in an investigation of child abuse.

<b>Child Protection/ Sexual Exploitation</b>	<b>Code of Iowa, Chpt. 232</b>	<b>1984</b>
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Amends definitions of child abuse for reporting investigation and rehabilitation purposes. Includes permitting child to engage in prostitution and pornography as a part of abuse definition.

<b>Children Protection/ Bill of Rights</b>	<b>Acts of 1985 HF 462</b>	<b>1985</b>
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Establishes the following rights and protections for children: (1) Prohibits disclosure of child's identity; (2) Lengthens statute of limitations by one year for prosecution of child offenses; (3) Allows videotaping of pre-trial interview depositions and closed circuit testimony for children under fourteen; (4) Requires speedy trial for child offenses; (5) Prohibits requirement of corroboration of any child victim's testimony; (6) Establishes that children are presumed to be competent witnesses; (7) Mandates that children under ten years of age cannot be forced to appear before a grand jury; (8) Grants child victims and witnesses the right to have a guardian ad litem to act as a representative; and (9) Compensation: extends date of reporting time for child victims to 180 days after discovery of crime and allows children to qualify for immediate medical or counseling services regardless of parental notification of application.

**Notoriety-for-Profit**      **Code of Iowa,**      **1982**  
    **Chpt. 910.15**

Allows victims to file judgments against escrow accounts established for profits from notoriety. After five years funds may be used by offender for legal fees or appeal costs.

**Drunk Driving**                      **Code of Iowa,**      **1984**  
    **Chpt. 321.281**

Includes drunk driving sanctions, offender evaluation and license revocation. Establishes a \$100 fine on all drunk driving offenses to go to the crime victims reparations fund.

## KANSAS

### Enacted:

**Compensation**                      **KSA, Art. 73,**      **1976**  
    **Secs. 74-730 to**      **Amended**  
    **74-731.8**                      **1978 &**  
                                         **1980**

Max. Award: \$10,000. Emerg. Award: none; Source: gen. revs.

**Service Funding/  
Domestic Violence**                      **KSA, Secs. 23-108**      **1982**  
    **to 23-110**

Marriage surcharge of \$5.60 for "Family and Child Trust Fund" to fund family violence prevention.

**Service Funding/  
Domestic Violence**                      **SB 884 (Amend. by**      **1984**  
    **SB 678), Chpt. 23-108;**      **(1982)**  
    **SB 678, Chpt. 23-109,**  
    **110; KSA, Sec. 23-110**  
    **(1982)**

Amendments to marriage license fee surcharges. Adds an additional \$8.00 surcharge on marriage licenses to fund dom. viol. services.

**Victim Involvement/  
Sentencing**                      **KSA, Title 62,**      **1981**  
    **Sec. 21-4604(2)**

Court may order PSI for misdemeanor, and must order PSI for felony. VIS is required in all PSIs.

**Restitution/  
Probation  
Requirements**                      **KSA 1981,**      **1981**  
    **Supp. 22-37-17,**  
    **1981 Session Laws of**      **1983**  
    **KS (KSA 21-4610, 1983)**

Requires judges and parole boards to mandate restitution unless reasons are stated otherwise. Establishes restitution program requirements as part of probation plan and as condition of suspended sentences. This is mandatory unless situation is otherwise compelling.

**Protection from  
Intimidation**                      **KSA,**      **1983**  
    **Sec. 21-33-01**

Intimidation of witnesses and victims prohibited in civil and criminal actions. Provides procedures and court orders to prevent intimidation. Defines intimidation and provides punishment for violation of court orders. Defines certain acts as felonies.

**Property Return**                      **KSA 1979, Sec. I,**      **1981**  
    **Supp. 60-472**

Permits use of photographs as evidence when possible to expedite return of property.

**Sexual Assault/  
Marital Rape**                      **KSA,**      **1985**  
    **Sec. 21-35-01**

Redefines rape under criminal statute to be based solely on non-consensual acts and creates new sex offenses.

**Child Protection/  
Offender Prohibition**                      **KSA,**      **1984**  
    **Secs. 65-516,**  
    **65-519 (1983 Supp.)**  
    **(HB 2695)**

Prohibits child abuse offenders from maintaining a boarding home or family day care center for children.

**Child Protection/  
Videotaped Testimony** SB 167, Amend., 1985  
KSA,  
Sec. 60-455

Permits the use of videotape film or other electronic means of recording of testimony or statement of a child under thirteen in both criminal and civil abuse and neglect proceedings. Requires that recording be both visual and audio.

**Child Protection/  
Advocate** HB 2055 1985  
(KSA pending)

Permits courts to designate a court appointed special advocate for child victims in juvenile court.

**Introduced:**

**Hearsay Evidence** HB 2054 1985

Amends the preliminary hearing statute to allow for hearsay testimony for victims in probable cause hearings.

**KENTUCKY**

**Enacted:**

**Compensation** KY Rev. Stats. (KRS) 1976  
Secs. 346-010  
to 346-190

Max. Award: \$15,000; Emerg. Award: \$500; Source: gen. revs. and pen. assmts.

**Compensation/  
Service Funding** KRS, 1982  
Chpt. 346

New pen. assmts. (to supplement existing comp. fund provided through gen. revs.). Provides funding mechanism for victim programs.

**Service Funding/  
Domestic Violence** KRS, 1982  
Sec. 64.012

Marriage surcharge of \$10 expected to yield \$686,000 in FY 82-83 and \$694,000 in FY 83-84 for basic and additional dom. viol. services. The initial 50% state funding is reduced 5% annually until 25% state funding level is reached.

**Service Funding/  
Child Trust Fund** KRS, Secs. 15, 17, 41, 1984  
156, 346, 421, 530 &  
532

Attorney General establishes a child victim trust fund to finance local protection programs, provides for criminal records checks, establishes a missing children's information center, and provides compensation eligibility for child victims. Permits out-of-court, or pretrial videotaped testimony of children under age twelve years in sex abuse cases. Upgrades child sexual assault offenses and increases penalties. Prohibits probation in certain situations, other rights and protections are also included.

**Notification/** KRS, 1984  
Chpt. 403

**Domestic Violence**

Permits district courts to issue protective orders in dom. viol. and abuse cases, and to define reporting and notification requirements.

**Notoriety-for-Profit** KRS, 1980  
Sec. 346.165

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

**Drunk Driving** KRS, 1984  
Chpts. 189, 431,  
431-005 (SB 20)

Prescribes fines and penalties for drunk driving.

**Introduced:**

**Victim Involvement/  
Parole** BR 17 1985  
KRS 439

Permits crime victims to present oral or written statements to parole board during release hearings.

**Domestic Violence** BR 102 1985

Directs Council for Human Resources to expand funding for three spouse abuse centers.

**LOUISIANA**

**Enacted:**

**Compensation** LA Rev. Stats. (LRS), 1982  
Chpt. 21 of Title 46, Eff.  
Secs. 46:180-46:1823 1983  
& LA Rev. Stats. (LRS),  
RS 36:259 (F)

Max. Award: \$10,000; Emerg. Award: \$500; Source: pen  
assmts.; Special award for loss of home.

**Compensation** Act 844, Chpt. 21, 1985  
LRS 46,  
Secs. 1802-03-05

Moves Crime Victims Reparations Board from the State  
Department of Corrections to the Louisiana Commission  
on Law Enforcement. Provides for compensation for vic-  
tims of drunk driving incidents.

**Compensation** Acts of 1985 1985  
HCR 151

Provides cards to law enforcement officers to give to vic-  
tims for information about compensation.

**Funding for Services/  
Domestic Violence** LRS Ann., 1982  
Secs. 46.2121-46.2128  
as amended by HB 24  
& HB 30 of 1983  
Extra Sess. Acts

State approp. of approximate. \$100,000 in FY 83-84 to fund  
all dom. viol. services.

**Victim Services** Act 370 of 1984 1984

Authorizes each sheriff to establish and maintain a  
victim services and assistance program. No funding  
appropriated.

**Bill of Rights** Acts of 1985 1985  
HB 1120

Establishes the following rights: (1) Information on case;  
(2) Notification of schedule changes and financial  
assistance; (3) Secure waiting areas; (4) Property return;  
(5) Restitution as a condition of probation, work release  
or community service; (6) Notification of felony sentenc-  
ing and release; (7) VIS/ Allocution at sentencing; and (8)  
Right to be present at execution for death penalty.

**Restitution** Criminal Code, 1984  
Art. 895.1(c)

Relates to probation and restitution; provides for defen-  
dants on supervised probation to pay monthly fees to  
defray costs of probation and for supervised restitution  
orders.

**Restitution** Code of Crim. Proc., 1984  
Art. 895,  
Act 940 of 1984

Relates to probation and suspended sentences. Requires  
monetary restitution to victims or family as a condition of  
probation.

**Domestic Violence** LRS, 1984  
Sec. 46:2135(c)  
(HB 276)

Dom. viol. petitioner has right to return to residence to  
recover personal items.

**Domestic Violence** LRS, 1984  
Sec. 46:2133(b)

Relates to actions under the Protection from Family  
Violence Act to provide for venue in petitioner's parish of  
residence.

**Child Protection/  
Sexual Molestation** Act 220 of 1984 1984

Creates crime of juvenile molestation, provides penalties.

**Child Protection/  
Videotaped Testimony** Act 563 of 1984 1984

Permits recording and use of videotaped testimony of sex-  
ually or physically abused children under fourteen years  
of age.

**Notoriety-for-Profit** LA. Rev. Stat., 1982  
Chpt. 21-A, 1831-1839

Creates Criminal Victims Escrow Account for funds de-  
rived from benefits of crime. Seventy-five percent of fund  
available to victim, 25% goes to compensation fund. After  
five years all remaining money goes to compensation  
fund.

**Introduced:**

**Compensation** SB 363 1985

Amends statute to meet VOCA criteria, reduces minimum  
loss to \$100 (can be waived) and authorizes fund to receive  
private donations and gifts.

**Restitution/  
Parole** HB 128 1985

Requires restitution for property damage to be a condi-  
tion of parole.

**Domestic Violence** SB 518 & SB 301 1985

Grants dom. viol. victims civil immunity from reporting  
abuse and strengthens arrest procedures for dom. viol.  
infractions.

**Child Protection/  
Expert Witness** HB 1385 1985

Allows use of expert witness to verify child's testimony.

## MAINE

## Enacted:

**Victim Bill of Rights** Amends 1983  
ME Rev. Stats. Ann.  
(MRSA), Sec. 17-A

Establishes the following rights: (1) VIS/Allocution at sentencing; (2) Protection from intimidation; (3) Property return; (4) Notification of sentencing hearing; (5) Service programs; and (6) Mandatory restitution or explanation for failure to order restitution, 25% of work release or other pay must go to restitution.

**Service Funding/  
Domestic Violence** ME Rev. Stats. (MRS), 1964  
Title 22,  
Sec. 8501

Funds basic shelter and other dom. viol. services with an expected \$276,000 (FY 82-83) and \$316,000 (FY 83-84) revenues.

**Service Funding/  
Sexual Assault** 22 MRSA, 1984  
Sec. 269 (L 2020)

Authorizes the Department of Human Services to fund rape crisis centers.

**Restitution** 17 MRSA, 1984  
Sec. 1323, Sub. 1;  
Sec. 1330,  
Sub. 1 & 2 (L 2251)

Requires restitution for all crimes unless the judge finds compelling reasons for waiving this requirement.

**Drunk Driving** 29 MRSA, 1984  
Secs. 1311,  
1312C, 1312D

Amends law concerning suspensions of drivers license on administrative determinations of blood alcohol content.

## Introduced:

**Service Funding** LD 1505 1985

Earmarks money from property forfeitures for funding victim assistance programs in DA's offices and requires DA to establish victim assistance programs.

**Child Abuse** LD 1286 1985

Redefines sex crimes and increases penalties for sex crimes involving children.

## MARYLAND

## Enacted:

**Compensation** MD Ann. Code, 1978  
Art. 26A,  
Secs. 1-17

Max. Award: \$45,000; Emerg. Award: \$1000; Source: gen. revs. and court cost.

**Compensation** MD Ann. Code, 1985  
Art. 26-A,  
Secs. 5 & 7

Criminal Injury Compensation Act amended to comply with VOCA requirements.

**Service Funding/  
Domestic Violence** MD Ann. Code, 1979  
Art. 88A, & 1982  
Secs. 101-105

Funds basic shelter and other dom. viol. services. Allows counties to authorize a \$15 marriage license surcharge — seven counties have done this. Makes shelter records confidential.

**Victim Involvement/  
Sentencing** Repeals & Re-enacts 1982  
MD Ann. Code, Amended  
Art. 41, 1983  
Sec. 124 C

Requires VIS as part of PSI for felonies or misdemeanors resulting in serious physical injury or death to victims.

**Court Attendance** MD Ann. Code, 1985  
Art. 27,  
Sec. 620-A-1

Allows the victim to remain in the courtroom to hear the proceedings after the the victim has testified. Allows a representative of the victim to be present if the victim is deceased or disabled.

**Restitution** Laws of MD, Art. 27, 1977  
Sec. 640,  
Chpt. 581

Establishes general restitution and provides that restitution may be ordered as a sentence or as a condition of probation or parole.

**Victim Participation/  
Parole VIS** Code of MD N/A  
Admin. Reg's.,  
Sec. 12-08.01 to 09

VIS at parole/hearings closed. Provides victims the opportunity to submit written statements or to request appointments with the parole commission in order to pass along their support or concerns about a parole applicant's parole. However, Sec. 12-0801-18c of the Code of Admin. Reg's. restricts persons allowed to attend parole hearings to the parole applicant and parole personnel.

**Notification &  
VIS/Parole** MD Ann. Code, 1985  
Art. 41,  
Sec. 110-D

Permits victims of violent crime to request notification of parole release hearings and, if they desire, to present an updated victim impact statement. Mandates that the Parole Commission must inform the victim of its decision.

**Privacy Protection** MD Ann. Code, 1985  
 Courts and Judicial  
 Proceedings,  
 Sec. 9-501, Sub. Title 5

Permits judge to withhold victims and witness addresses and telephone numbers if he deems it irrelevant to case. Denies Defense Attorney the right to reveal such information without prior approval from the victim or witness.

**Victim Services/  
 Task Force** HJR 55 1984

Establishes a Governor's Task Force on Victims Services. Provides for membership, appointment, staffing and that the Task Force report to the Governor and to the General Assembly.

**Child Protection** Fam. Law. Art., 1984  
 Secs. 5-709 & 5-910

Provides that the local mental health department pay certain emergency medical treatment charges for children who are victims of alleged victims of abuse or neglect.

**Missing Children's  
 Act** Fam. Law Code, 1985  
 Chpt. 496,  
 Secs. 9-401  
 to 9-403

Establishes a statewide clearinghouse for missing children under the Dept. of Public Safety. Requires law enforcement to begin a prompt investigation of missing children and to utilize nationwide computer network.

**Child Protection/  
 Competency** Laws of MD, 1985  
 Chpt. 498,  
 Sec. 9-102 as amended

Specifies that in a criminal trial the age of the child shall not be the reason for precluding a child from testifying.

**Child Protection** Laws of MD, 1985  
 Chpt. 493

Strengthens protection order provisions to mitigate harm for child abuse victims.

**Child Protection/  
 Closed Circuit  
 Testimony** Laws of MD, 1985  
 Chpts. 495 & 496

Permits the court to order closed circuit testimony for child victims under the age of eighteen years if the judge determines that testimony in the courtroom will result in serious emotional distress such that the child cannot reasonably communicate. Limits the number of people that may be in the room when the child presents closed circuit testimony to the following: the prosecuting attorney, attorney for the defense, operators of the equipment and, unless the defendant objects, any person who contributes to the well being of the child, including a victim counselor.

## MASSACHUSETTS

### Enacted:

**Compensation** MA Gen. Laws Ann., 1968  
 Chpt. 258A, Amended  
 Secs. 1-17 1982

Max. Award: \$10,000; Emerg. Award: none; Source: gen. revs.

**Victim Bill of Rights/  
 Service Funding** Amends MA Gen. 1983  
 Laws Ann.,  
 Chpts. 258A & 279

Lists rights of victims, survivors and witnesses when crime has been reported within five days (with exceptions). Includes: (1) Notification of all court proceedings, schedule changes and disposition; (2) Notification (upon request) of prisoner release or escape; (3) Information on financial assistance, witness fees and victim services; (4) Secure waiting areas; (5) Property return; (6) Employer-Creditor intercession; (7) Speedy disposition; (8) Child care; (9) Protection from Intimidation; (10) Prompt processing of case; (11) VIS/VSO Allocation (DA must give notice of sentencing and right to allocution for felony cases); (12) Right to request restitution in final disposition of case; and (13) Establishes a five member Victim and Witness Assistance Board to administer newly established victim assistance fund. Source of fund: pen. asmts.

**Parole Notification** MA Gen. Laws, (1982)  
 Chpt. 127, 1983  
 Sec. 133A

Parole authority must notify DA, police and victim of their right to appear at hearings and their right to make recommendations at least thirty days before hearing is scheduled.

**Witness Reporting** MA Gen. Laws, 1983  
 Chpt. 258A,  
 Sec. 8

Requires that certain crimes be reported and limits liability of certain good samaritans.

**Counselor  
 Confidentiality/  
 Sexual Assault** MA Gen. Laws, 1984  
 Chpt. 207

Establishes privileged communication between sexual assault counselor and a victim.

**Child Protection/  
 Reporting** MA Gen. Laws 1984  
 (Chpt. 288, Acts  
 of 1983), Chpt.  
 28-A; Chpt. 119,  
 Sec. 51B

Provides definitions of child abuse, directs child service teams to determine agency responsibility, establishes a commission.

**Missing Children's  
 Clearinghouse** MA Gen. Laws, 1984  
 Chpt. 356

Establishes a central registry for statewide information on missing children.

**MICHIGAN**

**Notoriety-for-Profit**      **Mass. Ann. Laws,**      **1981**  
    **Chpt. 258(A),**  
    **Sec. 8 (West Supp.)**

Prohibits convicted offender from benefiting from profits gained from notoriety due to crime.

**Introduced:**

**Compensation**                      **SB 632**                      **1985**

Amends compensation statute to meet VOCA criteria, raises maximum award to \$25,000, eliminates family exclusion under certain conditions and eliminates out-of-pocket loss for sexual assault and elderly victims.

**Bill of Rights/**                      **SB 634**                      **1985**  
**Amendment**

Establishes a victim advocate in the Attorney General's Office to provide direct service to the victim and witnesses.

**Counselor**                      **HB 2986**                      **1985**

**Confidentiality/**  
**Domestic Violence**

Establishes confidential communications between dom. viol. counselors and victims.

**Child Protection/**                      **SB 2358**                      **1985**  
**Videotaped Testimony**

Allows children under the age of eighteen years to present videotaped testimony in judges chambers with defendant present or, if the victim is unable to face the defendant, allows closed-circuit testimony.

**Enacted:**

**Compensation**                      **PA 226 of 1976**                      **1976**

Max. Award: \$15,000; Emerg. Award: none; Source: general revs. and supp. approps.

**Service Funding/**                      **MI Comp. Laws, Sec.**      **1982**  
**Domestic Violence**                      **400.1501-400.1510 as**  
    **amend. by HB 5992**  
    **of 1982 (81st) Legis.**  
    **Sess. & Secs. 551.103,**  
    **551.331 & 551.344**

Funds basic shelter and other dom. viol. services with a marriage license surcharge of \$15, and expected appropriation of \$1.66 million in FY 82-83. Programs are administered at the county level with a maximum of 40% state funding.

**Bill of Rights**                      **PA 87 of 1985**                      **1985**

Establishes the following rights: (1) Information on victim services and compensation; (2) Notification of court proceedings, sentencing, parole, general release or escape; (3) Consultation on plea agreements; (4) Secure waiting areas; (5) Address protection; (6) Speedy trial for child abuse and criminal sexual conduct; (7) Right to be present at trial; (8) Employer intervention; (9) VIS/Allocation at sentencing; (10) Restitution may be requested for physical, financial or psychological injuries; and (11) Right to address parole officer, written/oral, upon request.

**Counselor Confidential- MI Comp. Laws,**      **1984**  
**ity/Domestic Violence/**      **Sec. 21-57a**  
**Sexual Assault**

Affords both domestic violence and sexual assault counselor confidentiality. Includes all communications or any report, working paper, or statement contained in a report or working paper given or made in connection with the consultation between a victim and a sexual assault or domestic violence counselor. States that the above information and communications shall not be admissible in any civil or criminal proceeding without prior written consent of the victim.

**Child Protection/**                      **M.S.A. 25.248 (1-16)**      **1975**  
**Reporting**                      **N.C.L. 722.621-722.635**

Requires anyone involved in the care or supervision of children to report suspected abuse or neglect.

**Introduced:**

**Compensation**                      **HB 4029**                      **1985**

Amends compensation act to meet VOCA criteria.

**Restitution**                      **HB 4370**                      **1985**

Amends Code of Criminal Procedures to establish right to restitution for physical, financial or emotional injuries.

**Restitution**                      **HB 4545**                      **1985**

Amends Code of Criminal Procedures to allow restitution to be a condition of parole.

**Restitution**                      **HB 4274**                      **1985**

Allows courts to order juvenile delinquents to pay restitution or engage in community service.



**Child Abuse/  
Good Samaritan** MN Stats. Ann., 1983  
Chpt. 229

Prohibits retaliation against those reporting child abuse.

**Child Protection/  
Hearsay/Competency** HF 1279 1984

Admits certain testimony provided by child victims of sexual assault under ten years of age. Testimony and evidence are presumed admissible, children competent, exceptions are listed. Sanctions provided.

**Child Protection/  
Statute of Limitations** MN Stats. Ann., 1984  
Chpts. 496 & 588

Charges of criminal sexual conduct may be brought within seven years. Changes to eighteen years of age limits for criminal sanction, and provides costs for medical exams under insurance policies.

**Child Protection/  
Daycare License** MN Stats. Ann., 1983  
Chpt. 304

Among other provisions includes arrest record checks of those applying for daycare or residential care licenses.

**Child Protection/  
False Imprisonment** MN Stats. Ann., 1983  
Chpt. 217

Extends crime of false imprisonment to legal guardians, caretakers, and parents. Sets crime of malicious punishment of a child and neglect.

**Witness Reporting** Amends MN Stats. 1983  
Ann. 1982,  
Sec. 604.05

Requires assistance to people in emergencies and gives general immunity from liability.

**Witness Fees** MN Stats. Ann., 1983  
Chpt. 13

Increases fees and mileage allowances paid to witnesses.

**Notoriety-for-Profit** MN Stats. Ann., 1981  
Sec. 299(B)17 West  
Supp.

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

**Drunk Driving** MN Stats. Ann., 1984  
Chpt. 622

Makes it a crime to refuse to take a test for sobriety.

## MISSISSIPPI

### Enacted:

**Service Funding/  
Domestic Violence** MS Code Ann., 1983  
Sec. 93-21-103 (et. seq.)  
HB 670

Funds basic shelter services. Authorizes counties to spend \$10,000 from county treasury annually. Up to 75% state funding, records are confidential but abuse must be reported to the authorities. Discrimination is prohibited. Note: Sec. 93-31-1 et. seq. provides dom. viol. protections.

**Restitution** MS Code Ann., 1978  
Sec. 99-37-1 (et. seq.)

Provides restitution procedures and enforcement. Establishes Restitution Centers. Restitution may be part of sentence, condition of probation or suspended sentence. Includes juvenile restitution (limited to "actual damages").

**Notification/Parole** Laws of 1985 1985  
HB 565

Requires notification, upon request, of victim or relative prior to parole release.

## MISSOURI

## Enacted:

<b>Compensation/ Victim Service Funding</b>	<b>MO Rev. Stats., Chpts. 595.010- 595.070</b>	<b>1981 Amended 1982 &amp; 1983 eff: 1983</b>
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Max. Award: \$10,000; Emerg. Award: \$100; Source: pen. asmts. (\$26 of which \$25 is applied to fund.) Funding provided for direct services, emerg. services, crisis intervention, counseling and victim advocacy. Only provided for new services. Limited to \$90,000 each fiscal year.

<b>Compensation/ Notoriety-for-Profit</b>	<b>HB 715</b>	<b>1985</b>
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Brings statute into compliance with VOCA; covers mental health counseling expenses up to \$1,000 and \$2,000 for burial expenses; removes \$200 deductible for elderly victims; allows compensation for dom. viol. victims if there is a prosecution of the offender. In addition, enacts a Notoriety-for-Profit provision whereby payment of profits will go to the fund.

<b>Service Funding/ Domestic Violence</b>	<b>MO Rev Stats., Chpts. 455.200-455.230</b>	<b>1983</b>
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Funds basic shelter services with up to 75% state funds. County may adopt a \$5 marriage and \$10 divorce surcharge. Shelter records are confidential.

<b>Restitution</b>	<b>MO Rev. Stats., Chpts. 546.630 &amp; 546.640</b>	<b>1878 Amended 1939</b>
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Provides for restitution for damages or for restoration of stolen or damaged property. Restitution may be part of final judgment. Jury trial may be held if agreement can not be reached. Victim can file civil claim against offender's property and wages. Amendments require that in all cases of felony conviction the convicted party shall restore stolen property or make reparations for damages.

<b>Sexual Assault/ Rape Shield</b>	<b>MO Rev. Stats., Chpt. 491.015</b>	<b>1985</b>
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Expands rape shield statute to apply to a broader number of sex offences.

<b>Adult Abuse</b>	<b>MO Rev. Stats., Chpt. 455</b>	<b>1985</b>
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Clarifies courts authority on conditions of harrassment and extends authority to grant restraining orders.

<b>Child Protection/ Videotaped Testimony/ Missing Children</b>	<b>MO. Rev. Stat., Chpt. 492.304 HB 366</b>	<b>1985</b>
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Pertains to certain offences against children. Provides for videotaped testimony for children under twelve years of age, cross-examination on videotape and protection for child witnesses from confrontation with offender. Also establishes a statewide clearinghouse for missing children and mandates immediate response to missing children reports.

## MONTANA

## Enacted:

<b>Compensation</b>	<b>MT Code Ann., Title 53, Chpt. 9, Secs. 101-133</b>	<b>1978 Amended 1979 &amp; 1981</b>
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Max. Award: \$25,000; Emerg. Award: none; Source: fines, pen. asmts. and restitution.

<b>Service Funding/ Domestic Violence</b>	<b>MT Code Ann., Title 53, Secs. 40-2-401 to 405 &amp; 40-1-202</b>	<b>1981 &amp; 1983</b>
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Funds basic shelter services. A \$14 marriage surcharge is deposited in general fund. Services can receive up to 80% state funding. Anticipated appropriations were \$122,000 in 1984 and are \$130,000 in 1985.

<b>Bill of Rights</b>	<b>Laws of 1985 SB 451</b>	<b>1985</b>
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Establishes the following rights: (1) Information on victim services and compensation; (2) Protection from intimidation; (3) Notification of schedule changes; (4) Notification (limited to felony offenses) of arrest, pre-trial release, plea agreements, trial, sentencing, sentence, general release (not escape); (5) Participation/VSO-prosecutor shall consult victim to obtain view regarding disposition, dismissal, release pending trial, pleas, pre-trial diversions and deferred sentencing; (6) Property return; (7) Employer/creditor intervention; and (8) Training in victim assistance for prosecutors and law enforcement.

<b>Restitution/ Victim Impact Statement</b>	<b>MT Code Ann., Title 46, Chpt. 18, Secs. 241-249</b>	<b>1983</b>
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Provides for restitution as a condition of parole, suspended or deferred sentence. Includes VIS in PSI and allows restitution for psychological injuries.

<b>Restitution</b>	<b>MT Code Ann., Secs. 45-5-503 to 507</b>	<b>1985</b>
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Upon conviction of incest or sexual assault without consent, court must require payment of victims counseling costs.

<b>Victim Participation/ Parole</b>	<b>MT Code Ann., Sec. 46-23-204</b>	<b>1955</b>
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Requires Parole Board to hear all oral statements from all persons desiring to be heard before the Board. Implies that victims have the right to allocation.

<b>Bail Reform</b>	<b>MT Code Ann., Secs. 46-9-101, 103, 301 &amp; 501</b>	<b>1985</b>
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Revises the laws relating to bail to require the consideration of the danger a person poses to other persons or the community in setting bail.

<b>Notoriety-for-Profit</b>	<b>MT Code Ann., Sec. 53-9-104(e)</b>	<b>1983</b>
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Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

## NEBRASKA

## Enacted:

**Compensation\*** NE Rev. Stats., 1979  
Art. 18, Amended  
Secs. 81-1801 to 1982  
81-1842, & 1985  
Art. 73,  
Sec. 74-7301

Max. Award: \$10,000; Emerg. Award: \$500; Source: gen. revs. and supp. approp. Amended in 1982 to transfer the administration of the fund to the Crime Commission.

**Victim Service** Amends 1981  
**Funding\*** NE Rev. Stats., Amended  
Sec. 81-1423, 1985  
Supp. 1980

Creates Crime Victim and Witness Assistance Fund with special appropriation fund primarily for local programs.

**Funding for Services/** NE Rev. Stats., 1978  
**Domestic Violence** Secs. 42-904 & 1982  
to 42-923

Funds basic shelter and other dom. viol. services. Shelter records are confidential. State appropriation were \$428,000 in 1983, 1984 and 1985.

**Victim Bill of Rights** NE Rev. Stats., 1981  
Art. 18,  
Secs. 81-1801-81-1842

Establishes the following rights: (1) Property return; (2) Notification of disposition, prisoner release (if felony), schedule changes; (3) Protection from intimidation; (4) Information on criminal justice procedures, financial aid, witness fees; (5) Secure waiting areas; (6) Employer intercession; and (7) Speedy disposition.

**Victim Participation/** Amends 1983  
**Notification** NE Rev. Stats. 1983,  
Sec. 29-2261  
& NE Rev. Stats. Supp.,  
Sec. 23-1201

Makes VIS part of PSI. DA must make good faith effort to notify and consult with victim prior to plea bargain agreement.

**Counselor Confidential- NE Rev. Stats., N/A**  
**ity/Domestic Violence** Sec. 42-918

Establishes that confidentiality shall be observed in all contact with victims of spouse abuse and their families. Any record, report or files concerning such victims shall be confidential. Qualifier: Statute protects records but does not extend to testimonial privilege.

**Victim Participation/** NE Rev. Stats., N/A  
**Parole Allocation** Sec. 84-1329.01

States that every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at public meetings.

**Victim Participation/** NE Rev. Stats., N/A  
**Parole VIS** Sec. 84-1, 115

VIS at Parole. States that before making a decision regarding a committed offender's release on parole the board of parole shall consider any relevant information submitted by the offender, his attorney, or the victim.

**Restitution** NE Rev. Stats., 1971  
Sec. 29-2262(J)

The court as a condition of its sentence may require the offender to make restitution of the fruits of the crime or to make such reparations as the court determines to be appropriate for the loss or damages. In addition, when a court sentences an offender to probation it shall attach such reasonable conditions as it deems necessary or likely to ensure that the offender will lead a law abiding life.

**Notoriety-for-Profit** NE Rev. Stats., 1980  
Sec. 81-1833

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

\*Due to severe budgetary constraints no appropriations were made for compensation or victim service funding in 1985's legislative session.

## NEVADA

## Enacted:

**Compensation** NV Rev. Stats., 1981  
217.010-217.270

Max. Award: \$15,000; Emerg. Award: \$500; Source: pen. assmts. and Notoriety-for-Profit.

**Compensation** Amends NV 1983  
Rev. Stats., Amendment  
Chpt. 217

Provides for psychological counseling. Provides emergency award and increases income ceiling. Increases forfeiture and bail fund.

**Compensation** Amends NV 1983  
Rev. Stats., Amendment  
Chpt. 217

Provides preliminary award (different from emergency award) of up to \$400 for loss of cash and \$1000 for essential personal property.

**Compensation/** NV Rev. Stats., 1983  
**Funding** Chpts. 200.760 &  
178.518

Provides for forfeiture of personal property of offenders in certain cases. Up to \$350,000 of such funds go to compensation program.

**Compensation/** NV Rev. Stats., 1985  
**Notification/** Chpt. 209  
**Counseling**

Redefines personal injury under compensation to include sexual abuse and extends definition of victim to include

sexually abused minors. Liberalizes emergency awards benefits. Mandates, upon request of the victim, notification of prisoner escape or release. Requires each county to provide counseling for sexual abuse victims or relatives (if not offender) living near them. No funding attached.

**Service Funding/  
Domestic Violence** NV Rev. Stats., 1981  
Chpts. 217.400-217.470  
& 122.060

Funds basic shelter and other dom. viol. services. Marriage surcharge of \$5 is administered by counties. State funding up to 85% of costs.

**Service Funding/  
Sexual Assault/  
Domestic Violence** NV Rev. Stats., 1985  
Chpt. 217.410

Reinstates funds for rape crisis centers by allocating 15% of \$5 marriage license fee. Authorizes County Board of Commissioners to establish a Domestic Violence Advisory Board to distribute funds.

**Victim Bill of Rights** NV Rev. Stats., 1983  
Chpt. 178.569

Establishes the following rights: (1) Protection from intimidation; (2) Notification of schedule changes; (3) Secure waiting areas; (4) Property return, or information on impounded property; (5) Information on witness fees; and (6) Notification/information (upon request) of pre-trial release, final disposition, and felon release.

**Victim Involvement/  
Sentencing** Amends 1981  
NV Stats., Sec. I,  
Chpt. 176.145

Allows VIS to be considered at sentencing.

**Restitution** NV Rev. Stats., Amend  
Chpt. 176.189 1981 &  
1983

Permits restitution as condition of sentencing, mandates failure to comply with condition as a violation of probation. If recipient of restitution is not located within three years, monies collected will be deposited in Violent Crime Compensation Fund. Court must order restitution as a condition of probation or suspended sentence.

**Restitution** NV Rev. Stats., 1981  
Chpt. 209.4827 Amended  
-4843 1983

Permits offenders to be assigned to community work release centers to pay restitution, funds may be deducted from wages. Broadens definition of damages to include indirect damages. Requires court to order restitution or state reasons for failing to do so. Restitution may include monies for psychological counseling.

**Restitution** NV Rev. Stats., 1983  
Chpt. 213.126

Permits court to order restitution as a condition of parole. Makes failure to comply with parole order a violation of parole.

**Protection from  
Intimidation** Amends 1983  
NV Rev. Stats.,  
Chpt. 199

Provides criminal penalties for intimidation of victims and witnesses.

**Victim Participation/  
Parole Notification/  
VIS/Allocation** NV Rev. Stats., 1983  
Chpt. 213.130

States that meetings for the purpose of considering applications for parole must be open to the public. The board may deliberate in private after a public meeting to consider an application for parole. The victim of any parole application may submit documents to the board and may testify at meetings held to consider applications. No application for parole may be considered until the board has notified the victim of these rights.

**Clemency Notification/  
Involvement** NV Rev. Stats., 1983  
Chpts. 213.095 &  
213.040

Requires advance notification of victim in cases of application for pardon, commutation of sentence, or for fines to be remitted. Victim must be notified when such action is taken.

**Speedy Trial** NV Rev. Stats., 1982  
Chpt. 174.511

Grants the prosecution the right to request a trial within sixty days of arraignment.

**Court Attendant** NV Rev. Stats., 1983  
Chpt. 178.571

Provides for attendant of victim's choice to remain with the victim in the courtroom.

**Sexual Abuse  
& Children  
Videotaped Testimony** NV Rev. Stats., 1985  
Chpt. 174,  
Secs. 2-5

Authorizes videotaping dispositions of victims of sexual abuse or prospective witnesses in criminal prosecutions if less than fourteen years of age. Under certain indictments the court may allow use of videotape in any proceeding in lieu of testimony.

**Child Protection/  
Reporting** NV Rev. Stats., 1985  
Title 38

Extends responsibility for reporting child abuse. Establishes court procedures, notification requirements, parents rights in court proceedings and defines services to be provided to child victims.

**Child Protection/  
Background Check** NV Rev. Stats., 1985  
Chpt. 432A

Requires investigation of criminal record of every resident or employee over eighteen years of age in child care facilities.

**Child Trust Account** NV Rev. Stats., 1985  
Chpt. 432,  
Secs. 2-6

Creates a child trust account and a seven member board for the protection of children to aid in the prevention of child abuse and neglect. Establishes a \$2 fee on birth and death certificates to fund program.

## NEW HAMPSHIRE

## Enacted:

**Funding for Services/  
Domestic Violence** NH Rev. Stats., 1981  
Chpt. 223 et. seq.  
Laws of 1981, 226

Funds basic shelter and other dom. viol. services with a \$13 marriage license surcharge expected to yield \$149,000 in 1983-84. State funding up to 50% of costs. Shelter records are confidential.

**Victim Involvement/  
Sentencing** NH Rev. Stats. Ann., 1981  
Chpt. 651.4

VIS/Allocution.

**Victim Involvement/  
Parole** NH Rev. Stats. Ann., 1983  
Chap. 651-A-11-a

Victims and next of kin are allowed to appear at parole hearings and to express their views and concerns.

**Counselor  
Confidentiality** Laws of 1985 1985  
HB 703

Establishes counselor/victim confidentiality for sexual assault and dom. viol. counselors.

**Child Protection/  
Videotaped Testimony** Laws of 1985 1985  
SB 1

Provides that videotaped testimony of child sexual abuse victims may be used at trial and eliminates depositions of child victims under eighteen years of age.

## Introduced:

**Compensation** HB 532 1985

Establishes compensation program. Max. Award: \$10,000; Emerg. Award: none; Source of funding: gen. revs. Meets VOCA criteria. In addition, compensates dom. viol. and drunk driving victims and provides an annual income for homicide survivors up to the maximum award allowed for Workmen's Compensation.

## NEW JERSEY

## Enacted:

**Compensation** NJ Ann. Stats., 1971  
Secs. 52:4 B-1 Amended  
to 21 1981

Max. award: \$25,000; Emerg. Award: \$1500; Source: gen. revs., fines, and penalties. Requires applications for Violent Crimes Compensation Board be made available to victims in police stations and hospital emergency rooms.

**Compensation** NJ Laws 1982, 1982  
Chpt. 193

Eliminates minimum loss requirements for senior citizens and disabled.

**Compensation** NJ Laws 1982, 1982  
Chpt. 164,  
Supp. 2C of NJ Stats.

Expands pen. assmts. to include crimes of disorderly persons, juveniles, and drug offenses.

**Compensation** NJ Laws 1982, 1982  
Chpt. 192

Increases maximum award to \$25,000.

**Compensation/  
Counseling** Adds Sec. 2 to 1982  
NJ Laws, Chpt. 192  
PL 1971

Provides funds for counseling unit within Compensation Board.

**Compensation** PL 1983, Chpt. 86 1983

Expands coverage to include relatives of offender provided victim does not live with offender at time claim is filed.

**Funding for Services/  
Domestic Violence** NJ Stats. Ann., 1968  
Secs. 37:1-12.1 1981  
to 1-12.3; 30:14-1 & 1982  
to 14-13 &  
NJ Admin. Reg. 97

\$1.5 million state approp. in FY 83-84. \$5 marriage surcharge expected to yield \$200,000 in 1983 to fund all dom. viol. services. Requires bilingual services, prohibits release of minor to anyone other than one who sought shelter. Shelter legislation without approp. Shelter records are confidential.

**Victim Involvement/  
Sentencing** Amends NJ Laws, 1980  
Title 2C,  
Chpt. 44-6

Permits VIS as part of the PSI.

**Protection from  
Intimidation** N.J.S. 2C:28-5, 1982  
2C:29-3 to 5

Makes it a crime to tamper with witnesses, or to retaliate against them. Prohibits volunteering false information or receiving pecuniary benefits for refraining from reporting.

**Protection from Intimidation**      **Amends Supplements Title 2C of NJ Stats.**      **1983**

Strengthens already existing statute on intimidation by providing for protective orders to be issued when intimidation or retaliation is suspected or threatened. Also provides for revocation of pre-trial release when order is violated.

**Protection from Intimidation**      **Laws of 1985 AB 574**      **1985**

Provides for protection of victims where defendants are out on bail.

**Parole Involvement**      **NJ Ann. Stats., Sec. 30:4-123.54**      **1983**

Allows VIS/Allocution at parole hearings.

**Domestic Violence**      **Code of Criminal Justice, Chpt. 25**      **1968 1981 & 1982**

Establishes "Prevention of Domestic Violence Act."

**Child Protection/ Videotaped Testimony**      **PL 1985, Chpt. 126**      **1985**

Allows videotaped or closed circuit testimony for child victims or witnesses under the age of sixteen years.

**Missing Children**      **ACR 115**      **1985**

Establishes the Commission on Missing Children in the Attorney General's Office to coordinate statewide efforts on missing children.

**Notoriety-for-Profit**      **P.O. 1983, Chpt. 33 adds to Chpt. 317, Sec. 52-48-1**      **1983**

Offenders not permitted to benefit from financial proceeds resulting from media coverage of crime. Profits held in escrow for five years. Victim may receive funds through civil judgments or restitution order. Remaining funds are returned to compensation fund.

**Drunk Driving**      **SJR 31, Chpt. JR-8**      **1984**

Establishes a permanent state commission on drunk driving to study recently enacted laws.

**Introduced:**

**Victim Bill of Rights**      **AB 571**      **1985**

Establishes the following rights: (1) Notification of court procedures; (2) Protection from intimidation; (3) Property return; (4) Information on the criminal justice system; (5) Secure waiting areas; and (6) Employer Intercession.

**Victim Advocate**      **A.C.S. 1995**      **1985**

Establishes a state office on victim-witness advocacy and on victim witness assistance to supervise county victim witness services.

**Victim Involvement/ Sentencing**      **S 1311 A 3533**      **1985**

Grants victims the right of allocution at sentencing.

**Restitution**      **A 2804**      **1985**

Mandatory restitution shall be ordered as a general rule for all pecuniary losses to the victim.

**Restitution**      **A 2806**      **1985**

Gives victims right to seek civil judgment against offenders wages where restitution order is pending.

**Restitution**      **A 2803 S 2744**      **1985**

Authorizes withholding inmates wages to pay for victim restitution or penalties to the Violent Crime Compensation Board.

**Service Funding**      **A 2802**      **1985**

Establishes funding mechanism for statewide victim services funding through raising penalty assessment by \$5.

**Victim Participation**      **A 2807**      **1985**

Extends VIS in PSI to include juvenile delinquency victims.

**Child Protection/ Speedy Trial**      **A 3548**      **1985**

Establishes right to speedy trial for child victims.

**Notoriety-for-Profit/ Insanity Defense**      **SB 785**      **1985**

Provides coverage for victims of person found "not guilty by reasons of insanity" where said person contracts to sell accounts of the criminal actions.

**Drunk Driving**      **A 2745**      **1985**

Establishes certain rights for drunk driving victims, including the right to notification and information about the court proceedings.

## NEW MEXICO

### Enacted:

**Compensation** NM Laws of 1981, 1981,  
Chpt. 325, Secs. 1-26 1985

Max. Award: \$12,500; Emerg. Award: permitted, no set amount; Source: gen. revs. Amended in 1985 to meet VOCA criteria and to reauthorize program for four years.

**Compensation** NM Stats. Ann., 1983  
Chpt. 319

Expands compensation to include victims of homicide by vehicle and great bodily injury by vehicle.

**Restitution** NM Stats. Ann., 1978  
Sec. 31-17-1

Allows sentencing judge to order restitution to the victim.

**Restitution/Parole/  
VIS** NM Stats. ANN, N/A  
Secs. 31-20-6 & 10;  
31-17-1; 31-21-10(D);  
& 31-17-1(D)

Establishes that restitution for actual damages shall be a condition of a deferred or suspended sentence; requires court to order restitution as a condition of probation or parole; provides that when a court orders an inmate to make restitution the parole board must include restitution as a requirement of parole; and provides for the use of a VIS when a restitution plan is created.

**Release Notification** NM Stats. Ann., 1978  
Sec. 31-21-25

Amends notification statute to require notification of victim of release of offender.

**Parole Notification** NM Stats. Ann., 1983  
Chpt. 320

Requires DA to notify victim of parole hearing and decision.

**Escape Notification** NM Stats. Ann., 1983  
Chpt. 322

Requires DA to notify victims when prisoner escapes.

**Child Protection/  
Videotaped  
Depositions** NM Stats. Ann., 1978  
30-9-17, amended, 1983  
Sec. 30-9-1

Provides for the videotaping of depositions of children under sixteen in judge's chambers for use at trial.

**Child Protection/  
Exploitation** NM Stats. Ann., 1978  
30-9-17

Relates to sexual exploitation of children, creates criminal offenses and penalties, includes pornography and abandonment, abuse and neglect.

**Notoriety-for-Profit** NM Stats. Ann. 1983  
Chpt. 321

Prohibits offenders from receiving financial benefits as a result of crime, for five years. Victims may receive funds through civil judgments. Remaining funds are returned to offender.

## NEW YORK

### Enacted:

**Compensation** NY Exec. Laws Ann., 1969  
Secs. 620-635, Amended  
Art. 22 1979

Max. Award: \$20,000; Emerg. Award: \$1,000; Source: gen. revs.

**Compensation** Laws of 1983, 1983  
Chpt. 811

Extends eligibility for compensation to anyone who incurs burial expenses of victim.

**Compensation/  
Good Samaritan** Laws of 1983, 1983  
Chpt. 85

Provides compensation for families of murdered "good samaritans."

**Compensation/  
Counseling** Laws of 1983, 1983  
Chpt. 198

Expands covered medical expenses to include "trauma counseling" for surviving family members in murder cases.

**Compensation/Property  
& Transportation/  
Elderly Victims** Laws of 1983, 1983  
Chpt. 197

Expands compensation coverage to essential personal property loss and reasonable transportation expenses for all victims. Provides special considerations for elderly victims.

**Compensation** Laws of 1983, 1983  
Chpt. 810

Expands definition of "financial hardship" requirement for eligibility.

**Compensation/  
Domestic Violence** Exec. Law 624(2), 1983  
Chpt. 805

Allows awards to victims of child abuse and dom. viol. if offender is not to benefit from award. Previously all such cases were ruled ineligible.

**Compensation** Laws of 1984, 1984  
Chpt. 330

Extends filing time for compensation claim to one year after discovery of crime, not just one year after occurrence.

**Compensation** Laws of 1984, 1984  
Chpt. 729

Allows third parties to receive compensation for burial expenses.

**Compensation/  
Victim Service/  
Funding**      **Laws of 1985,  
Chpt. 668  
AB 2384-D &  
SB 1704-D**      **1985**

Omnibus compensation amendments providing the following: counseling reimbursement for victims of sexual assault and other traumatic crimes; shelter costs for dom. viol. victims; elimination of physical injury requirement for disabled victims; extension of awards to drunk driving victims; increased awards for burial expenses, loss of earnings, essential personal property loss and awards to good samaritans; elimination of financial needs test for claims under \$500; and allows local victim service programs to make emergency awards to needy victims, reimbursable by the Crime Board. In addition, provides statutory guidelines for the Board to fund local victim service programs.

**Compensation/  
Juvenile**      **Laws of 1985,  
AB 273-A,  
Chpt. 774**      **1985**

Enables unsealing of accusatory instruments filed against a youth where such youth has been previously adjudicated as a youthful offender or convicted of a crime. Changes will allow Compensation Board to more comprehensively consider claims filed by victims of youthful offenders.

**Funding for Services/  
Domestic Violence**      **NY Soc. Serv. Law,  
Sec. 2-31(a-b);  
9 NYCRR 3.90 (1979);  
18 NYCRR 492.1-492.28;  
& NY Exec. Order No. 19**      **1979,  
1982**

State appropriation. of \$1 million in 1984. \$20 marriage surcharge to fund all services for shelters without approps. Shelter records are confidential.

**Victim Bill of Rights**      **Laws of 1984,  
Chpt. 94,  
Art. 23**      **1984**

Establishes standards for the "fair treatment" of crime victims. Provides for: (1) Information about emergency medical services, social services, and referrals; (2) Protection from intimidation; (3) Secure waiting areas; (4) Notification of arrest, arraignment, pre-trial release, guilty plea, trial, sentencing, and prison terms; (5) Consultation on felony case disposition, dismissal, guilty plea, pre-trial release, and alternative sentencing; (6) Property return; (7) Employer/creditor intervention; (8) Establishment of standards for victim programs, and required training and education for victim providers; and (9) Special services for certain victims (elderly, children, disabled).

**Victim Bill of Rights/  
Juvenile Courts**      **Laws of 1985,  
Chpt. 414**      **1985**

Establishes a Bill of Rights for victims of juvenile offenders by extending all provisions of Article 23, the Bill of Rights, to include the juvenile justice system.

**Victim Involvement/  
Sentencing**      **Amends NY Penal Law,  
Sec. 1.05 &  
NY Criminal  
Procedure Law,  
Sec. 390.30**      **1982**

Requires VIS as part of PSI.

**Victim Involvement/  
Sentencing**      **Laws of 1984,  
Chpt. 263**      **1984**

Enables prosecutors to file pre-sentence memoranda in order to provide sentencing courts with pertinent information beyond the VIS.

**Victim Involvement/  
Sentencing/  
Restitution**      **Laws of 1985,  
Chpt. 14**      **1985**

Expands victims rights in the sentencing process. Requires the DA to consult with the victim prior to sentencing and allows victim to review VIS before it is submitted to court. Expands the scope of information in the VIS and grants family members of homicide victims the right to submit a VIS. Enables prosecutors to have complete PSI before sentencing. Creates restitution provisions for victims of sex offenses.

**Victim Participation/  
Parole Notification**      **Laws of 1985,  
Chpt. 78**      **1985**

Grants victims the right to submit a VIS at parole hearing and to receive notification, upon request to DA, of final disposition in commitment.

**Notification/General**      **Laws of 1985,  
Chpt. 504**      **1985**

Requires the Department of Correctional Services to notify victims prior to any type of release of inmate. Establishes comprehensive notification including: work release, parole, pardon, escape, discharge or temporary pass.

**Restitution/  
Civil Suits**      **Laws of 1983,  
Chpt. 95**      **1983**

Expands right of victim/survivors to sue offenders for damage.

**Restitution**      **Laws of 1983,  
Chpt. 468**      **1983**

Increases limits on dollar amounts of restitution which may be ordered.

**Restitution**      **Laws of 1983,  
Chpt. 397**      **1983**

Judges may consider restitution as part of sentencing.

**Restitution**      **C.P.L. & R.,  
Chpt. 95,  
Sec. 215(8);  
Estates, Powers  
& Trust Laws,  
Secs. 5-41**      **1983**

Extends statute of limitation on civil actions to one year after criminal proceedings are terminated.

**Restitution**      **Laws of 1984,  
Chpt. 965**      **1984**

Establishes specific authority in each county to collect restitution in order to create a systematic means for victims to receive payments. Creates a 5% surcharge on restitution to go to county as an incentive to collect restitution.

<b>Restitution</b>	<b>Laws of 1984, Chpt. 335</b>	<b>1984</b>	<b>Employer Intervention</b>	<b>PL 215.11, Chpt. 101</b>	<b>1983</b>
Enables courts to order restitution payments made to the estate of a deceased victim.			Prohibits employer penalties for absence due to participation in court hearings.		
<b>Restitution</b>	<b>Laws of 1984, Chpt. 417</b>	<b>1984</b>	<b>Property Return</b>	<b>Laws of 1984, Chpt. 795</b>	<b>1984</b>
Grants courts the authority to order restitution as a condition of probation or conditional discharge.			Enables law enforcement agencies to document property with photographs to expedite return of property to victim.		
<b>Restitution</b>	<b>Laws of 1985, Chpt. 506</b>	<b>1985</b>	<b>Domestic Violence</b>	<b>Laws of 1984, Chpt. 948</b>	<b>1984</b>
Provides that restitution must be paid before any criminal fines or pen. assmts. can be collected.			Extends family and criminal court jurisdiction over family offenses. Allows orders of protection to be entered against former spouses and persons who have a child in common regardless of whether persons have been married or have lived together.		
<b>Restitution</b>	<b>Laws of 1985, Chpt. 233</b>	<b>1985</b>	<b>Sexual Assault/ Corroboration</b>	<b>Laws of 1984, Chpt. 89</b>	<b>1984</b>
Permits judge to consider offenders potential earnings in work release/prison programs at time of sentencing. Restitution must be collected based on the inmates earnings.			Relates to corroboration of witness testimony in rape cases.		
<b>Protection from Intimidation</b>	<b>Laws of 1983, Chpt. 77</b>	<b>1983</b>	<b>Child Protection/ Privacy</b>	<b>N.Y. Civil Rights Law, Sec. 50-B(1)</b>	<b>1979</b>
Requires notification of victims that they are protected from intimidation and are eligible to apply for compensation.			Relates to minor victims of sexual offenses. Statute restricts pre-indictment release to public of any report, paper, picture, photo, court file or other documents in the custody or possession of any public officer or employee that identifies victim. The accused is allowed access to information, however.		
<b>Notification/ Intimidation</b>	<b>Exec. Law 625-9, Chpt. 77</b>	<b>1983</b>	<b>Child Protection/ Videotaped Testimony</b>	<b>Laws of 1984, Chpt. 804</b>	<b>1984</b>
Police stations must prominently post information regarding intimidation prohibition.			Permits videotaped testimony to be introduced as evidence before grand jury for child witnesses under the age of twelve and other special victims.		
<b>Protection from Intimidation</b>	<b>Laws of 1985, Chpt. 667</b>	<b>1985</b>	<b>Child Protection/ Videotaped Testimony</b>	<b>Laws of 1985, Chpt. 584</b>	<b>1985</b>
Amends tampering with witness statute to make intimidation by threat or force a felony.			Clarifies Juvenile Procedures Code provisions (Sec. 240.45) relating to discovery for videotaped examinations of witness conducted in grand jury proceedings.		
<b>Protection from Intimidation/ Protection Order</b>	<b>Laws of 1985, Chpt. 672</b>	<b>1985</b>	<b>Child Protection/ Closed Circuit Testimony</b>	<b>Laws of 1985, Chpt. 505</b>	<b>1985</b>
Permits a court to enforce an order of protection issued to a victim of a non-family offense, or to punish an offender for the violation of the terms and conditions of such an order, in the same manner as is presently provided in family offense cases.			Provides that vulnerable child witnesses, twelve years of age and under, may provide testimony to court by closed circuit television.		
<b>Confidentiality</b>	<b>Laws of 1984, Chpt. 913</b>	<b>1984</b>	<b>Child Counselor/ Sexual Assault</b>	<b>Laws of 1985, Chpt. 650</b>	<b>1985</b>
Clarifies that disclosure of otherwise privileged medical, psychological or psychiatric information solely for the purpose of obtaining insurance will not result in loss of all confidentiality protections.			Provides that a social worker, psychologist, rape crisis counselor or other support person may accompany a child sexual assault victim in grand jury room.		
<b>Confidentiality</b>	<b>Laws of 1985, Chpt. 96</b>	<b>1985</b>	<b>Child Hearsay</b>	<b>Laws of 1985, Chpt. 724</b>	<b>1985</b>
Provides that client/victim counselor confidentiality shall not be waived by authorizing disclosure of information for purposes of obtaining insurance benefits.			Permits use of prior statements of abused or neglected child victims as evidence.		
<b>Employer Penalties</b>	<b>Laws of 1983, Chpt. 101</b>	<b>1983</b>			
Protects victims who testify voluntarily from being fired for time off for court appearance.					

**Missing Children**      **Laws of 1985,**      **1985**  
    **Chpt. 617**

Authorizes school districts to report to statewide registry on missing children and requires immediate notification of parents when elementary children are absent from school.

**Notoriety-for-Profit**      **N.Y. Exec. Law,**      **1980**  
    **Sec. 632-a,**  
    **McKinney Supp.**

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

**Drunk Driving/  
License Suspension**      **Laws of 1984,**      **1984**  
    **Chpt. 192**

Requires that upon drunk driving arraignment driver's license will be revoked pending prosecution.

**Introduced:**

**Compensation/  
Children**      **AB 6678**      **1985**  
    **SB 4783**

Allows greater eligibility for child victims and witnesses to receive counseling benefits, including not requiring that a child sustain a physical injury to qualify for compensation. Requires Crime Victims Board to coordinate child services throughout state.

**Compensation/  
Missing Children**      **AB 5600**      **1985**  
    **SB 4910**

Enables compensation board to contract for counseling services for parents of missing children and on return of missing children.

**Restitution**      **AB 741-B**      **1985**  
    **SB 5484-A**

Permits judge to consider offender's potential earnings in work release/prison programs at time of sentencing. Restitution must be collected based on the inmate's earnings.

**Restitution**      **AB 4507-B**      **1985**  
    **SB 5231-A**

Requires judges to create a schedule of payment for restitution at time of sentencing

**Notification**      **AB 6848**      **1985**  
    **SB 2817-A**

Requires DA to notify victim upon release or escape of offender.

**NORTH CAROLINA**

**Enacted:**

**Compensation**      **NC Gen. Stats.,**      **1983**  
    **Chpt. 15B**

Max. Award: \$20,000; Emerg. Award: none; Source: gen. revs. of \$1 million provided (not yet distributed).

**Compensation/  
Sexual Assault**      **NC Gen. Stats.,**      **1983**  
    **Chpt. 143B**

Expands Rape Victim Assistance Program to cover ambulance and mental health counseling. Provides for purchase and distribution of kits for rape exam.

**Funding for Services/  
Domestic Violence**      **Laws of 1982,**      **1982**  
    **HB 1148**

Funds for dom. viol. services with state appropriations of \$250,000 in FY 83-84 and FY 84-85.

**Witness Assistance  
Coordinator**      **NC Code,**      **1981**  
    **Sec. 7A-69-1**

Creates witness assistance coordinator positions and allocates personnel to prosecutorial districts.

**Restitution**      **NC Gen. Stats.,**      **1935**  
    **Chpt. 148-57.1 and**  
    **148-33.2**

Provides that restitution is authorized in proposed plea agreements as a condition of probation or parole. Establishes that restitution is required in instances of stolen property.

**Sex Offense/  
Victim Assistance**      **NC Code,**      **1981**  
    **Sec. 143B-480.2 et seq.**

Describes eligibility for rape and other sex offense victim assistance programs as well as program elements.

**Child Protection**      **NC Gen. Stats.,**      **1983**  
    **Art. 39,**  
    **Chpts. 7-A-489 to**  
    **7-A-493**

Establishes the office of Guardian Ad-litem Services to assist abused and neglected children involved in court proceedings. Also provides training for child abuse coordinators and volunteers who work with children.

**Child Protection/  
Reporting**      **NC Gen. Stats.,**      **1983**  
    **Chpt. 199**

Requires reporting of all cases of abused juveniles to DA.

**Child Protection**      **NC Gen. Stats.,**      **1985**  
    **Chpt. 205**

Requires speedy investigation of child abuse and neglect.

**Drunk Driving**      **NC Gen. Stats.,**      **1983**  
    **Chpt. 435**

Mandatory jail terms established for various drunk driving offenses.





**OKLAHOMA**

**Enacted:**

**Compensation** 21 OK Stats. 1981; 1981  
47 OK Stats. 1981,  
Sec. 7-508

Max. award: \$10,000; Emerg. Award: \$500; Source: pen. assmts. New 1984 penalty provisions establish \$500 felony and \$100 misdemeanor assessments for compensation fund.

**Compensation/  
Restitution** 22-991-A, 1985  
OK Stats.

Enables judges to order convicted offenders to pay fine into locally established trust funds for purposes of making compensation/restitution payments to victims of crime.

**Service Funding/  
Victim Rights** Amends 1981  
19 OK Stats. 1971,  
Sec. 215.15

Permits each DA's office to have one victim/witness coordinator (applies to districts whose population is in excess of 60,000) to ensure the following victim rights: 1) Notification of schedule changes; 2) Protection from intimidation; 3) Information on financial assistance, victim services and witness fees; 4) Secure waiting areas; 5) Speedy property return; 6) Employer intercession; and 7) Includes provision for these rights to be extended to families of homicide victims.

**Service Funding/  
Domestic Violence** OK Stats., 1982  
Sec. 43A

Funds basic shelter and other dom. viol. services. State approp. of \$896,000 expected for FY 84.

**Restitution/  
Juvenile** 10 OK Stats., 1985  
Sec. 1404.1

Establishes juvenile restitution program whereby offenders pay up to 50% of their wages to victim.

**Victim Participation/  
VIS** 22 OK Stats., 1981  
Sec. 982

Provides that the PSI in felony cases shall include the voluntary statement of the victim concerning the offense and the amount of the victim's loss, as well as information about the defendant.

**Parole Notification** Amends 57 OK 1981  
Stats. 1971,  
Sec. 332.2

Requires Pardon and Parole Board to notify the DA at least twenty days in advance of regular meetings or ten days for special meetings, by sending a copy of the docket with notification of recommendations for commutations or paroles, so victims can be informed.

**Intimidation** Amends 21 OK 1981  
Stats. 1971,  
Sec. 455

Increases penalty for intimidating witnesses and preventing them from testifying from three to ten years.

**Rape and Domestic  
Abuse Victim Rights** HB 1832 (Chpt. 220) 1982  
HB 1828 (Chpt. 255)  
22 O.S. Supp. 1983  
Secs. 40-40.4 & 60-60.7

Describes rights and services for rape and domestic abuse victims; includes Protection from Domestic Abuse Act.

**Spouse Abuse/Rape** 21 OK Stats. 1981, 1983  
Sec. 1111

Removes exemption of spouse from definition of rape.

**Incapacitated Persons  
and Elderly Abuse/  
Reporting and Services** HB 1309 1984  
(Chpt. 256)

Mandates reporting of, and services for, abused or neglected adults and incapacitated persons.

**Child Protection** 21 OK Stats. 1981, 1983  
Sec. 1123

Prohibits lewd or indecent proposals to, or acts with, children under age sixteen years (raised from fourteen years).

**Child Abuse/  
Reporting** HB 1470 (Chpt. 85) 1984  
HB 1460 (Chpt. 140)

Mandates reporting of child abuse; requires report to be forwarded to Department of Human Services.

**Child Protection/  
Evidence** 47 OK Stats. 1981, 1984  
Sec. 7-508

Declares statements of children under ten years of age describing acts of sexual contact are admissible as evidence in criminal proceedings.

**Child Protection/  
Evidence** 47 OK Stats. 1981, 1984  
Sec. 7-508

Allows testimony of children under twelve years of age to be admitted into court in abuse cases and declares statements of children under ten years of age describing acts of sexual contact are admissible as evidence in criminal proceedings.

**Child Protection/  
Reporting** HB 1470 (Chpt. 85) 1984  
HB 1460 (Chpt. 140)

Mandates reporting of child abuse; requires report to be forwarded to Department of Human Services.

**Child Protection/  
Hearsay Admissibility** OK Stats., 1985  
Title 12,  
Sec. 2803.1

Allows the admission of hearsay testimony for child sexual abuse victims under the age of ten if the child is unavailable or unable to testify.

**Child Protection/  
Videotaped Testimony** OK Stats., 1985  
Title 10

Allows for videotaped depositions and closed circuit testimony for child sexual abuse victims under the age of twelve years.



**Introduced:**

**Compensation**                      **HB 2220**                      **1985**

Amends compensation statute to meet VOCA requirements, expands benefits for counseling and funeral expenses, removes spousal exclusion under certain circumstances and reduces minimum loss requirements.

**Bill of Rights Initiative**                      **Amends**                      **1985**

**OR Rev. Stats.,**  
Secs. 40.355, 40.385,  
136.060, 136.230,  
137.101, 144.120 &  
144.260

An initiative to provide the following rights: (1) Protection from intimidation; (2) Address protection; (3) Notification and consultation on trial schedule; (4) Courtroom attendance; (5) Compensatory fines to victim in addition to restitution; (6) Notification of parole at least thirty days in advance of parole hearing; (7) VIS/Allocution at parole; (8) Notification of any prisoner release; and (9) Equalizes jury challenges between defense and prosecution.

**PENNSYLVANIA****Enacted:**

**Compensation**                      **PA Stats. Ann., Title**                      **1976**  
71, Secs. 180-7 to  
180-7.15; Title 37,  
Secs. 191.1-191.15

Max. Award: \$35,000; Emerg. Award: \$1,000; Source: pen. assmts.

**Compensation**                      **Amends**                      **1979**  
**PA Admin. Code,**                      **& 1980**  
**Sec. 477**  
**as amended 1976**

Requires law enforcement agencies to inform victims of availability of compensation and requires all law enforcement personnel to be trained about compensation board and eligibility requirements.

**Compensation**                      **Act 96 of 1984**                      **1984**  
**Amendment**

Extends compensation costs and eligibility (e.g., to vehicular crimes, and to intervenors); expands compensation losses (e.g., includes loss of earnings, out-of-pocket costs for counseling and evidentiary medical exams, and loss of social security benefits); extends victim-family coverage. Increases maximum award to \$35,000.

**Service Funding/  
Domestic Violence/  
Sexual Assault**                      **Act 157 of 1982**                      **1982**

Amount: \$1.5 million; Source: \$10 pen. assmt. Eligible recipients: dom. viol. shelters and rape crisis centers.

**Victim Bill of Rights/  
Funding for Services/  
Compensation  
Extension**                      **Act 96 of 1984,**                      **1984**  
**SB 853 (P.N. 2243)**

Establishes a \$15.00 fine for any person who pleads guilty or no contest or who is convicted of a crime (\$10.00 of the fine funds compensation and \$5.00 funds victim and witness services). Establishes grants process for services programs. Establishes the following rights: (1) Information requires police and DA to inform victim of rights and compensation; (2) Expands Notoriety-for-Profit provision; (3) VIS at PSI; (4) Restitution as condition of probation; (5) Notification of any release; (6) Notification of services and financial assistance, court schedule changes, court proceedings and final disposition; (7) Protection from intimidation; (8) Secure waiting areas; and (9) Property return.

**Intimidation**                      **Amends**                      **1980**  
**PA Consol. Stats.,**  
**Title 18**  
**Chpt. 49**

Intimidation of victims/witnesses becomes a third-degree felony.

**Counselor Confidentiality/ Sexual Assault**      Amends PA Consol. Stats., Title 42, Chpt. 49      1981

Allows communications between victims and sexual assault counselors to remain privileged. Counselors may not be required to testify or reveal notes without consent of victim. Covered counselors must have forty hours of training.

**Domestic Violence**      PL 1090, No. 218      1976

Provides for restraining orders for protection from abuse for spouses and children.

**Marital Rape**      Act 230 of 1984      1984

Expands the definition of sexual assault to include spousal sexual assault under specified conditions.

**Child Protection**      PL 438, No. 124; Act 244 of 1984, Chpt. 17, Sec. 1      Amended 1975 1984

Establishes Child Protective Services procedures for reporting abuse and neglect. 1984 amendments require any person who in the course of their employment, occupation or practice comes into contact with children to report abuse or neglect and establish a central registry for child abuse.

**Notoriety-for-Profit**      PA Stats. Ann., Title 71, Sec. 180-7.18 (Pardon Supp.)      1982

Requires the creation of escrow accounts for profits from notoriety due to crime. Victims have five years in which to receive funds through civil judgments. Any remaining funds may be used by offender for legal fees.

**Introduced:**

**Protection from Intimidation**      HB 228      1985

Strengthens protection from intimidation to include attempting or threatening to harm another for anything lawfully done in the capacity or witness or victim.

**Victim Participation/ Parole**      HB 447      1985

Provides for VIS/Allocution at parole hearings and notification of parole hearing thirty days in advance.

**Restitution**      HB 741      1985

Mandates restitution as a condition of parole.

**Restitution/ Juvenile**      SB 231      1985

Provides for parental liability for juvenile offenses up to \$5,000.

**Domestic Violence/ Protection Orders**      HB 350      1985

Strengthens existing law to provide law enforcement with authorization to use probable cause arrests in certain dom. viol. cases.

**Child Bill of Rights/ Videotaped hearing/ Closed Circuit Testimony**      HB 195, HB 286 & SB 176      1985

Sets forth child rights including the following: (1) Information on court proceedings; (2) Designation of individual to explain proceedings to the child, to act as a friend of the court and to assist the child and family; (3) Speedy trial; and (4) Videotaped deposition for preliminary hearing or pre-trial hearing and closed circuit testimony. (SB 176 contains provisions for hearsay admissibility under certain conditions.)

**Child Protection/ Statute of Limitations**      SB 183      1985

Extends the limitation periods in criminal cases where the victim is a child.

**Missing Children's Clearinghouse**      SB 184      1985

Establishes a statewide clearinghouse on missing children and requires immediate investigation of missing children reports.

## RHODE ISLAND

### Enacted:

**Compensation** RI Gen. Laws Ann., 1972  
Secs. 12-25-1 to Amended  
12-25-14 1978

Max. Award: \$25,000; Emerg. Award: none; Source: fines and pen. assmts.

**Compensation/  
Fine Increases** RI Gen. Laws, 1984  
Chpt. 258

Increases maximum penalties to be paid to Violent Crimes Indemnity Fund. Felony penalties of five years or more are \$100 (or 10% of other fine if greater), for less than a five year penalty, \$60 (or 10% of other fine if greater). Misdemeanor fines equal \$20 (or 10% of other fine if greater). Fines shall be imposed on no contest pleaders.

**Compensation** RI Gen. Laws Ann., 1985  
Sec. 12-25-16

Amends compensation statute to strengthen reporting requirements and prohibits awarding benefits where the victim and offender are living together as husband and wife and where the Court feels unjust enrichment to the offender would result if an award is made.

**Funding for Services** RI Gen. Laws, 1984  
Chpt. 354

Creates a lien on wages earned at prison to insure collection of funds to notify victims of rights and services, and to provide funding for services established in Bill of Rights. Amends parts of compensation procedures.

**Victim Bill of Rights** RI Gen. Laws Ann., 1983  
Sec. 12-28-(1-8)

Establishes the following rights for victims of crime: (1) Information on services; (2) Protection from intimidation; (3) Notification of investigation, arraignment, bail release, disposition, court proceedings and schedule changes, custody release, general release and parole; (4) Property return; (5) Employer intercession; (6) VIS/VSO/Allocution; (7) Secure waiting areas; (8) Witness fees; and (9) Automatic civil judgment/liability. (Upon conviction of a felony, a civil judgment shall be automatically entered by the trial court against the offender. The provision is separate from restitution.)

**Bill of Rights/  
Amendment** Laws of 1985, 1985  
SB 387

Grants victim the right (oral or written) to address court prior to imposition of a sentence reached as a result of plea bargaining when the defendant intends to plea to a felony or misdemeanor that has been reduced from a felony. Expands standing of family in the courtroom and specifies that a lawyer must give reasons in court why victim or immediate family members cannot be allowed in courtroom. Expands definition of victim to include individuals who have been incapacitated.

**Restitution** RI Gen. Laws Ann., 1978  
Sec. 12-19-32

Allows court to make restitution a condition of probation.

**Parole Involvement** RI Gen. Laws Ann., 1956  
Sec. 13-8-26

Allows interested persons to make a statement "with respect to a particular applicant for parole." However, requires written submittal.

**Parole Notification** RI Gen. Laws, 1984  
Sec. 14

Relates to notification by Parole Board upon offender's release.

**Witness Reporting** RI Gen. Laws, 1983  
Chpt. 268,  
Sec. 11-37-3.1

Requires reporting of sexual assault crimes.

**Sexual Assault/  
Exam Costs** RI Gen. Laws, 1984  
Chpt. 120

Requires Department of Social and Rehabilitative Services to pay costs of emergency room treatment and other examinations for sexual assault victims without medical or hospital insurance coverage.

**Notoriety-for-Profit** RI Gen. Laws, 1983  
Sec. 12-25.1-1  
PL 328

Provides that royalties paid to convicted offenders for commercial publication, re-enactment or dramatization of the crime may be recovered by the state to pay trial costs and to compensate victims.

**Drunk Driving/  
Sanctions** RI Gen. Laws, 1983  
Chpt. 238

Mandates a one-year license suspension for driving while drinking and a \$500 fine for driving while a passenger is drinking.

### Introduced:

**Compensation** H 6245 1985

Appropriates 750,000 to the Criminal Injury Compensation Fund.

**Compensation** H 5764 1985  
S 532

Amends compensation statute to meet VOCA criteria.

**Bill of Rights/  
Amendment** SB 387 1985

Grants victim the right (oral or written) to address court prior to imposition of a sentence reached as a result of plea bargaining when the defendant intends to plea to a felony or misdemeanor that has been reduced from a felony.

**Notification/  
Participation** H 6296 1985

Provides for a minimum mandatory period of confinement for criminal defendants found to be incompetent to stand trial or acquitted on grounds of insanity. Requires notice to victims prior to the release of the defendant from confinement and gives the victim the right to testify at commitment and release hearings.



## TENNESSEE

## Enacted:

**Compensation**      TN Code Ann.,      1976  
Chpt. 13,      Amended  
Secs. 29-13-101 to      1978-81  
208 & Sec. 40-3207

Max. Award: \$5,000; Emerg. Award: \$1,500; Source: fines and pen. assmts.

**Compensation**      TN Code Ann.,      1984  
Chpt. 752

Amends compensation law to reduce max. award to \$5,000 from \$10,000. Also, multiple crimes occurring simultaneously will be considered a single crime, specifies a "finding of fact" must be made for award. Increases fines from \$26.50 to \$50.00.

**Compensation**      TN Code Ann.,      1984  
Chpt. 997

Places all forfeitures of felony appearance bonds in new county criminal injuries compensation fund account.

**Restitution**      TN Code Ann.,      1980  
Chpt. 628

Establishes victim rights to restitution and procedures.

**Juvenile Restitution**      TN Code Ann.,      1983  
Chpt. 9

Makes restitution a dispositional alternative in delinquency cases, involves payment to victim by child.

**Release Limitations**      TN Code Ann.,      1984  
Chpt. 968

When a judgment is silent on release status, a defendant may be eligible for such status within six months prior to release; prohibits placement on work release of those convicted of aggravated rape, rape, and armed robbery.

**Child Protection/  
Videotaped Testimony**      Laws of 1985      1985

Allows videotaping of child depositions for use in court and establishes child abuse teams in each county.

**Notoriety-for-Profit**      TN Code Ann.,      1980  
Secs. 29-13-201 to 208

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

## TEXAS

## Enacted:

**Compensation**      Vernon's TX Civil      1980  
Stats. Ann.,  
Art. 83-09-1

Max. Award: \$25,000; Emerg. Award: \$1,500; Source: fines and pen. assmts.

**Compensation**      Vernon's TX Civil      1984  
Stats. Ann.,  
Art. 83-09-1

Raises pen. assmt. for felony to \$20, for misdemeanor (with fine of more than \$200) to \$15.00 and for misdemeanor (with fine of less than \$200) to \$12.50; funds go to compensation program. Decreased maximum award from \$50,000 to \$25,000.

**Compensation**      Laws of 1985,      1985  
HB 309

Lowers Class C misdemeanor fine from \$12.50 to \$3.00. Fines go to compensation program.

**Compensation**      Vernon's TX Civil      1985  
Stats. Ann.,  
Art. 8309-1

Amends statute to comply with VOCA and eliminates family exclusion.

**Service Funding/  
Domestic Violence**      Vernon Supp., 82-83,      1982  
TX Hum. Res.      & 1983  
Code Ann.,  
Secs. 51.001-51.011;  
& TX S. Con. Res., 82-  
86 & 89; 68th Leg.  
Sess., 1983 TX Gen.  
Laws

Funding for all dom. viol. services with state appropriation of \$1.48 million (FY 84) and \$1.59 million (FY 85). State may fund up to 75% of shelter costs and shelter records are confidential.

**Bill of Rights**      TX Code of Crim.      1985  
Proc.,  
Chpt. 56

Establishes the following rights: (1) Protection from intimidation; (2) Consideration of victim/family's safety in setting the amount of bail; (3) Information on court proceedings, sexual assault plea negotiations, victim services and compensation; (4) VIS/Allocution in pre-sentence investigation; (5) Notification of parole proceedings; (6) VIS at parole; (7) Right to be present at trial and at all court proceedings, subject to approval of judge; (8) Establishes victim assistance coordinators in DA's offices; and (9) Grants clearinghouse authority to establish procedures for compliance with act.

**Restitution and  
Parole**      TX Laws,  
Vernon's TX Civil      1981  
Stats. Ann.,  
Art. 6166x-3

Authorizes Department of Corrections to establish a "Work Furlough Plan" for prisoners which may include procedures to contribute restitution to victims.

<b>Restitution</b>	<b>Vernon's TX Civil Stats. Ann., Art. 42.12</b>	<b>1985</b>	Establishes community restitution centers as an alternative to sentencing where convicted must secure employment to pay restitution and may also be required to perform community service.
<b>Restitution</b>	<b>Laws of 1985 HB 2053</b>	<b>1985</b>	Requires offenders on parole or probation to pay restitution for mental health counseling.
<b>Speedy Trial</b>	<b>TX Code of Crim. Proc., Chpt. 32A, Art. 02</b>	<b>1984</b>	Establishes the right to a speedy trial.
<b>Domestic Violence</b>	<b>TX Code of Crim. Proc., Chpts. 51.001-51.011</b>	<b>1981</b>	Establishes definitions, contract requirements, and grant/funding processes for family violence shelters. Shelter records are confidential.
<b>Domestic Violence</b>	<b>TX Code of Crim. Proc., Chpt. 5</b>	<b>1985</b>	Provides criminal penalties for the violation of certain court orders and establishes procedures and reporting requirements for law enforcement, prosecutors and courts in family violence incidents and cases.
<b>Child Protection/ Videotaped Testimony</b>	<b>Vernon's TX Civil Stats. Ann., Art. 38.07.1</b>	<b>1984</b>	Allows for the electronic recording of testimony of minor fourteen years old or younger for admission into court to avoid trauma of testifying in court.
<b>Child Protection/ Hearsay</b>	<b>TX Penal Code, Art. 38.07</b>	<b>1985</b>	Allows first person a child talks to about the crime to testify and provides that children do not have to testify but have to be available during court proceedings.
<b>Child Protection</b>	<b>TX Penal Code, Art. 17.41</b>	<b>1985</b>	Grants courts authority to order defendant to stay away from child victim of offense.
<b>Missing Children/ Clearinghouse</b>	<b>Laws of 1985 HB 248</b>	<b>1985</b>	Creates a missing children's clearinghouse in the Department of Public Safety.
<b>Notoriety-for-Profit</b>	<b>TX. Rev. Stats. Ann., Art. 8309-1, Secs. 16-18, Vernon Supp. 1980</b>	<b>1980</b>	Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

## UTAH

## Enacted:

<b>Compensation/ Drunk Driving</b>	<b>UT Code Ann., Chpt. 41-25-1</b>	<b>1985</b>	Mandates that \$100 of each drunk driving fine be given to a victims fund to provide compensation for victims of drunk driving offenses. Authorizes creation of program. Administrative guidelines have not been established.
<b>Service Funding/ Domestic Violence</b>	<b>UT Code Ann., Secs. 30-69</b>	<b>1981</b>	State appropriation of \$350,000 in FY 84-85. Funding also includes a \$13.00 marriage license surcharge for basic shelter and other dom. viol. services.
<b>Victim Bill of Rights</b>	<b>HJR 12</b>	<b>1985</b>	Establishes the following rights: (1) Information on criminal justice proceedings and victim services; (2) Protection from intimidation; (3) Consultation on plea agreements, sentencing and parole release; (4) Right to reparations; (5) Preservation of property and employment; (6) Due process in criminal justice proceedings; (6) Notification of all criminal justice proceedings; and (7) Requests legislative committee on Criminal and Juvenile Justice to address victim rights.
<b>Restitution</b>	<b>UT Code Ann., Sec. 77-3-201</b>	<b>1979</b>	Allows defendant to make restitution double the amount of pecuniary damages. Defines restitution and requires that non-payment will be treated a contempt of court.
<b>Restitution</b>	<b>UT Code Ann., Sec. 77-32-A-1-14</b>	<b>1980</b>	Establishes that a criminal court may require defendant to pay restitution.
<b>Restitution</b>	<b>Amends Laws of Utah, 1979, Sec. 76-3-201, amended by Chpt. 69; Enacts Laws of Utah, 1980, Chpt. 15, Secs. 77-18-1 &amp; 77-27-3</b>	<b>1982</b>	Requires that restitution be a condition of probation and parole. Also requires that there be a finding by judge in a written order of defendant's inability to pay.
<b>Restitution</b>	<b>UT Code Ann., Chpt. 85, Sec. 77-18-1</b>	<b>1984</b>	Omits probation for Class C misdemeanor, specifies probation procedures. Places any outstanding restitution obligations at end of probation under courts of civil jurisdiction for collection.
<b>Restitution/ Probation</b>	<b>UT Code Ann., Chpt. 85, Sec. 77-18-1</b>	<b>1985</b>	Mandates that restitution as a condition of probation shall be continued until restitution order is satisfied.



## VIRGINIA

### Enacted:

**Compensation**            VA Code Ann.,            1968  
                                  Chpt. 21.1,            Amended  
                                  Secs. 19.2-368-1            1978,  
                                  to 368.18            1981, 1985

Max. Award: \$15,000; Emerg. Award: \$2,000; Source: fines and pen. assmts. Amended in 1985 to raise max. award from \$12,500 to \$15,000, emerg. award from \$1,000 to \$2,000 and increased reporting time to 120 hours. However, amendments did not bring statute into compliance with VOCA.

**Compensation**            VA Code Ann.,            1984  
                                  Chpt. 747

Modifies family exclusion such that incest victims, mentally deranged persons and victims who separate from (and help with prosecution of) the offender are eligible for awards.

**Compensation**            VA Code Ann.,            1984  
                                  Chpt. 619

Excludes motor vehicle crime victims from compensation awards, unless the injury was intentional.

**Service Funding**        VA Code Ann.,            1984  
                                  9-173.3

Establishes programs, rules and grant/funding procedures for victim and witness assistance programs. Program implemented by the Department of Criminal Justice Services.

**Service Funding/  
 Domestic Violence**      VA H.J. Res 31            1978  
                                  of 1978; VA Code,        & 1983  
                                  Secs. 63.1-315 to  
                                  63.1-319 & 20-15

Funds basic shelter and other dom. viol. services with an expected state approp. of \$800,000 in FY 83-84. A \$7.00 marriage surcharge is enacted with accompanying legislation to appropriate monies to dom. viol. programs.

**Victim Bill of Rights**    HJR 105 of 1984        1984

Establishes rights including: (1) Protection from intimidation; (2) Information about services and financial assistance; (3) Separate waiting areas; (4) Property return; (5) Employer intercession; (6) Notification of proceedings; and (7) Mandatory restitution when bodily injury or death occurs.

**Victim Involvement/  
 Sentencing**            VA Code Ann.,            1983  
                                  Sec. 19.2-299.1

Allows, in discretion of court, VIS as part of PSI; if no PSI ordered, VIS may be prepared if victim desires. Commonwealth Attorney may provide details about PSI ordered.

**Victim Impact  
 Statement**            VA Code Ann.,            1984  
                                  Sec. 19.2-299.1

Amends VIS law to allow VIS preparation by county attorney when court does not order the PSI.

**Restitution**            VA Code Ann.,            1984  
                                  Sec. 19.2

Makes restitution mandatory in criminal cases unless otherwise stated by judge.

**Missing Children**        HB 1287                    1985  
                                  Laws of 1985

Amends code to abolish any police waiting periods on the acceptance of missing children reports. Provides for the creation of a missing childrens clearinghouse.

**Translator Services**      HB 1443                    1985  
                                  Laws of 1985

Provides for an interpreter for a victim who is deaf or who doesn't speak English.

## WASHINGTON

**Enacted:**

**Compensation**                      **Rev. Code of WA**                      **1974**  
    **Ann.,**                                      **Amended**  
    **Secs. 7.68.010-**                      **1977, 1981,**  
    **7.68.915**                                      **1982, 1983**

Max. Award: \$15,000; Emerg. Award: none; Source: pen. asmts. and gen. revs. The \$15,000 maximum is for non-medical costs.

**Compensation**                      **Acts of 1985,**                                      **1985**  
    **Sub. HB 242**

Eliminates, under certain conditions, family or same household exclusion and brings statute in compliance with VOCA.

**Service Funding**                      **Rev. Code of WA**                      **1982**  
    **Ann.,**  
    **Secs. 70.123.010-**  
    **70.123.900**

Provides 20% of pen. asmts. may be used for comprehensive victim/witness programs in County Prosecutors' offices if approved by comp. program.

**Service Funding/**                      **WA Rev. Code Ann.,**                      **1982**  
**Domestic Violence**                      **Secs. 70.123.010-**  
    **70.123.900**

Funds basic shelter and other dom. viol. services with a state approp. of \$1.4 million in 1981. State can fund up to 50% of costs. Also, shelter's civil liability is limited and its address is kept secret.

**Victim Bill of Rights**                      **Rev. Code of WA,**                      **1981**  
    **Sec. 7.69.010**                                      **Amended**  
       **1985**

Lists rights of victims including: (1) Information on final disposition; (2) Information on court schedules; (3) Protection from intimidation; (4) Information on witness fees; (5) Secure waiting areas; (6) Property return; (7) Employer intercession; (8) Medical assistance. Substantially amended in 1985. Changes add the following rights: (9) Expands definition of victim to include victims survivors; (10) VIS at PSI; (11) Notification of hearings, sentencing, and any type of prisoner release; (12) Allocution: right to make an oral statement at sentencing hearings; (13) Mandatory restitution in all felony cases; (14) Right to remain in courtroom during trial and if subpoenaed to testify, to be scheduled as early as possible.

**Domestic Violence**                      **SB 4541**                                      **1984**  
    **Laws of 1984**

Creates a civil remedy for persons abused by a family member, provides for protective orders. Sanctions for abuse and protective order against violence set forth.

**Counselor**                                      **Rev. Code of WA,**                      **1981**  
**Confidentiality/**                                      **Sec. 70.125.065**  
**Sexual Assault**

Provides that records maintained by Rape Crisis Centers shall not be made available to any defense attorney as part of discovery in a sexual assault case unless, following an in-camera review of the records, a court determines that the records are relevant and that their probative value outweighs the victim's privacy interest in the confidentiality of such records. In making its decision the court is to take into account the further trauma that may be inflicted on the victim from disclosure.

**Sexual Assault**                                      **Rev. Code of WA,**                      **1984**  
    **Chpt. 118**

Removes spousal exception from rape defenses.

**Child Protection/**                      **Rev. Code of WA,**                      **1984**  
**Abuse and Neglect**                                      **Chpt. 261**

Provides for child protection, revises laws regulating state council for prevention of child abuse and neglect.

**Notoriety-for-Profit**                      **Rev. Code of WA,**                      **1981**  
    **Sec. 7.68.200**

Prohibits convicted offenders from benefiting from profits gained from notoriety due to crime.

**Drunk Driving**                                      **Rev. Code of WA,**                      **1984**  
    **Chpt. 219**

Drunk driving arrest shall result in confiscation of operator's license.

**Drunk Driving**                                      **Rev. Code of WA,**                      **1984**  
    **Chpt. 164**

Increases penalties for vehicular assault and vehicular homicide.



<b>"Children's" Bill of Rights/ Videotaped Depositions</b>	<b>AB 115, Amends Chpt. 950</b>	<b>1984</b>	<b>Notoriety-for-Profit</b>	<b>WI Stats. Ann., Chpt. 950.04 (2A) (West Supp.)</b>	<b>1984</b>
<p>Extends rights of adult victims to children. In addition judges may order videotaped depositions of witnesses younger than eighteen years of age. Prosecutors must designate a person who will do the following: (1) Explain legal proceedings to child witnesses; (2) Act as friend of the court attesting to the child's understanding of court procedures; (3) Advise prosecutor on child's competency, ability to cooperate and on the potential effects of the proceedings on the child; (4) Encourage expedited proceedings when appropriate; and (5) Bar the use of children's names and addresses in the press. (The WI Supreme Court developed guidelines for implementing these rights in 1985.)</p>			<p>Establishes procedures whereby victims receive proceeds from books, movies, etc. that would go to offender for re-counting crime. Victims need court judgment and need to file a claim. Requires profits from notoriety be held in escrow for five years. Money not claimed by victims through civil judgments is returned to offender.</p>		
<b>Introduced:</b>					
<b>Victim Involvement/ Sentencing</b>	<b>WI Stats. Ann., Chpt. 950.04 (2M) (West Supp 1984-85)</b>	<b>1983</b>	<b>Compensation</b>	<b>Amendment to WI Stats. Ann., Chpt. 949</b>	<b>1985</b>
<p>Requires VIS to be used with consent of victim and if the offense is a felony, or property damage, or threat of bodily injury. Also provisions of Bill of Rights.</p>			<p>Raises maximum award to \$25,000 (excluding funeral benefits), provides unlimited awards for medical benefits, raises maximum allowable for funeral expenses to \$3,500 and provides new award of \$1,000 for securing and cleaning up crime scene. Also brings statute into compliance with VOCA.</p>		
<b>Restitution</b>	<b>WI Stats. Ann., Chpt. 352 (Repeals 97309(3), (6C) &amp; (8))</b>	<b>1981</b>	<b>Privacy Protection</b>	<b>AB 177</b>	<b>1985</b>
<p>Requires court to consider restitution for the victim when determining whether to order payment of costs. Must combine in a single order restitution and all other payments required as a condition of probation.</p>			<p>Provides that victims and witnesses do not have to give their address or place of employment when they testify unless there is a showing of good cause.</p>		
<b>Protection from Intimidation</b>	<b>WI Stats. Ann., Chpt. 118</b>	<b>1981</b>	<b>Juvenile Restitution/ Court Attendance</b>	<b>AB 12</b>	<b>1985</b>
<p>Stiffens and more clearly defines penalties for victim/witness intimidation including stipulation that pre-trial release of defendant includes a condition that prohibits intimidation. Provides for enforcement.</p>			<p>Increases parents' liability for juvenile offenders from \$1,000 to \$5,000 and allows victims to attend juvenile court hearings.</p>		
<b>Protection from Intimidation</b>	<b>1983 Act 336</b>	<b>1983-84</b>			
<p>Courts may issue restraining orders for violations of harassment statute. Creates Class B forfeiture for harassment.</p>					
<b>Employer Intercession</b>	<b>WI Stats. Ann., Chpt. 103.87</b>	<b>N/A</b>			
<p>Prohibits penalizing victim for testifying.</p>					
<b>Victim Aid/ Good Samaritan</b>	<b>1983 Act 198</b>	<b>1983-84</b>			
<p>Requires that a person knowing of a potential crime must assist victim or summon police. Violation is a Class C misdemeanor. Person providing assistance is immune from civil liability unless they expect to be paid for their actions.</p>					
<b>Elder Abuse/ Reporting</b>	<b>1983 Act 398</b>	<b>1983-84</b>			
<p>Department of Health and Social Services establishes county programs for reporting and investigation of elder abuse.</p>					



**PART THREE:  
SAMPLE STATUTES**

**Victim Compensation  
Sample Statute  
South Carolina**

(R587, H3499)

AN ACT TO AMEND ARTICLE 13, CHAPTER 3, TITLE 16, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COMPENSATION OF VICTIMS OF CRIME, THE SOUTH CAROLINA VICTIM'S COMPENSATION FUND, AND THE SOUTH CAROLINA CRIME VICTIM'S ADVISORY BOARD, SO AS TO PROVIDE THAT APPEALS FROM INITIAL DECISIONS UNDER THE ARTICLE SHALL BE MADE TO THE BOARD OR A PANEL OF THE BOARD RATHER THAN TO AN INDUSTRIAL COMMISSIONER, TO EXPAND THE MEMBERSHIP OF THE BOARD AND PROVIDE FOR THE TERMS AND QUALIFICATIONS OF THE ADDITIONAL MEMBERS, TO FURTHER PROVIDE FOR THE FUNCTIONS AND DUTIES OF THE BOARD, TO REVISE CERTAIN CRITERIA PERTAINING TO THE ELIGIBILITY FOR AND AMOUNT OF THE AWARDS TO VICTIMS OF CRIME, TO REVISE THE RESIDENCY REQUIREMENTS FOR PERSONS WHO QUALIFY FOR AN AWARD, TO PROVIDE THAT LICENSED HEALTH CARE OR MEDICAL FACILITIES UNDER CERTAIN CONDITIONS ARE ELIGIBLE FOR AWARDS TO COVER THE COST OF MEDICOLEGAL EXAMS GIVEN TO PARTICULAR VICTIMS, TO FURTHER PROVIDE FOR THE FUNCTIONS OF THE DIRECTOR OF THE VICTIM'S COMPENSATION FUND IN REGARD TO VICTIM RESTITUTION PROGRAMS AND TO PROVIDE THAT RESTITUTION PAYMENTS TO THE FUND MAY BE MADE BY THE DEPARTMENT OF CORRECTIONS FROM THE WAGES ACCUMULATED BY OFFENDERS IN ITS CUSTODY, TO PROVIDE THAT THE INTEREST ACCRUING ON THE MONIES HELD IN THE VICTIM'S COMPENSATION FUND SHALL BE PLACED IN THE FUND, AND TO MAKE OTHER NECESSARY REVISIONS IN THE ARTICLE TO ACCOMPLISH THE ABOVE; AND TO AMEND CHAPTER 3, TITLE 16 OF THE 1976 CODE RELATING TO CRIMES AND OFFENSES BY ADDING ARTICLE 14 SO AS TO ESTABLISH A STATE VICTIM/WITNESS ASSISTANCE PROGRAM.

Be it enacted by the General Assembly of the State of South Carolina:

**Compensation of victims of crime**

SECTION 1. Article 13, Chapter 3, Title 16 of the 1976 Code, which was added by the provisions of Act 455 of 1982, is further amended to read:

"Article 13

## Compensation of Victims of Crime.

Section 16-3-1110. For the purpose of this article:

(1) 'Board' means the South Carolina Crime Victim's Advisory Board.

(2) 'Claimant' means any person filing a claim pursuant to this article.

(3) 'Fund' means the South Carolina Victim's Compensation Fund.

(4) 'Director' means the Director of the State Workers' Compensation Fund.

(5) 'Field Representative' means a field representative of the State Workers' Compensation Fund.

(6) 'Crime' means an act which constitutes a crime as defined by state, federal, or common law which results in physical injury or death to the victim. No act involving the operation of a motor vehicle, boat, or aircraft which results in injury or death shall constitute a crime for the purpose of this article unless the injury or death was recklessly or intentionally inflicted through the use of such vehicle, boat, or aircraft. Reckless use of a motor vehicle, boat, or aircraft includes but is not limited to violations of Sections 56-5-2910, 56-5-2920, 56-5-2930 and 56-5-1210. Such reckless use also includes the use of a motor vehicle, boat, or aircraft to flee the scene of a crime in which the driver of the motor vehicle, boat, or aircraft knowingly and willingly participated.

(7) 'Victim' means a person who suffers physical injury or death as a direct result of crime.

(8) 'Intervenor' means any person who goes to the aid of another and suffers physical injury or death as a direct result of acting, not recklessly, to prevent the commission of a crime, to lawfully apprehend a person reasonably suspected of having committed a crime, or to aid the victim of a crime, except that the term 'intervenor' does not include law enforcement officers performing their normal duties.

(9) 'Deputy Director' means the Deputy Director of the Victim's Compensation Fund.

(10) 'Panel' means a three-member panel of the Board designated by the Board Chairman to hear appeals.

Section 16-3-1120. The Director of the State Workers' Compensation Fund, as appointed by the Governor pursuant to Section 42-7-20, is hereby also named Director of the Victim's Compensation Fund. The Director's annual salary is eighty-five percent of the salary paid to the Industrial Commissioners of the State. The Director is responsible for administering the provisions of this article. Included among the duties of the Director is the responsibility, with approval of the South Carolina Crime Victim's Advisory Board as established herein, for developing and administering a plan for informing the public of the availability of the benefits provided under this article and procedures for filing claims for the benefits.

The Director, upon approval by the South Carolina Crime Victim's Advisory Board, has the following additional powers and duties:

(1) To appoint a Deputy Director of the Victim's Compensation Fund, and staff necessary for the operation thereof, and to contract for services. The Director shall recommend the salary for the

Deputy Director and other staff members, as allowed by statute or applicable law.

(2) To promulgate regulations to carry out the provisions and purposes of this article and Article 14 of this chapter.

(3) To request from the Attorney General, South Carolina Law Enforcement Division, solicitors, magistrates, judges, county and municipal police departments, and any other agency or department such assistance and data as will enable the Director to determine whether, and the extent to which, a claimant qualifies for awards. Any person, agency, or department listed above is authorized to provide the Director with the information requested upon receipt of a request from the Director. Any provision of law providing for confidentiality of juvenile records does not apply to a request of the Deputy Director, Director, the Board, or a panel of the Board pursuant to this section.

(4) To reinvestigate or reopen previously decided award cases as the Deputy Director considers necessary.

(5) To require the submission of medical records as are needed by the Board, a panel of the Board, or Deputy Director or his staff and, when necessary, to direct medical examination of the victim.

(6) To take or cause to be taken affidavits or depositions within or without the State. This power may be delegated to the Deputy Director or the Board or its panel.

(7) To render each year to the Governor and to the General Assembly a written report of the activities of the Victim's Compensation Fund pursuant to this article.

(8) To delegate the authority to the Deputy Director to reject incomplete claims for awards or assistance.

(9) To render awards to victims of crime or to those other persons entitled to receive awards in the manner authorized by this article. The power may be delegated to the Deputy Director.

(10) To apply for funds from, and to submit all necessary forms to, any federal agency participating in a cooperative program to compensate victims of crime.

(11) To delegate to the Board or a panel of the Board on appeal matters any power of the Director or Deputy Director.

Section 16-3-1130. (1) A claim, once accepted for filing and completed, must be assigned to a Field Representative. The Field Representative shall examine the papers filed in support of the claim and cause an investigation to be conducted into the validity of the claim. The investigation shall include but not be limited to an examination of police, court, and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury upon which the claim is based. All claims arising from the death of an individual as a direct result of a crime must be considered together by a single field representative.

(2) Claims must be investigated and determined, regardless of whether the alleged criminal has been apprehended, prosecuted, or convicted of any crime based upon the same incident or whether the alleged criminal has been acquitted or found not guilty of the crime in question.

(3) The Field Representative conducting the investigation shall file with the Deputy Director a written report setting forth a recommendation and his reason therefor. The Deputy Director

shall render a decision and furnish the claimant with a copy of the report.

Section 16-3-1140. (1) The claimant may, within thirty days after receipt of the report of the decision of the Deputy Director, make an application in writing to the Deputy Director for review of the decision.

(2) Upon receipt of an application for review pursuant to subsection (1) of this section, the Deputy Director shall forward all relevant documents and information to the Chairman of the Crime Victim's Advisory Board. The Chairman shall appoint a three-member panel of the Board which shall review the records and affirm or modify the decision of the Deputy Director; provided, that the Chairman may order, in his discretion, that any particular case must be heard by the full Board. If considered necessary by the Board or its panel or if requested by the claimant, the Board or its panel shall order a hearing prior to rendering a decision. At the hearing any relevant evidence, not legally privileged, is admissible. The Board or its panel shall render a decision within ninety days after completion of the investigation. The action of the Board or its panel is final and non-appealable. If the Deputy Director receives no application for review pursuant to subsection (1), his decision becomes the final decision of the Victim's Compensation Fund.

(3) The Board or its panel, for purposes of this article, may subpoena witnesses, administer or cause to be administered oaths and examine such parts of the books and records of the parties to proceedings as relate to questions in dispute.

(4) The Deputy Director shall within ten days after receipt of the Board's or panel's final decision make a report to the claimant including a copy of the final decision and the reasons why the decision was made.

Section 16-3-1150. Notwithstanding the provisions of Section 16-3-1130, if it appears to the Deputy Director that the claim is one with respect to which an award probably will be made and undue hardship will result to the claimant, if immediate payment is not made, the Deputy Director may make one or more emergency awards to the claimant pending a final decision in the case, provided that (a) the amount of each emergency award shall not exceed five hundred dollars, (b) the total amount of such emergency awards shall not exceed fifteen hundred dollars, (c) the amount of such emergency award must be deducted from any final award made to the claimant and (d) the excess of the amount of any emergency award over the amount of the final award, or the full amount of any emergency award if no final award is made, must be repaid by the claimant to the Victim's Compensation Fund as created by this article.

Section 16-3-1160. There is created a board to be known as the South Carolina Crime Victim's Advisory Board to consist of eleven members to be appointed by the Governor with the advice and consent of the Senate. Of the original seven members, at least two of the members shall have been admitted to practice law in this State for not less than five years next preceding their appointment, one member shall be a physician licensed to practice medicine under the laws of this State, and one member shall have at least four years administrative experience in a court-related Vic-

tim's Assistance Fund, provided that such a qualified person is available. Of the four additional members, one must be a law enforcement officer with at least five years administrative experience, one shall have at least five years experience in directing sexual assault prevention or treatment services, one shall have at least five years experience in providing services for domestic violence victims, and one shall have been a victim of crime.

The term of office of each appointed member is five years and until his successor is appointed and qualified. Of those seven members first appointed, two shall serve for a term of one year, two for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, with the initial terms to be designated by the Governor when making the initial appointments. The initial terms of four additional members to be appointed as provided herein are for two, three, four, and five years respectively, the initial term of each member to be designated by the Governor when making the appointment. The Governor shall select a chairman. The Board may elect a secretary and other officers as deemed necessary.

Any vacancy must be filled for the remainder of the unexpired term by appointment in the same manner of the initial appointments.

The Board shall meet at least twice each year and must be subject to the call of the Chairman, to consider improvements in and monitor the effectiveness of the Victim's Compensation Fund, and to review and comment on the budget and approve the regulations pertaining to the Victim's Compensation Fund of this article and the Victim/Witness Assistance Program of Article 14 of this chapter. The members of the Board shall receive the same subsistence, mileage, and per diem as is provided by law for members of state boards, committees, and commissions, to be paid from the Victim's Compensation Fund as created by this article.

Section 16-3-1170. No award may be made unless the Board, its panel, or the Deputy Director finds that (a) a crime was committed, (b) the crime directly resulted in physical injury to or death of the victim or intervenor and (c) police records show that the crime was promptly reported to the proper authorities. In no case may an award be made where the police records show that such report was made more than forty-eight hours after the occurrence of such crime unless the Deputy Director or the Board or its panel, for good cause shown, finds the delay to have been justified. The Board, its panel, or Deputy Director upon finding that any claimant or award recipient has not fully cooperated with all law enforcement agencies, may deny, reduce, or withdraw any award.

Section 16-3-1180. (1) (a) Any award made pursuant to this article may be in an amount not exceeding actual expenses including indebtedness reasonably incurred for medical services or other services necessary as a direct result of the injury upon which the claim is based. These services include but are not limited to mental health counseling which may be required by eligible individuals for up to ninety days which shall be provided by either a mental health professional who is certified or licensed in his discipline, or a qualified paraprofessional who has specific

training in particular victimizations and who is recognized by the South Carolina Victim's Compensation Board.

(b) Any award made pursuant to this article may be for loss of earnings or support resulting from such injury; provided, the claimant has lost non-reimbursable earnings or support for at least two consecutive weeks. This amount is limited to the maximum allowable compensation rate as determined by the South Carolina Industrial Commission under Section 42-1-50. These provisions may be waived upon a determination by the Deputy Director, the Board or its panel if the interests of justice so require.

An award for loss of earnings may also include reasonable expenses of job retraining services or similar employment-oriented rehabilitative services incurred as a direct result of the injury.

(2) In the event of death of a victim or intervenor, an award may be made for actual expenses reasonably incurred for burial, not to exceed two thousand dollars.

(3) If there are two or more family members as specified in Section 16-3-1210(c) who are entitled to an award as a result of the death of a person which is the direct result of a crime, the award must be apportioned by the Deputy Director, the Board, or its panel among the claimants.

(4) No award made under the provisions of this article shall exceed ten thousand dollars in the aggregate.

(5) Any award made pursuant to this article is subject to a deduction of one hundred dollars from any and all losses; provided, however that this provision may be waived by the Deputy Director, the Board, or its panel upon a determination that the interests of justice so require. An award to a person sixty-five years of age or older is not subject to any deduction.

(6) The Deputy Director, the Board, or its panel may reject an application for an award when the claimant has failed to cooperate with the Deputy Director or his staff in the verification of the information contained in the application.

Section 16-3-1190. Any award made pursuant to this article may be reduced by or set-off by the amount of any payments received or to be received as a result of the injury (a) from or on behalf of the person who committed the crime, (b) from any other private or public source, including an award of workmen's compensation pursuant to the laws of this State or (c) as an emergency award pursuant to Section 16-3-1150; provided, that private sources shall not include contributions received from family members, or persons or private organizations making charitable donations to a victim.

Section 16-3-1200. In determining the amount of an award, the Deputy Director, the Board, or its panel shall determine whether because of his conduct the victim or intervenor of such crime contributed to the infliction of his injury, and the Deputy Director, the Board, or its panel may reduce the amount of the award or reject the claim altogether in accordance with such determination; provided, however, the Deputy Director, the Board, or its panel may disregard for this purpose the contribution of an intervenor for his own injury or death where the record shows that the contribution was attributable to efforts by the intervenor as set forth in subsection (8) of Section 16-3-1110.

Section 16-3-1210. (1) Except as provided in Section 16-3-1220, the following persons are eligible for awards pursuant to this article:

- (a) a victim;
- (b) an intervenor;
- (c) a surviving spouse; or
- (d) a parent or child who is legally dependent for his principal support upon a deceased victim or intervenor.

Victims and intervenors may be legal residents or nonresidents of this State. However, the crime must have been committed in this State in order to qualify for an award hereunder. No victim or intervenor whether a legal resident of this State or another state is entitled to file a claim in more than one state. A surviving spouse, parent, or child who is legally dependent for his principal support upon a deceased victim or intervenor is entitled to file a claim hereunder if the deceased victim or intervenor would have been so entitled regardless of the residence or nationality of the surviving spouse, parent, or child.

(2) A licensed health care or medical facility is eligible for an award to cover the specific cost for a routine medicolegal exam of an alleged victim of criminal sexual conduct in any degree or child sexual abuse provided the victim has filed an incident report with the police, provided the health care facility has performed the exam adhering to sexual assault exam protocol standards developed by the South Carolina Law Enforcement Division and the South Carolina Hospital Association, and provided that the crime occurred in South Carolina.

Section 16-3-1220. (1) A person listed in items (a), (b), or (c) of Section 16-3-1210 shall be ineligible for an award if he or she committed or aided in the commission of the crime upon which the claim was based or was engaged in any unlawful activity at the time of the crime.

(2) Unless the Deputy Director, the Board, or its panel shall determine in a particular case that the interests of justice require otherwise, a person listed in items (a), (b), or (c) of Section 16-3-1210 is ineligible for an award if he or she:

(a) is a surviving spouse, or parent, or child who is legally dependent upon a deceased victim or intervenor who committed an act set forth in subsection (1) of this section, or

(b) was residing at the time of the crime in the same household as the person who committed the crime.

Section 16-3-1230. (1) A claim may be filed by a person eligible to receive an award, as provided in Section 16-3-1210, or, if the person is an incompetent or a minor, by his parent or legal guardian or other individual authorized to administer his affairs.

(2) A claim must be filed by the claimant not later than one hundred eighty days after the occurrence of the crime upon which the claim is based or not later than one hundred eighty days after the death of the victim or intervenor. Upon good cause shown, the Deputy Director may extend the time for filing for a period not to exceed two years after such occurrence or death.

(3) Claims must be filed in the office of the Deputy Director by mail or in person. The Deputy Director shall accept for filing all claims submitted by persons eligible under subsection (1) of this section and meeting the requirements as to the form of the claim

contained in the regulations of the Board.

Section 16-3-1240. It is unlawful, except for purposes directly connected with the administration of the victim's compensation program, for any person to solicit, disclose, receive, or make use of or authorize, knowingly permit, participate in or acquiesce in the use of any list, or names of, or information concerning persons applying for or receiving awards hereunder without the written consent of the applicant or recipient. The records, papers, files, and communications of the Board, its panel and the Director and his staff must be regarded as confidential information and privileged and not subject to disclosure under the Freedom of Information Act as contained in Chapter 3 of Title 30.

Section 16-3-1250. Payment of an award pursuant to this article shall subrogate the State, to the extent of such payment to any right of action accruing to the claimant or to the victim or intervenor to recover losses resulting from the crime with respect to which the award is made.

Section 16-3-1260. (1) Any payment of benefits to, or on behalf of, a victim or intervenor or eligible family member under this article shall create a debt due and owing to the State by any person found in a court of competent jurisdiction of this State to have committed such criminal act.

(2) The circuit court, when placing on probation any person who owes a debt to the State as a consequence of a criminal act, may set as a condition of probation the payment of the debt or a portion of the debt to the State. The court may also set the schedule or amounts of payments subject to modification based on change of circumstances.

(3) The Department of Parole and Community Corrections shall also have the right to make payment of the debt or a portion of the debt to the State a condition of parole.

(4) When a juvenile is adjudicated delinquent in a family court proceeding involving a crime upon which a claim under this article can be made, the family court in its discretion may order that the juvenile pay the debt to the Victim's Compensation Fund as created by this article as an adult would have to pay had an adult committed the crime. Any assessments so ordered may be made a condition of probation as provided in Section 20-7-1330.

(5) Payments authorized or required under this section must be paid to the Victim's Compensation Fund. The Director of the Victim's Compensation Fund shall coordinate the development of policies and procedures for the South Carolina Department of Corrections, the South Carolina Office of Court Administration and the South Carolina Board of Parole and Community Corrections to assure that victim restitution programs are administered in an effective manner to increase payments into the Compensation Fund.

(6) Restitution payments to the Victim's Compensation Fund may be made by the Department of Corrections from wages accumulated by offenders in its custody who are subject to this article, except that offenders wages shall not be used for this purpose if such monthly wages are at or below minimums required to purchase basic necessities.

Section 16-3-1270. If a person is unable at the time of sentencing or at any other time the court may set to pay a restitution charge

imposed by the court pursuant to Sections 24-23-210 through 24-23-230, such restitution charge shall constitute a lien against the offender and against any real or personal property of the offender. A restitution charge shall not constitute a lien if it is waived by the Director pursuant to Section 24-23-210. Such lien may be filed by the Attorney General in the respective offices of the clerks of court and registers of mesne conveyances of this State in the same manner state tax liens are filed and may be enforced and collected by the Attorney General in the same manner state tax liens are enforced and collected.

Section 16-3-1280. Any person who knowingly makes a false claim or a false statement in connection with any claim hereunder is guilty of a misdemeanor and upon conviction must be punishable by a fine of not less than five hundred dollars or by a term of imprisonment for not less than one year, or both, and shall further forfeit all money received hereunder, if any.

Section 16-3-1290. (1) There is hereby created a special fund to be known as the Victim's Compensation Fund for the purpose of providing for the payment of all necessary and proper expenses incurred by the operation of the Victim's Compensation Fund and the payment of claims. The State Treasurer is the custodian of the fund and all monies in the fund are held by the State Treasurer.

(2) The funds placed in the Victim's Compensation Fund shall consist of all money appropriated by the General Assembly, if any, for the purpose of compensating claimants under this article and money recovered on behalf of the State pursuant to this article by subrogation or other action, recovered by court order, received from the federal government, received from additional court costs, received from assessments or fines, or received from any other public or private source, pursuant to this article.

(3) All administrative costs of this article, except the Director's salary, must be paid out of money collected pursuant to this article which has been deposited in the Victim's Compensation Fund.

(4) Interest must be accrued on all monies held in the Victim's Compensation Fund. All accrued interest must be placed in the Fund.

Section 16-3-1300. Any award made under this article must be paid in accordance with the discretion and decision of the Deputy Director as to the manner of payment, subject to the regulations of the board and not inconsistent with the Board's or panel's award. No award made pursuant to this article is subject to garnishment, execution, or attachment other than for expenses resulting from the injury which is the basis for the claim. In every case providing for an award to a claimant under this article, the Deputy Director, the Board or its panel may, if in its opinion the facts and circumstances of the case warrant it, convert the award to be paid into a partial or total lump sum, without discount.

Section 16-3-1310. No award of any kind must be made under this article to a victim or intervenor injured while confined in any federal, state, county, or municipal jail, prison, or other correctional facility.

Section 16-3-1320. An award made pursuant to this article shall not constitute a payment which is treated as ordinary income under either the provisions of Chapter 7 of Title 12 of the 1976

Code, or to the extent lawful, under the United States Internal Revenue Code.

Section 16-3-1330. Notwithstanding any other provision of this article to the contrary, where an award under this article has been authorized but there are not sufficient funds in the Victim's Compensation Fund to pay or continue paying the award, then the award or the remaining portion thereof must not be paid unless and until sufficient funds become available from the fund and at such time awards which have not been paid must begin to be paid in chronological order with the oldest award being paid first. In the event an award was to be paid in installments and some remaining installments have not been paid due to a lack of funds, then when funds due become available that award must be paid in full when its appropriate time for payment comes on the chronological list before any other post-dated award must be paid. Any award hereunder is specifically not a claim against the State if it cannot be paid due to a lack of funds in the Victim's Compensation Fund.

Section 16-3-1340. A claimant may be represented by an attorney in proceedings under this article. Fees for such attorney must be paid from the Victim's Compensation Fund, subject to the approval of the Director, except that in the event of an appeal pursuant to Section 16-3-1140, attorneys' fees are subject to the approval of the Board or its panel hearing the appeal. Attorneys for the South Carolina Workers' Compensation Fund shall represent the South Carolina Victim's Compensation Fund in proceedings under this article.

Any person who receives any fee or other consideration or any gratuity on account of services so rendered, unless such consideration or gratuity is approved by the Deputy Director, or who makes it a business to solicit employment for a lawyer or for himself in respect to any claim or award for compensation is guilty of a misdemeanor and, upon conviction must for each offense, be punished by a fine of not more than five hundred dollars or by imprisonment not to exceed one year, or by both such fine and imprisonment."

#### **Victim/Witness Assistance Program**

SECTION 2. Chapter 3, Title 16 of the 1976 Code is amended by adding:

##### **"Article 14**

##### **Victim/Witness Assistance Program.**

Section 16-3-1400. For the purpose of this article: (1) 'Victim' means a person who suffers direct or threatened physical, emotional, or financial harm as the result of the commission or attempted commission of a crime. 'Victim' also includes the immediate family of any victim who is a minor or who is incompetent or the immediate family of a homicide victim.

(2) 'Witness' means any person who has been or is expected to be summoned to testify for either the prosecution or the defense or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution or defense, whether or not any action or proceeding has yet been commenced.

Section 16-3-1410. The Victim Compensation Fund is authorized

to provide the following victim assistance services, contingent upon an appropriation of funds therefor by the General Assembly:

(A) Provide information, training, and technical assistance to state and local agencies and groups involved in victim/witness and domestic violence assistance, such as the Attorney General's Office, the solicitors' offices, law enforcement agencies, judges, hospital staff, rape crisis centers, and spouse abuse shelters.

(B) Provide recommendations to the Governor and General Assembly on needed legislation and services for victims.

(C) Serve as a clearinghouse of victim/witness information.

(D) Develop guidelines for the implementation of victim/witness assistance programs.

(E) Develop ongoing public awareness and programs to assist victims, such as newsletters, brochures, television and radio spots and programs, and news articles.

(F) Provide staff support for a state level advisory group representative of all agencies and groups involved in victim/witness and domestic violence services to improve coordination efforts.

(G) Coordinate the development and implementation of policy and guidelines for the treatment of victims/witnesses with appropriate agencies, with initial emphasis in the following three areas:

(1) The State Victim/Witness Program shall work with the solicitors of this State, the Attorney General's Office, and relevant professional organizations to develop guidelines for solicitors to follow in the handling of victims, to include but not be limited to:

(a) Periodically informing victims of the status of a case.

(b) Providing information to the court on the views of victims of violent crime on bail decisions, continuances, plea bargains, dismissals, sentencing, and restitution.

(c) Pursuing charges of defendants who harass, threaten, injure, or otherwise attempt to intimidate or retaliate against victims or witnesses.

(d) Utilizing a victim and witness on-call system.

(e) Developing procedures for the prompt return of victims' property.

(f) Considering the views of victims and witnesses concerning the use of case continuances.

(g) Informing the solicitors' offices about victim assistance units and their effectiveness.

(h) Informing victims of the availability of civil as well as criminal redress.

(2) The State Victim/Witness Program shall assist the Office of Court Administration and South Carolina Sentencing Guidelines Commission in developing guidelines for all judges to follow in the handling of victims, to include but not be limited to:

(a) Scheduling of court proceedings and an on-call notification system.

(b) Separate waiting rooms for prosecution and defense witnesses.

(c) Special weight for victim's interests when considering requests for continuances.

(d) Special weight must be given to the victim's interest in speedy return of property before trial in ruling on the admissibility of photographs of that property.

(e) Child sexual assault/incest victims must be given practical legal support by allowing them videotape, legal transcript, or closed session testimony.

(3) The State Victim/Witness Program shall work with the appropriate law enforcement officers' associations and other relevant organizations to develop guidelines and model policies for law enforcement agencies to utilize in handling and working with victims of crime.

Section 16-3-1420. The Director of the State Victim/Witness Assistance Program is the Director of the South Carolina Victim's Compensation Fund.

**Time effective**

SECTION 3. This act shall take effect upon approval by the Governor.

In the Senate House the 21st day of June  
In the Year of Our Lord One Thousand Nine Hundred and Eighty-Four.

Michael R. Daniel,  
*President of the Senate*  
W. Sterling Anderson,  
*Speaker Pro Tempore of the  
House of Representatives*

Approved the 22nd day of June, 1984.

Richard W. Riley,  
Governor

—XX—

Printer's Date — 6/26/84 — S.

# Funding of Victim Services Sample Statute

## California Chapter 166

*The people of the State of California do enact as follows:*

**SECTION 1.** Section 12018 of the Fish and Game Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 2.** Section 12019 of the Fish and Game Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 3.** Section 13967 of the Government Code, as amended by Section 3 of Chapter 530 of the Statutes of 1980, is amended to read: 13967. (a) Upon a person being convicted of a crime of violence committed in the State of California resulting in the injury or death of another person, if the court finds that the defendant has the ability to pay a fine and finds that the economic impact of the fine upon the defendant's dependents will not cause such dependents to be dependent on public welfare the court shall, in addition to any other penalty, order the defendant to pay a fine commensurate with the offense committed, and with the probable economic impact upon the victim, of at least ten dollars (\$10), but not to exceed ten thousand dollars (\$10,000).

(b) The fine imposed pursuant to this section shall be deposited in the Indemnity Fund in the State Treasury, the proceeds of which shall be available for appropriation by the Legislature to indemnify persons filing claims pursuant to this article and to provide assistance to established local comprehensive programs for victims and witnesses, including but not limited to, pilot local assistance centers for victims and witnesses established pursuant to the provisions of Article 2 (commencing with Section 13835) of Chapter 4 of Title 6 of Part 4 of the Penal Code, and to provide funding for the programs provided pursuant to Article 3 (commencing with Section 13836) of Chapter 4 of Title 6 of Part 4 of the Penal Code and Article 4 (commencing with Section 13837 of Chapter 4 of Title 6 of Part 4 of the Penal Code.

(c) It is the intent of the Legislature that funds appropriated pursuant to this section for local assistance centers for victims and witnesses shall be in addition to any funds appropriated as provided in Section 13835.8 of the Penal Code.

(d) Funds appropriated pursuant to this section shall be made available through the Office of Criminal Justice Planning to those public or private nonprofit programs for the assistance of victims and witness which:

(1) Provide comprehensive services to victims and witnesses of all types of crime. It is the intent of the Legislature to make funds available only to programs which do not restrict services to victims and witnesses of a particular type or types of crimes.

(2) Are recognized by the county board of supervisors as the major provider of comprehensive services to such victims and witnesses.

(3) Are selected by the county board of supervisors as the eligible program to receive such funds.

(4) Assist victims of violent crimes in the preparation and presentation of their claims to the State Board of Control for indemnification pursuant to this article.

(5) Cooperate with the State Board of Control in obtaining and verifying data required by this article.

**SECTION 4.** Section 13967 of the Government Code, as amended by Section 3.1 of Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 5.** Section 13967 of the Government Code, as added by Section 3.5 of Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 6.** Section 1464 of the Penal Code, as amended by Section 1 of Chapter 1047 of the Statutes of 1980, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars (\$4) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposit of bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in

the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.50 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 37.36 percent of the funds deposited in the Assessment Fund during the preceding month.

(e) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall remain effect only until January 1, 1982, and as of that date is repealed.

**SECTION 7.** Section 1464 of the Penal Code, as amended by Section 2 of Chapter 1047 of the Statutes of 1980, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars (\$4) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclist, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 40.69 percent of the funds deposited in the Assessment Fund during the preceding month.

(e) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 10.14 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1982, shall remain in effect until July 1, 1982, and as of that date is repealed.

**SECTION 8.** Section 1464 of the Penal Code, as added by Section 3 of Chapter 1047 of the Statutes of 1980, is amended to read:

1464. There shall be levied an assessment in an amount equal to four dollars (\$4) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the

courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The money so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.42 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 24.58 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 24.17 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 50.83 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on July 1, 1982.

**SECTION 9.** Section 13521 of the Penal Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 10.** Section 13835.9 is added to the Penal Code, to read:

13835.9. By January 1, 1985, the Office of Criminal Justice Planning shall prepare and submit to the Legislature a report summarizing the effectiveness of victim and witness assistance centers established pursuant to this article. That report shall include, but not be limited to, the effectiveness in achieving the design functions enumerated in Section 13835.4 and the provision of services enumerated in Section 13835.6.

The Office of Criminal Justice Planning is specifically authorized and encouraged to seek the assistance of an organization or organizations which may be able to utilize funding sources other than the state to prepare this report for the Office of Criminal Justice Planning.

**SECTION 11.** Section 42050 of the Vehicle Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 12.** Section 42051 of the Vehicle Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 13.** Section 42052 of the Vehicle Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 14.** Section 42053 of the Vehicle Code, as added by Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 15.** Section 258 of the Welfare and Institutions Code as amended by Section 12 of Chapter 530 of the Statutes of 1980 is amended to read:

258. (a) Upon a hearing conducted in accordance with Section 257, upon an admission by the minor of the commission of a traffic violation charged, or upon a finding that the minor did in fact commit such traffic violation, the judge, referee, or traffic hearing officer may do any of the following:

(1) Reprimand the minor and take no further action;

(2) Direct the probation officer to file a petition as provided for in Article 8 (commencing with Section 325); or

(3) Make any or all of the following orders:

(i) That the driving privileges of the minor be suspended or restricted as provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle Code or any other provision of law, when the Vehicle Code does not provide for the suspension or restriction of driving privileges that, in addition to any other order, the driving privileges of the minor be suspended or restricted for a period of not to exceed 30 days.

- (ii) That the minor attend traffic school over a period not to exceed 60 days.
- (iii) That the minor pay to the general fund of the county a sum, not to exceed fifty dollars (\$50), and to the Assessment Fund an assessment in the amount provided in Section 1464 of the Penal Code. Any judge, referee, or traffic hearing officer may waive an assessment if the amount the minor is ordered to pay to the general fund of the county is less than ten dollars (\$10).
- (iv) That the probation officer undertake a program of supervision of the minor for a period not to exceed six months.
- (v) That the minor produce satisfactory evidence that the vehicle or its equipment has been made to conform with the requirements of the Vehicle Code pursuant to Section 40150 of the Vehicle Code.
- (vi) That the minor work in a city park or recreational facility or county or regional park for not to exceed 25 hours over a period not to exceed 30 days, during times other than his hours of school attendance or employment. When the order to work is made by a referee or a traffic hearing officer, it shall be approved by a judge of the juvenile court.
- (b) The judge, referee, or traffic hearing officer shall retain jurisdiction of the case until all orders made under this section have been fully complied with.

**SECTION 16.** Section 258 of the Welfare and Institutions Code, as added by Section 12.5 of Chapter 530 of the Statutes of 1980, is repealed.

**SECTION 17.** Section 3 of Chapter 713 of the Statutes of 1979 is repealed.

**SECTION 18.** Section 13 of Chapter 530 of the Statutes of 1980 is repealed.

**SECTION 19.** The sum of two million seven hundred thousand dollars (\$2,700,000) is hereby appropriated from the General Fund in augmentation of Item 472, Budget Act of 1980, for the payment of claims under the Victims of Violent Crimes Program, as a loan, which shall be repaid, without interest, during the 1981-82 fiscal year from the first two million seven hundred thousand dollars (\$2,700,000) in revenues that are deposited in the Indemnity Fund during the 1981-82 fiscal year.

**SECTION 20.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act will affect the Budget Act of 1980, funding provisions relative to the 1981-82 fiscal year, and certain activities of the Office of Criminal Justice Planning. In order that it may achieve its intended results, it is necessary that this act take effect immediately.

**Funding of Victim Services/  
Victim Bill of Rights  
Sample Statute**

**Massachusetts  
Chapter 258B.**

**Rights of Victims and Witnesses of Crime.**

AN ACT ESTABLISHING CERTAIN RIGHTS OF VICTIMS OF CRIMES.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES IN GENERAL COURT ASSEMBLED, AND BY THE AUTHORITY OF THE SAME, AS FOLLOWS:

**SECTION 1.** The General Laws are hereby amended by inserting after chapter 258A the following chapter:

**Section 1.** The following words as used in this chapter shall have the following meanings, unless the context otherwise requires:—

*"Board"*, the victim and witness assistance board as established in section four;

*"Court"*, a forum established under the general laws for the adjudication of criminal complaints or indictments;

*"Crime"*, an act committed in the commonwealth which would constitute a crime if committed by a competent adult including any act which may result in an adjudication of delinquency;

*"Disposition"*, the sentencing or determination of penalty or punishment to be imposed upon a person convicted of a crime or found delinquent or against whom a finding of sufficient facts for conviction or finding of delinquency is made;

*"Family member"*, a spouse, child, sibling, parent, or legal guardian of a victim;

*"Restitution"*, money or services which a court orders a defendant to pay or render to a victim as part of the disposition;

*"Victim"*, 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 a homicide victim.

*"Witness"*, any person who has been or is expected to be summoned to testify for the prosecution whether or not any action or proceeding has yet been commenced.

**Section 2.** A victim has the rights and is eligible of [sic] the services set forth under this chapter only if such victim reported the crime to law enforcement authorities within five days of its occurrence or discovery, unless the district attorney finds that a good cause existed [for] not having done so.

**Section 3.** To the extent reasonably possible and subject to the available resources, victims and witnesses of crime, or in the case of a homicide, the family members of the victim whether or not such members are witnesses in any criminal proceeding, shall be afforded the following rights where applicable:

(a) for victims, family members, and witnesses to be informed by the prosecutor of the final disposition of the case. Victims, family members, and witnesses shall, at their request, be informed by the appropriate custodial authority whenever the defendant receives a temporary, provisional or final release from custody or whenever the defendant escapes from custody. Those persons requesting such notice must provide the appropriate authority with current information as to address and telephone number.

(b) for victims, family members, and witnesses, to be notified by the district attorney, in a timely manner, when a court proceeding to which they have been summoned will not go on as scheduled;

(c) for victims and witnesses, to be provided with information by the district attorney as to the level of protection available and to receive protection for [sic] the local law enforcement agencies from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

(d) for victims and witnesses, to be informed by the district attorney of financial assistance and other social services available to victims or witnesses of a crime, including information relative to applying for such assistance or services;

(e) for victims, to be informed by the district attorney of the right to request that restitution be an element of the final disposition of a case and to obtain assistance in the documentation of the victim's losses;

(f) for victims and witnesses, to be informed by the court and the district attorney of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;

(g) for victims, family members, and witnesses, to be provided a secure waiting area or room during court proceedings by the district attorney;

(h) for victims or family members to have the opportunity to inform the court of the impact of the crime pursuant to section four A of chapter two hundred and seventy-nine of the General Laws as created by section two of this act;

(i) for victims to have any personal property that was stolen or taken for evidentiary purposes, except contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, returned by [the] court, the district attorney, or law enforcement agencies within ten days of its taking or recovery if it is not needed for law enforcement or prosecution purposes or as expeditiously as possible when said property is no longer needed for law enforcement or prosecution purposes;

(j) for victims and witnesses, to be provided, where appropriate, with employer and creditor intercession services by the district attorney to seek employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process, and to seek consideration for [sic] creditors if the victim is unable, temporarily, to continue payments;

(k) for victims, family members, and witnesses, to a prompt disposition of the case in which they are involved as a victim or a witness.

**Section 4.** There is hereby established a victim and witness assistance board, to consist of five members who shall serve without compensation. Notwithstanding any provision of section six of chapter two hundred and sixty-eight A of the General Laws to the contrary, the board shall be composed of the attorney general or his designee who shall be chairman; two district attorneys who shall be appointed by the governor; and two members of the public who shall be appointed by the governor, of whom one shall be a victim. The members of the board first appointed shall serve as follows: of the district attorneys appointed by the governor, one shall serve for three years, and one shall serve for one year; of the members of the public appointed by the governor, one shall serve for three years and one shall serve for two years. The successor of each such member shall serve for a term of three years and until his successor is duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the board shall be eligible for reappointment.

The board shall by majority vote of its members, appoint an executive director who shall serve at such rate of compensation as the board directs for a term of three years unless removed for cause by a vote of four members of the board.

The executive director shall have the power to hire such staff, subject to the approval of the board, as is needed to fulfill the powers and duties of the board. The executive director shall have such other powers and duties as the board may delegate to him.

The provisions of chapter thirty-one of the General Laws shall not apply to the executive director or any employee of the board.

The board shall review and approve program plans, annual reports, and the implementation and operation of programs as described in this chapter. The board shall, subject to appropriation, and from the funds made available from the Victim and Witness Assistance Fund, as established in section nine of this chapter or from funds made available from any other public or private source, provide funding for the preparation, submission and approval of plans required under section six and for the operation of approved comprehensive victim and witness assistance programs pursuant to section five, as the board deems appropriate. Administrative costs related to the operation of the board including compensation for the executive director and staff shall be paid from the Victim and Witness Assistance Fund.

The board shall promulgate rules for the preparation, review, approval, and the implementation of program plans and annual reports, and for the administration and operation of programs approved under this section. Said rules shall include criteria to guide district attorneys in determining, for purposes of this chapter, whether a particular crime has a victim and who is the victim of such crime.

In addition to the foregoing, the board shall:

(a) have printed and shall make available to social service agencies, medical facilities, and law enforcement agencies, cards, posters, brochures or other materials explaining the victim and witness rights and services established under this chapter and the victim compensation program as provided under chapter two hundred and fifty-eight A of the General Laws;

(b) assist hospitals, clinics and other medical facilities, whether public or private, in disseminating information giving notice of the rights established under this chapter and the availability of compensation to victims of crime pursuant to chapter two hundred and fifty-eight A of the General Laws. This assistance may include providing informational materials including posters suitable to be displayed in emergency and waiting rooms;

(c) assist law enforcement agencies in familiarizing all of its [sic] officers and employees with the crime victims' rights as provided under this chapter, as well as victim compensation available under chapter two hundred and fifty-eight A of the General Laws. This assistance may include supplying informational literature on this subject to be utilized as part of the training curriculum for all trainee officers; and

(d) assist all local law enforcement agencies in establishing procedures whereby expedient notification is given to victims and witnesses, as defined under this chapter, of the rights provided under this chapter, as well as the compensation services provided under chapter two hundred and fifty-eight A of the General Laws. In municipalities which do not have a local law enforcement agency, the board shall establish procedures whereby it, in cooperation with the state police, shall give notice to victims of crimes as provided in this section.

**Section 5.** Each district attorney shall create and maintain, to the extent reasonably possible and subject to the available resources, a program to afford victims and witnesses of crimes the rights and services described in this chapter. Those services shall include but not be limited to the following:

(a) court appearance notification services, including cancellations of appearances;

(b) informational services relative to the availability and collection of witness fees, victim compensation and restitution;

(c) escort and other transportation services related to the investigation or prosecution of the case, if necessary;

(d) case process notification services;

(e) employer intercession services;

- (f) expedited return of property services;
- (g) protection services;
- (h) family support services including child and other dependent care services;
- (i) waiting facilities; and
- (j) social service referrals.

**Section 6.** Each district attorney shall submit to the board a program plan for [the judicial district] within the district attorney's jurisdiction not later than six months after the effective date of this chapter and annually thereafter during the month of August. The program plan shall include but not be limited to: a description of the services to be provided to victims and witnesses in each judicial district within the district attorney's jurisdiction; the personnel or agencies responsible for providing individual services and related administrative programs; proposed staffing for the program; proposed education, training and experience requirements for program staff and, where appropriate, the staff of agencies providing individual services and related administrative services; and a proposed budget for implementing the program. The district attorney shall include in the annual program plan a detailed report on the operation of the program during the preceding year.

**Section 7.** The district attorney, local law enforcement agencies, local social services agencies, and court shall cooperate to afford victims and witnesses of crimes, the rights and services described in this chapter.

**Section 8.** The court shall impose an assessment of twenty-five dollars against any person who has attained the age of seventeen years and who is convicted of a felony or against whom a finding of sufficient facts for a conviction is made on a complaint charging a felony. The court shall impose an assessment of fifteen dollars against any person who has attained the age of seventeen and who is convicted of a misdemeanor or against whom a finding of sufficient facts for a conviction is made on a complaint charging a misdemeanor. The court shall impose an assessment of fifteen dollars against any person who has attained the age of fourteen years and who is adjudicated a delinquent child or against whom a finding of sufficient facts for a finding of delinquency is made. When multiple offenses from a single incident are charged, the total assessment shall not exceed twenty-five dollars, provided however, that the total assessment against a person who has not attained seventeen years shall not exceed fifteen dollars. Where, in the discretion of the court, any assessment imposed pursuant to this section would cause the person against whom the assessment is imposed severe financial hardship, the court may reduce or waive said assessment.

All assessments made under the preceding paragraph shall be collected by the court and shall be transmitted monthly to the treasurer. The assessment from any conviction or adjudication of delinquency which is subsequently overturned on appeal shall be refunded by the court to the person whose conviction or adjudication of delinquency is overturned. Said court shall deduct such funds from the assessments transmitted to the treasurer. Assessments pursuant to this section shall be in addition to any other fines or restitution imposed in any disposition.

**Section 9.** There is hereby created the Victim and Witness Assistance Fund to be established on the books of the commonwealth in the state treasury. Any assessment imposed pursuant to section eight shall be made available, subject to appropriation, to the board which shall determine the amounts to be disbursed to the public programs described in section five and approved by the board which provides comprehensive services to victims and witnesses of all types of crimes and do not restrict services to victims and witnesses of a particular crime.

**Section 10.** Nothing in this chapter shall be construed as creating a cause of action on behalf of any person against any public employee, public agency, the commonwealth or any agency responsible for the enforcement of rights and provisions of services set forth in this chapter.

**SECTION 2.** Chapter 279 of the General Laws is hereby further amended by inserting after section four the following new section:—

**Section 4A.** (a) the provisions of this section shall govern the disposition for any violation of the provisions of paragraph (b) of section twenty-four G of chapter ninety of the General Laws and for any felony, excluding any crime for which a sentence of death may be imposed, in any case which involves an identified victim whose whereabouts are known.

(b) Before disposition in any case governed by this section, the district attorney shall give the victim an actual notice of the time and place of sentencing and of the victim's right to make a statement to the court, orally or in writing at the victim's option, as to the impact of the crime and as to a recommended sentence. Before disposition, the court shall allow any victim who elects to make such an oral statement the opportunity to do so in the presence of the defendant. Before disposition, the district attorney shall file any such written statement with the court and shall make it available to the defendant.

If the victim is unable to make an oral or written statement because of his mental, emotional, or physical incapacity or his age, his attorney or a designated family member shall be provided the notice and the opportunity to make a statement prescribed in this paragraph.

(c) Before disposition in any case governed by this section, the office of the district attorney shall cause to be prepared a written statement as to the impact of the crime on the victim, which shall be filed with the court as part of the pre-sentence report and made available to the defendant. The statement shall include the following: (1) the name of the victim; (2) documentation of any net financial loss suffered by the victim or a family member as a result of the crime; (3) in cases where the crime has had an impact on the victim's personal welfare or family relationship or has had a psychological impact on the victim or his family, a statement of such impact.

(d) The court shall, in the manner prescribed by rule of court, allow the defendant to have the opportunity to rebut the victim's oral or written statements and the district attorney's written statement if the court decides to rely upon such statements or parts thereof in imposing sentence.

(e) No sentence shall be invalidated because of failure to comply with the provisions of this section. This section shall not be construed to create any cause of action or any right to appeal on behalf of any person.

**SECTION 3.** If any provision or clause of this act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**SECTION 4.** A special commission, to consist of five members of the House of Representatives to be appointed by the Speaker thereof, three members of the Senate to [be] appointed by the President thereof, a justice of the District Court Department of the Trial Court to be appointed by the Chief Justice thereof, a justice of the Boston Municipal Court Department of the Trial Court to be appointed by the Chief Justice thereof, a justice of the Superior Court Department of the Trial Court to be appointed by the Chief Justice thereof and five members to be appointed by the Governor, one of whom shall be a District Attorney, one of whom shall be a law enforcement officer, and one of whom shall be a person who has been a victim of a violent crime is hereby established for the purpose of making an investigation and study of the affects of crime on the victims there. Said investigation shall include but not be limited to the adequacy and efficiency of: the programs of services to the victims and witnesses of crimes, as provided under this act; the programs of public information relative to victims' and witnesses' rights; the programs for victim restitution and compensation and the availability and sufficiency of funding mechanisms for said programs. The Chairman of the special commission shall be elected by a majority vote of the members thereof. Said commission shall report to the General Court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry out its recommendations into effect by filing the same with the Clerk of the House of Representatives on or before the last Friday in December, nineteen hundred and eighty-four.

Victim Bill of Rights  
Sample Statute  
Michigan



STATE OF MICHIGAN  
83RD LEGISLATURE  
REGULAR SESSION OF 1985

Introduced by Reps. Van Regenmorter, Stabenow, Nash, Mathieu, Bartnik, Sparks, Hickner, Hoekman, Willis Bullard, Ouwinga and Honigman

## ENROLLED HOUSE BILL No. 4009

AN ACT to establish the rights of victims of crime; to provide for certain procedures; to establish certain immunities and duties; to limit convicted criminals from deriving profit under certain circumstances; to prohibit certain conduct of employers or employers' agents toward victims; and to provide for penalties and remedies.

*The People of the State of Michigan enact:*

Sec. 1. This act shall be known and may be cited as the "crime victim's rights act".

Sec. 2. (1) As used in this act:

(a) "Crime" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than 1 year, or an offense expressly designated by law to be a felony.

(b) "Defendant" means a person charged with or convicted of having committed a crime against a victim.

(c) "Final disposition" means the ultimate termination of the criminal prosecution of a defendant including, but not limited to, dismissal, acquittal, or imposition of sentence by the court.

(d) "Prisoner" means a person who has been convicted and sentenced to imprisonment for having committed a crime against a victim.

(e) "Victim", except for purposes of section 16, means any of the following:

(i) An individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime, except as provided in subparagraph (ii) or (iii).

(ii) The following relations of a deceased victim if the relation is not the defendant:

(A) The spouse.

(B) An adult child if subparagraph (A) does not apply.

(C) A parent if subparagraphs (A) and (B) do not apply.

(D) A sibling if subparagraphs (A) to (C) do not apply.

(E) A grandparent if subparagraphs (A) to (D) do not apply.

(iii) A parent, guardian, or custodian of a victim who is a minor or legally incapacitated person.

(2) If a victim as defined in subsection (1)(e)(i) is physically unable to exercise the privileges and rights under this act, the victim may designate by written instrument his or her spouse or an adult child, parent, sibling, or grandparent of the victim to act in place of the victim during the duration of the physical disability. During the physical disability, notices to be provided under this act to the victim shall continue to be sent only to the victim.

Sec. 3. Within 24 hours after the initial contact between the victim of a reported crime and the law enforcement agency having the responsibility for investigating that crime, that agency shall give to the victim the following information:

(a) The availability of emergency and medical services, if applicable.

(b) The availability of victim's compensation benefits and the address of the crime victims compensation board.

(c) The address and phone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.

(d) The following statement:

"If within 6 months, you are not notified of an arrest in your case, you may call [the law enforcement agency's telephone number] for the status of the case."

Sec. 4. (1) The law enforcement agency having responsibility for investigating a reported crime shall promptly return to the victim property belonging to that victim which is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property which is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the crime and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

Sec. 5. (1) Not later than 24 hours after the arraignment of the defendant for a crime, the law enforcement agency having responsibility for investigating the crime shall give to the victim the phone number of the sheriff and notice that the victim may contact the sheriff to determine whether the defendant has been released from custody.

(2) Based upon the victim's affidavit asserting acts or threats of physical violence or intimidation by the defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the bond or personal recognizance of a defendant be revoked.

Sec. 6. (1) Not later than 7 days after the arraignment of the defendant for a crime, but not less than 24 hours before a preliminary examination, the prosecuting attorney shall give to each victim a written notice of each of the following:

(a) A brief statement in plain English of the procedural steps in the processing of a criminal case.

(b) The rights and procedures under this act.

(c) Details and eligibility requirements under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.

(d) Suggested procedures if the victim is subjected to threats or intimidation.

(e) The person to contact for further information.

(2) If requested by the victim, the prosecuting attorney shall give to the victim notice of any scheduled court proceedings and notice of any changes in that schedule.

(3) The prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about the disposition of a crime, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs.

(4) A victim who receives a notice under subsection (1) and who chooses to receive any other notice or notices under this act shall keep the following persons informed of the victim's current address and phone number:

(a) The prosecuting attorney, until sentence has been imposed or the case is disposed of, whichever occurs earlier.

(b) The department of corrections or the sheriff as directed by the prosecuting attorney if the defendant is imprisoned.

Sec. 7. The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with defendant, defendant's relatives, and defense witnesses during court proceedings.

Sec. 8. (1) Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the defendant or at defendant's direction against the victim or the victim's immediate family,

the prosecutor may move that the victim or any other witness not be compelled to testify at pretrial proceedings or at trial for purposes of identifying the victim as to the victim's address, place of employment, or other personal identification without the victim's consent. A hearing on the motion shall be in camera.

(2) The address of the victim shall not be in the court file or ordinary court documents unless contained in a transcript of the trial or it is used to identify the place of the crime. The phone number of the victim shall not be in the court file or ordinary court documents except as contained in a transcript of the trial.

Sec. 9. (1) As provided in subsection (2), a speedy trial may be scheduled for any case in which the victim is averred by the prosecuting attorney to be either of the following:

(a) A victim of child abuse, including sexual abuse or any other assaultive crime.

(b) A victim of criminal sexual conduct in the first, second, or third degree or of an assault with intent to commit criminal sexual conduct involving penetration or to commit criminal sexual conduct in the second degree.

(2) The chief judge, upon motion of the prosecuting attorney for a speedy trial for a case described in subsection (1), shall set a hearing date within 10 days of the date of the motion. Notice shall be made pursuant to the Michigan court rules. If the motion is granted, the trial shall not be scheduled earlier than 20 days from the date of the hearing.

Sec. 10. Upon request of the victim, the prosecuting attorney shall confer with the victim prior to the selection of the jury and prior to the trial of the defendant.

Sec. 11. The victim has the right to be present throughout the entire trial of the defendant, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, order the victim to be sequestered until the victim first testifies.

Sec. 12. An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor, and may be punished for contempt of court.

Sec. 13. (1) The prosecuting attorney, upon and in accordance with the request of the victim, shall give to the victim notice of the following:

(a) The defendant's conviction.

(b) The crimes for which the defendant was convicted.

(c) The victim's right to make a written or oral impact statement for use in the preparation of a presentence investigation report concerning the defendant.

(d) The address and telephone number of the probation office which is to prepare the presentence investigation report.

(e) That a presentence investigation report and any statement of the victim included in the report will be made available to the defendant unless exempted from disclosure by the court.

(f) The victim's right to make an impact statement at sentencing.

(g) The time and place of the sentencing proceeding.

(2) The notice given by the prosecuting attorney to the victim must be given by any means reasonably calculated to give prompt actual notice.

(3) A notice given under subsection (1) shall inform the victim that his or her impact statement may include but shall not be limited to the following:

(a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.

(b) An explanation of the extent of any economic loss or property damage suffered by the victim.

(c) An opinion of the need for and extent of restitution and whether the victim has applied for or received compensation for loss or damage.

(d) The victim's recommendation for an appropriate sentence.

Sec. 14. The victim has the right to submit or make a written or oral impact statement to the probation officer for use by that officer in preparing a presentence investigation report concerning the defendant pursuant to section 14 of chapter XI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 771.14 of the Michigan Compiled Laws. A victim's written statement shall, upon the victim's request, be included in the presentence investigation report.

Sec. 15. The victim shall have the right to appear and make an oral impact statement at the sentencing of the defendant.

Sec. 16. (1) For purposes of this section only, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime.

(2) The court, when sentencing a defendant convicted of a crime, may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to any victim or victim's estate of the defendant's course of conduct which gives rise to the conviction.

(3) If the court does not order restitution, or orders only partial restitution under this section, the court shall state on the record the reasons for that action.

(4) If a crime results in damage to or loss or destruction of property of a victim of the offense, the order of restitution may require that the defendant do either of the following:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraphs (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(i) The value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of sentencing.

(5) If a crime results in physical or psychological injury to a victim, the order of restitution may require that the defendant do 1 or more of the following, as applicable:

(a) Pay an amount equal to the cost of actual medical and related professional services and devices relating to physical and psychological care.

(b) Pay an amount equal to the cost of actual physical and occupational therapy and rehabilitation.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the offense.

(d) Pay an amount equal to the cost of psychological and medical treatment for members of the victim's family which has been incurred as a result of the offense.

(6) If a crime resulting in bodily injury also results in the death of a victim, the order of restitution may require that the defendant pay an amount equal to the cost of actual funeral and related services.

(7) Instead of restitution under subsections (4) to (6), if the victim or victim's estate consents, the order of restitution may require that the defendant make restitution in services in lieu of money, or make restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the crime.

(8) If the court orders restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

(9) Any order of restitution shall be as fair as possible to the victim or victim's estate without unduly complicating or prolonging the sentencing process.

(10) The court shall not order restitution with respect to a loss for which the victim or victim's estate has received or is to receive compensation, including insurance, except that the court may, in the interest of justice, order restitution to the crime victims compensation board or to any person who has compensated the victim or victim's estate for such a loss to the extent that the crime victims compensation board or the person paid the compensation. An order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person under that order is made.

(11) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victims compensation board made after an order of restitution under this section.

(12) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the defendant make restitution under this section within a specified period or in specified installments. The end of the period or the last installment shall not be later than the following:

(a) The end of the period of probation, if probation is ordered.

(b) Two years after the end of imprisonment or discharge from parole, whichever occurs later, if the court does not order probation.

(c) Three years after the date of sentencing in any other case.

(13) If the defendant is placed on probation or paroled, any restitution ordered under this section shall be a condition of that probation or parole. The court may revoke probation and the parole board may revoke parole if

the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole, the court or parole board shall consider the defendant's employment status, earning ability, financial resources, and the wilfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

(14) A defendant who is required to pay restitution and who is not in wilful default of the payment of the restitution, at any time, may petition the sentencing judge or his or her successor for a cancellation of any unpaid portion of restitution. If it appears to the satisfaction of the court that payment of the amount due will impose a manifest hardship on the defendant or his or her immediate family, the court may cancel all or part of the amount due in restitution or modify the method of payment.

(15) An order of restitution may be enforced by the prosecuting attorney or a victim or victim's estate named in the order to receive the restitution in the same manner as a judgment in a civil action.

(16) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of parole or probation, or otherwise, for failure to pay restitution as ordered under this section unless the court determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

Sec. 17. (1) The court, in determining whether to order restitution under section 16 and the amount of that restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources and earning ability of the defendant, the financial needs of the defendant and the defendant's dependents, and such other factors as the court considers appropriate.

(2) The court may order the probation officer to obtain information pertaining to the factors set forth in subsection (1). The probation officer shall include the information collected in the presentence investigation report or in a separate report, as the court directs.

(3) The court shall disclose to both the defendant and the prosecuting attorney all portions of the presentence or other report pertaining to the matters described in subsection (1).

(4) Any dispute as to the proper amount or type of restitution shall be resolved by the court by a preponderance of the evidence. The burden of demonstrating the earning ability of the defendant and the amount of the loss sustained by a victim as a result of the offense shall be on the prosecuting attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and the defendant's dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

Sec. 18. (1) A person convicted of a crime shall not derive any profit from the sale of his or her recollections, thoughts, and feelings with regard to the offense committed by that person until the victim receives any restitution or compensation ordered for him or her against the defendant and expenses of incarceration are recovered as provided in subsection (3) and until the escrow account created under subsection (2) is terminated under subsection (4).

(2) Upon the conviction of a defendant for a crime involving a victim and after notice to any interested party, an attorney for the county in which the conviction occurred or the attorney general may petition the court in which the conviction occurred to order that defendant forfeit all or any part of proceeds received or to be received by the defendant, or the defendant's representatives or assignees, from contracts relating to the depiction of the crime or the defendant's recollections, thoughts, or feelings about the crime, in books, magazines, media entertainment, or live entertainment. The proceeds shall be held in escrow for a period of not more than 5 years.

(3) During the existence of the escrow account, proceeds in the account shall be distributed in the following priority for the following purposes:

(a) To satisfy an order of restitution entered under sections 16 and 17.

(b) To satisfy any civil judgment in favor of the victim against that defendant.

(c) To satisfy any reimbursement ordered under the prisoner reimbursement to the county act, Act No. 118 of the Public Acts of 1984, being sections 801.81 to 801.93 of the Michigan Compiled Laws, or ordered under the state correctional facility reimbursement act, Act No. 253 of the Public Acts of 1935, being sections 800.401 to 800.406 of the Michigan Compiled Laws.

(4) Fifty percent of the balance remaining in the escrow account at the end of the escrow period shall be payable to the defendant and the remaining 50% of the balance shall be payable to the state general fund for use of the crime victims compensation board to pay compensation claims.

Sec. 19. (1) Upon the written request of a victim of a crime, the sheriff or the department of corrections shall mail to the victim the following, as applicable, about a prisoner who has been sentenced to imprisonment under the jurisdiction of the sheriff or the department for commission of that crime:

(a) Within 30 days after the request, notice of the sheriff's calculation of the earliest release date of the prisoner, or the department's calculation of the earliest parole eligibility date of the prisoner, with all potential good time or disciplinary credits considered if the sentence of imprisonment exceeds 90 days. The victim may request 1-time only notice of the calculation described in this subdivision.

(b) Notice of the transfer or pending transfer of the prisoner to a minimum security facility and the address of that facility.

(c) Notice of the release or pending release of the prisoner in a community residential program, under extended furlough, or any other transfer of a prisoner to community status.

(d) Notice of any reduction in the minimum sentence resulting under the prison overcrowding emergency powers act, Act No. 519 of the Public Acts of 1980, being sections 800.71 to 800.79 of the Michigan Compiled Laws.

(e) Notice of the escape of the person accused, convicted, or imprisoned for committing a crime against the victim, as provided in section 20.

(f) Notice of the victim's right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole, as provided in section 21.

(g) Notice of the decision of the parole board, or any other panel having authority over the prisoner's release on parole, after a parole review, as provided in section 21(3).

(h) Notice of the release of a prisoner 90 days before the date of the prisoner's discharge from prison where practical, unless the notice has been otherwise provided under this act.

(i) Notice of a public hearing pursuant to section 44 of Act No. 232 of the Public Acts of 1953, being sections 791.244 of the Michigan Compiled Laws, regarding a reprieve, commutation, or pardon of the prisoner's sentence by the governor.

(2) A victim's address and telephone number maintained by a sheriff or the department of corrections pursuant to a request for notice under subsection (1) shall be exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. 20. (1) As provided in subsection (2) or (3), a victim who requests notice of the escape and the prosecuting attorney who is prosecuting or has prosecuted the crime for which the person is detained or under sentence shall be given immediate notice of the escape of the person accused, convicted, or imprisoned for committing a crime against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice.

(2) If the escape occurs before the sentence is executed or before the defendant is delivered to the department of corrections, the chief law enforcement officer of the agency in charge of the person's detention shall give notice of the escape to the prosecuting attorney, who shall then give notice of the escape to a victim who requested notice.

(3) If the defendant is confined pursuant to a sentence, the notice shall be given by the chief administrator of the place in which the prisoner is confined.

Sec. 21. (1) A victim shall have the right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole.

(2) Not less than 30 days before a review of the prisoner's release, a victim who has requested notice under section 19(1)(f) shall be given written notice by the department of corrections informing the victim of the pending review and of victims' rights under this section. The victim, at his or her own expense, may be represented by counsel at the review.

(3) A victim shall receive notice of the decision of the board or panel and, if applicable, notice of the date of the prisoner's release on parole. Notice shall be mailed within a reasonable time after the board or panel reaches its decision but not later than 14 days after the board or panel has reached its decision.

Sec. 22. Upon the request of a victim, the prosecuting attorney shall, within 30 days of the final disposition of the case, notify the victim in writing of the final disposition of the case.

Sec. 23. Nothing in this act shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of their agencies, or instrumentalities, or employees.

Sec. 24. The failure to provide a right, privilege, or notice to a victim under this act shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

Sec. 25. (1) This act shall not take effect until the expiration of 90 days from its enactment into law.

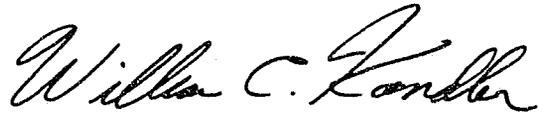
(2) This act shall apply only to crimes committed on or after the effective date of this act.

Section 2. This act shall not take effect unless House Bill No. 4370 of the 83rd Legislature is enacted into law.

This act is ordered to take immediate effect.



.....  
Clerk of the House of Representatives.



.....  
Secretary of the Senate.

Approved .....

.....  
Governor.

**Victim Impact Statement With  
Accompanying Sample Statement  
Sample Statute**

**Maryland**

Section 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article 41 - Governor - Executive and Administrative Departments

SENATE BILL No. 145

124.

(a) Whenever any court shall suspend the sentence of any person convicted of crime, and shall direct such person, to continue, for a certain time, or until otherwise ordered, under the supervision of the Division, it shall be the duty of the said Division to supervise, when so requested by said court, the conduct of such person and to ascertain and report to said court whether or not the conditions of such probation or suspension of sentence are being faithfully complied with by such person.

(b) The parole and probation agents of the Division shall provide the judge of the court with presentence reports or other investigations in all cases when requested by any judge. The presentence reports are confidential and not available for public inspection except upon court order. However, presentence reports shall be made available, upon request, to the defendant's attorney, the State's Attorney, a correctional institution, a parole or probation, or pretrial release official of this State, any other state, the United States, or the District of Columbia, and a public or private mental health facility in any of those jurisdictions, if the individual who is the subject of the report has been committed or is being evaluated for commitment to the facility for treatment as a condition of probation. The agents shall also perform any other probationary services the judges may from time to time request.

(c) (1) Prior to the sentence by the circuit court of any county to the jurisdiction of the Division of Correction of any defendant convicted of a felony, or a misdemeanor which resulted in serious physical injury or death to the victim, or the referral of any defendant to the Pautuxent Institution, a presentence investigation shall be completed by the Division of Parole and Probation and considered by the court, unless the court specifically orders to the contrary in a particular case.

(2) (i) The presentence investigation shall include a victim impact statement, if:

1. The defendant, in committing a felony, caused physical, psychological, or economic injury to the victim; or

2. The defendant, in committing a misdemeanor, caused serious physical injury or death to the victim.

(ii) If the court does not order a presentence investigation, the State's attorney may prepare a victim impact statement to be submitted to the court and the defendant in accordance with the Maryland Rules of Procedure pertaining to presentence investigations.

(iii) The court shall consider the victim impact statement in determining the appropriate sentence, and in entering any order of restitution to the victim under Article 27, sec. 640 (c) of the Code.

(3) A victim impact statement shall:

(i) Identify the victim of the offense;

(ii) Itemize any economic loss suffered by the victim as a result of the offense;

(iii) Identify any physical injury suffered by the victim as a result of the offense; along with its seriousness and permanence;

(iv) Describe any change in the victim's personal welfare or familial relationships as a result of the offense;

(v) Identify any request for psychological services initiated by the victim or the victim's family as a result of the offense; and

(vi) Contain any other information related to the impact of the offense upon the victim that the court requires.

# VICTIM IMPACT STATEMENT

STATE VS. \_\_\_\_\_

CASE # \_\_\_\_\_

SENTENCING DATE \_\_\_\_\_

\_\_\_\_\_

TO ASSIST THE COURT IN ITS EFFORT TO WEIGH ALL FACTORS PRIOR TO IMPOSING SENTENCE, WE REQUEST YOUR VOLUNTARY COOPERATION IN COMPLETING THIS FORM. THIS STATEMENT IS INTENDED TO BE SUBMITTED TO THE JUDGE IMPOSING SENTENCE HEREIN.

NAME OF VICTIM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

STREET

CITY

STATE

ZIP CODE

1. Please describe the nature of the incident in which you were involved.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. As a result of this incident, were you physically injured? \_\_\_\_\_

If yes, please describe the extent of your injuries.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Did you require medical treatment for the injuries sustained? \_\_\_\_\_

If yes, please describe the treatment received and the length of time treatment was or is required.

\_\_\_\_\_  
\_\_\_\_\_

4. Amount of expenses incurred to date as a result of medical treatment received:

\$ \_\_\_\_\_

Anticipated expenses:

\$ \_\_\_\_\_

5. Were you psychologically injured as a result of this incident? \_\_\_\_\_

If yes, please describe the psychological impact which the incident has had on you.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Have you received any counselling or therapy as a result of this incident? \_\_\_\_\_

If yes, please describe the length of time you have been or will be undergoing counselling or therapy, and the type of treatment you have received.

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7. Amount of expenses incurred to date as a result of counselling or therapy received:

\$ \_\_\_\_\_

8. Has this incident affected your ability to earn a living? \_\_\_\_\_

If yes, please describe your employment, and specify how and to what extent your ability to earn a living has been affected, days lost from work, etc.

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9. Have you incurred any other expenses or losses as a result of this incident? \_\_\_\_\_

If yes, please describe.

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10. Did insurance cover any of the expenses you have incurred as a result of this incident?

If yes, please specify the amount and nature of any reimbursement.

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11. Has this incident in any way affected your lifestyle or your family's lifestyle? \_\_\_\_\_

If yes, please explain.

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12. Are there any other residual effects of this incident which are now being experienced by you or members of your family?

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13. Please describe what being the victim of crime has meant to you and to your family.

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14. What are your feelings about the criminal justice system? Have your feelings changed as a result of this incident? Please explain.

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15. Do you have any thoughts or suggestions on the sentence which the Court should impose herein? Please explain, indicating whether you favor imprisonment.

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THIS FORM IS SUBSCRIBED AND AFFIRMED BY THE VICTIM AS TRUE UNDER THE PENALTIES OF PERJURY. THE INFORMATION AND THOUGHTS YOU HAVE PROVIDED ARE VERY MUCH APPRECIATED.

DATE: \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

## Restitution Sample Statute

### Utah

Be it enacted by the Legislature of the State of Utah:

Section 1. Section 76-3-201, Utah Code Annotated 1953, as amended by Chapter 69, Laws of Utah 1979 is amended to read:

(1) Within the limits prescribed by this chapter, a court may sentence a person adjudged guilty of an offense to any one of the following sentences or combination of such sentences:

- (a) To pay a fine; or
- (b) To removal from and/or disqualification of public or private office; or
- (c) To probation; or
- (d) To imprisonment; or
- (e) To death.

(2) This chapter shall not derive a court of authority conferred by law to forfeit property, dissolve a corporation, suspend, or cancel a license or permit, removal of a person from office, cite for contempt, or impose any other civil penalty. A civil penalty may be included in a sentence.

(3)(a) When a person is adjudged guilty of criminal activities which have resulted in pecuniary damages, in addition to any other sentence it may impose, the court shall order that the defendant make restitution to the victim, unless the court is applying the criteria in section 3(b) of this chapter, finds that restitution is inappropriate. If the court determines that restitution is inappropriate, the court shall state in writing the reasons for the decision.

(b) In determining whether to order restitution or restitution which is complete, partial or nominal, the court shall take into account:

- (i) The financial resource of the defendant and the burden that payment of restitution will impose, with due regard to the other obligations of the defendant;
- (ii) The ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court; and
- (iii) The rehabilitative effect on the defendant of the payment of restitution and the method of payment.

(c) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall at the time of sentencing allow him a full hearing of such issue.

(4) As used in subsection (3) above

(a) "Criminal activities" means any offense with respect to which the defendant is convicted or any other criminal conduct admitted by the defendant;

(b) "Pecuniary damages" means all special damages, but not general damages, which a person could recover against the defendant in a civil action arising out of the facts or events constituting the defendant's criminal activities and shall include, but not be limited to, the money equivalent of property taken, destroyed, broken or otherwise harmed, and losses such as medical expenses;

(c) "Restitution" means full, partial or nominal payment of pecuniary damages to a victim;

(d) "Victim" means any person whom the court determines has suffered pecuniary damages as a result of the defendant's criminal activities; "victim" shall not include any coparticipant in the defendant's criminal activities.

Section 2. Section 76-3-201.3, Utah Code Annotated 1953, is enacted to read:

(1) 76-3-201.3 The victim or victims of any criminal activity which has resulted in pecuniary damages shall forward a written report detailing all pecuniary damages suffered by the victim or victims to the investigating law enforcement agency within fifteen days following the initial report of such criminal activity.

(2) The report, to be signed under oath, shall detail all pecuniary loss including estimates of the monetary values of any such loss. The signed report shall be made a part of the official report of any criminal investigation.

(3) When a person is adjudged guilty of criminal activities which have resulted in pecuniary damages, the court shall use the damage report filed by the victim or victims of such criminal activity in determining appropriate restitution.

(4) The Department of Public Safety shall prepare, and upon request supply to police departments, sheriffs and other suitable agencies, forms for such damage reports. The damage report forms shall be provided to the victim or victims of any criminal activity which has resulted in pecuniary damages by the investigation law enforcement officer.

Section 3. Section 77-18-1, Utah Code Annotated 1953, enacted by chapter 15, Laws of Utah 1980, is amended to read:

Section 77-18-1 (1) On a plea of guilty or no contest or conviction of any crime or offense, if it appears compatible with the public interest, the court may suspend the imposition or execution of sentence and place the defendant on probation for such period of time as it determines. The legal offender and the chief agent of the adult probation and parole section of the state division of corrections. In cases that do not involve an indeterminate sentence, the period of probation may exceed the length of time of the maximum sentence that could be imposed.

(2) Prior to imposing any sentence for an offense for which probation may be granted, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a pre-sentence report of the defendant. The contents of the report shall be confidential. The court may disclose all or parts of the report to the defendant or his counsel as the interest of justice requires. At the time of sentence, the court shall hear any testimony or information the defendant or the prosecuting attorney may wish to present concerning the appropriate sentence. Such testimony or information shall be presented in open court on record and in the presence of the defendant.

(3) After hearing, the court may increase or decrease the probation period and may revoke or modify any condition of probation. While on probation, and as a condition thereof, the defendant may be required to pay, in one or several sums, any fine imposed at the time of being placed on probation. While on probation and as a condition thereof, the defendant shall be required to make restitution or reparation to the aggrieved party or parties for pecuniary damages as provided in section 76-3-201 caused by the offense to which the defendant had pleaded guilty, no contest or for which a conviction was had. *unless the court in applying the criteria stated in 76-3-201(3) finds that the restitution is inappropriate. If the court determines that restitution is inappropriate, the court shall state in writing the reasons for the decision.* The defendant may be required to pay amounts required under provision of section 77-32a-1 through 77-32a-14. He may also be required to provide for the support of others for whose support he is legally liable, to participate in rehabilitation programs as may be available, and to serve a period of time in the county jail not to exceed one year.

(4)(a) Probation may not be revoked except upon a hearing in a court and a finding that the conditions of probation have been violated.

(b) Upon the filing of an affidavit alleging with particularity facts asserted to constitute violation of the conditions of probation, the court which authorized probation shall determine whether the affidavit establishes probable cause to believe that revocation or modification of probation may be justified. If the court determines that there is probable cause, it shall cause to be served on the defendant a copy of the affidavit and an order to show cause why his probation should not be revoked or modified.

(c) The order to show cause shall specify a time and place for the hearing, which shall be within seven days of the service upon the defendant unless he shows good cause for a continuance, and shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed for him if he is indigent. The order shall also inform the defendant of the right to present evidence as provided in the Utah Rules of Civil Procedure.

(d) At the hearing, the defendant shall admit or deny the allegations of the affidavit. If the defendant denies the allegations of the affidavit, the prosecuting attorney shall present evidence on the allegations, which need not be evidence admissible in trial. The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders. The defendant may call witnesses, appear and speak in his own behalf, and present evidence.

(e) After hearing, the court shall make findings of fact. Upon determining that the defendant violated the conditions of probation, the court may order the probation revoked, modified or continued. If probation is revoked, the defendant shall be sentenced or the sentence previously imposed shall be executed.

Section 4. Section 77-27-3, Utah Code Annotated 1953, as enacted by Chapter 15, Laws of Utah 1980, is amended to read:

77-27-3.(1). The board of pardons shall determine, by majority decision, when and under what conditions, subject to the provisions of this chapter, persons now or hereafter serving sentences, in all cases except treason or impeachment, or as otherwise limited by law, may be released upon parole, pardoned, or have their fines or forfeitures remitted, or their sentences commuted or terminated. No fines of forfeiture shall be remitted, no parole, pardon or commutation granted or sentence terminated, except after a full hearing before the board in open session and after appropriate prior notice of the time and place of the hearing has been given. The orders and decisions of the board of pardons and any dissent thereto shall be reduced to writing.

(2) The determinations and decisions of the board of pardons in cases involving approval or denial of any action whatsoever, of paroles, pardons, commutations or terminations of sentence, or remission of fines and forfeitures shall be final.

(3) Nothing herein shall be construed as a denial of or limitation on the governor's power to grant respites or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment; however, such respites or reprieves shall not extend beyond the next session of the board of pardons and the board, or it may commute the punishment, or pardon the offense as herein provided. In the case of conviction for treason, the governor has the power to suspend execution of the sentence, until the case shall be reported to the legislature at its next session, when the legislature shall either pardon or commute the sentence, or direct its execution.

*In determining when and where and under what conditions persons now or hereafter serving sentences may be released upon parole, pardoned or have their fines or forfeitures remitted, or their sentences commuted or terminated, the state board of pardons shall consider whether such persons have made or are prepared to make restitution as defined in section 76-3-201, as a condition of any parole, pardon, remission of fines or forfeitures, commutation or termination of sentence.*

*If the state board of pardons determines that restitution is inappropriate, the state board of pardons shall state in writing the reasons of the decision.*

When the state board of pardons orders the release on parole of an inmate who has been sentenced to make restitution pursuant to section 76-3-201, but with respect to whom payment of all or portion of the restitution was suspended until his release from imprisonment, the board [may] shall establish a schedule and supervising the paroled inmate's performance thereunder the board [may] shall consider the factors specified in section 76-3-201(3). The board [may] shall provide to the sentencing court a copy of the schedule and any modifications thereof.

\*The Utah Constitution presently grants autonomous powers to the state board of pardons in determining conditions for parole. Therefore, the provisions of subsection (d) would be in violation of the present Utah constitutional language.

## Parole Notification Sample Statute

### Arizona

Sec. 6. section 31-411, Arizona Revised Statutes, is amended to read;

31-411. *Meetings of board; parole or discharge; release under supervision of department of corrections; notice of hearing; exceptions*

A. The board of pardons and paroles shall meet at least monthly at the state prison and at other times or places deemed necessary. At such meetings any prisoner who has been certified as eligible for parole or absolute discharge pursuant to the provisions of section 41-1604.06 or section 31-412, subsection (B) shall be given an opportunity to appear and apply for release upon parole or for an absolute discharge. The board shall not entertain any other form of application or petition or appearance for the release upon parole or absolute discharge of any prisoner.

B. When a prisoner appears before the board and his parole is denied, the board shall within ten days prepare and deliver to the prisoner and director of the department of corrections a written statement specifying the specific individualized reasons for the denial of parole or absolute discharge. Every prisoner, having served not less than one year, shall be temporarily released according to the rules and regulations of the department one hundred eighty days prior to the expiration of the sentence and shall remain under control of the department of corrections until expiration of the term specified in the sentence. If the release violates any condition of his release, he may be returned to custody without further process.

C. The board, when a commutation or parole is to be considered, shall, before HOLDING A HEARING on the commutation or parole, notify the presiding judge of the superior court and the county attorney of the county in which the prisoner requesting a commutation or parole was sentenced AND THE VICTIM OF THE OFFENSE FOR WHICH THE PRISONER IS INCARCERATED OR THE FAMILY OF THE VICTIM IF THE VICTIM DIED AS A RESULT OF THE PRISONER'S CONDUCT. The notice shall state the name of the prisoner requesting the commutation or parole and shall set the date of hearing on the application. THE NOTICE TO THE VICTIM OR THE VICTIM'S IMMEDIATE FAMILY SHALL ALSO INFORM THEM OF THEIR RIGHT TO APPEAR PERSONALLY OR BY COUNSEL AT THE HEARING OR TO SUBMIT A WRITTEN REPORT TO THE BOARD EXPRESSING THEIR OPINION CONCERNING THE RELEASE OF THE PRISONER. No hearing concerning commutations or parole shall be HELD until thirty days after the date of giving the notice.

D. The provisions of this section requiring notice to the officials named in subsection C OF THIS SECTION shall not apply:

1. When there is imminent danger of the death of the person convicted or imprisoned.
2. When the term of imprisonment of the applicant is within two hundred ten days of expiration.

# Intimidation Sample Statute

## American Bar Association Model

### AMERICAN BAR ASSOCIATION MODEL

#### Section 1. DEFINITIONS

The following words have significance attached to them hereunder throughout this chapter.

- (a) "Malice" means an intent to vex, annoy, harm, or injure in any way another person, or to thwart or interfere in any manner with the orderly administration of justice.
- (b) "Witness" means any natural person,
  - (1) having knowledge of the existence or nonexistence of facts relating to any crime or
  - (2) whose declaration under oath is received or has been received as evidence for any purpose; or
  - (3) who has reported any crime to any peace officer, prosecutor, probation or parole officer, correctional officer or judicial officer or
  - (4) who has been served with a subpoena issued under the authority of any court in the state, or of any other state or of the United States, or
  - (5) who would be believed by an reasonable person to be an individual described in Subsections (1), (2), (3), or (4) hereof.
- (c) "Victim" means any natural person against whom any crime as defined under the laws of this state or any state or of the United States is being or has been perpetrated or attempted to be perpetrated.

#### Section 2. MISDEMEANOR—INTIMIDATION OF WITNESSES AND VICTIMS

Except as provided in Section 3, every person who knowingly and maliciously prevents or dissuades or attempts to so prevent or dissuade any witness or victim from attending or giving testimony at any trial, proceeding or inquiry authorized by law or who attempts to prevent or dissuade another person who has been the victim of a crime or who is a witness to a crime or a person acting on behalf of the victim of a crime from

- (a) making any report of such victimization to any peace officer or state or local or federal law enforcement officer or probation or parole or correctional officer or prosecuting agency or to any judge;
- (b) causing a complaint, indictment, information, probation or parole violation to be sought and prosecuted and assisting in the prosecution thereof;
- (c) arresting or causing or seeking the arrest of any person in connection with such victimization, is guilty of a misdemeanor.

#### Section 3. FELONIOUS INTIMIDATION OF WITNESSES AND VICTIMS

Every person doing any of the acts described in the misdemeanor section on intimidation of witnesses and victims in Section 2 knowingly and maliciously under any one or more of the following circumstances, is guilty of a felony:

- (a) Where such act is accompanied by an express or implied threat of force or violence, upon a witness or victim or any third person or the property of any victim, witness, or any third person,
- (b) Where such act is furtherance of a conspiracy,
- (c) Where such act is committed by any person who has been convicted of any violation of this chapter, any predecessor law hereto or any Federal statute or statute of any other state which, if the act prosecuted was committed in this state, would be a violation of this chapter, or
- (d) Where such act is committed by any person for pecuniary gain or for any other consideration acting upon the request of any other person. All parties to such a transaction are guilty of a felony.

#### Section 4. ATTEMPTS

Every person attempting the commission of any act described in the foregoing sections is guilty of the offense attempted without regard to success or failure of such attempt. The fact that no person was injured physically, or in fact intimidated, shall be no defense against any prosecution under the chapter.

#### Section 5. COURT ORDERS

Any court with jurisdiction over any criminal matter may in its discretion upon good cause (which may include but is not limited to credible hearsay or the declaration of the prosecutor or defense attorney) that intimidation or dissuasion of any person who is a victim or who is a witness has occurred or is reasonably likely to occur, issue orders including, but not limited to the following:

- (a) An order that a defendant not violate any provision of this chapter.
- (b) An order that a person before the court other than defendant, including, but not limited to, a subpoenaed witness or other person entering the courtroom of said court, not violate any provisions of this chapter.
- (c) An order that any person described in this subsection maintain a prescribed geographic distance from any specified witness or victim.
- (d) An order that any person described in this subsection have no communication whatsoever with any specified witness or any victim, except through an attorney under such reasonable restrictions as the court may impose.

- (e) An order calling for a hearing to determine if an order as described in (a) though (d) should be issued.
- (f) An order that a particular law enforcement agency within the jurisdiction of the court provide protection for a victim and/or witness.

#### Section 6. VIOLATIONS OF ORDERS

Any person violating any order made pursuant to Section 5 may be punished in any of the following ways:

- (a) For any substantive offense described in this chapter, where such provision of an order is a violation of any provisions of Section 2 through 4
- (b) As a contempt of the court making such order;
- (1) No finding of contempt shall be a bar to prosecution for a substantive offense under this chapter, but
  - (i) any person so held in contempt shall be entitled to credit for any punishment imposed therein against any sentence imposed upon conviction of said and substantive offense and
  - (ii) any conviction or acquittal for any substantive offense under Section 2 through 5 shall be a bar to subsequent punishment for contempt arising out of the same act.
- (c) By revocation of any form of pre-trial release and/or the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding him into custody, said revocation may, after a hearing and upon a showing by clear and convincing evidence, in the sound discretion of the court, be made whether the violation order complained of has been committed by the defendant, personally, or in any way caused or encouraged to have been committed by said defendant.

#### Section 7. PRE-TRIAL RELEASE

Any pre-trial release of any defendant, whether on bail or under any other form of recognizance, shall be deemed, as a matter of law, to include a condition that the defendant neither do, nor cause to be done, nor knowingly permit to be done on his behalf, any act proscribed by this chapter hereof and any willful violation of said condition is subject to sanction as prescribed in Section 6(c) whether or not the defendant was the subject of an order under Section 5 (i.e., the section relating to Court Orders).

- (a) From and after the effective date of this chapter, any receipt for any bail or bond given by the clerk of any court, by any court, by any surety or bondsman and/or any written promise to appear one's own recognizance shall contain in a conspicuous location, notice of this Section 7.

**Counselor Confidentiality  
Sample Statute**

**Pennsylvania  
Session of 1981 Act 1981-169 585  
No. 1981 169**

**AN ACT**

SB 532

AMENDING TITLE 42 (JUDICIARY AND JUDICIAL PROCEDURE) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, PROVIDING FOR CONFIDENTIAL COMMUNICATIONS TO COUNSELORS OF SEXUAL ASSAULT VICTIMS.

THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA HEREBY ENACTS AS FOLLOWS:

**SECTION 1.** Title 42, act of November 25, 1970 (P.L. 707, No. 230), known as the Pennsylvania Consolidated Statutes, is amended by adding a section to read:

§ 5945.1. Confidential communications to sexual assault counselors.

(a) Definitions. — As used in this section the following words and phrases shall have the meanings given to them in this subsection:

*"Rape crisis center."* Any office, institution or center offering assistance to victims of sexual assault and their families through crisis intervention, medical and legal accompaniment and follow-up counseling.

*"Sexual assault counselor."* A person who is engaged in any office, institution or center defined as a rape crisis center under this section, who has undergone 40 hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling or assistance to victims of sexual assault.

*"Victim."* A person who consults a sexual assault counselor for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused by a sexual assault.

*"Confidential communication."* Information transmitted between a victim of sexual assault and a sexual assault counselor in the course of that relationship and in confidence by a means which, so far as the victim is aware, does not disclose the information to a third person other than those who are present to further the interests of the victim in the consultation or those to whom disclosure is reasonably necessary to the transmission of the information or an accomplishment of the purposes for which the sexual assault counselor is consulted. The term includes all information received by the sexual assault counselor in the course of that relationship.

(b) Privilege. — A sexual assault counselor has a privilege not to be examined as a witness in any civil or criminal proceeding without the prior written consent of the victim being counseled by the counselor as to any confidential communication made by the victim to the counselor or as to any advice, report or working paper given or made in the course of the consultation.

**SECTION 2.** This act shall take effect in 60 days.

Approved—The 23rd day of December, A.D. 1981.

DICK THORNBURGH

## Court Attendance Sample Statute

### Alabama Act 83-508

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

**SECTION 1.** This Act shall be known as and may be cited as "The Alabama Crime Victims Court Attendance Act."

**SECTION 2.** (a) The Legislature hereby finds and determines that it is essential to the fair and impartial administration of justice that a victim of a criminal offense be afforded a reasonable opportunity to attend any trial or hearing or any portion thereof conducted by any court which in any way pertains to such offense. (b) Further, the Legislature hereby finds and determines that it is essential to the fair and impartial administration of justice that a victim of a criminal offense not be excluded from any hearing or trial or any portion thereof conducted by any court which in any way pertains to such offense, merely because the victim has been or may be subpoenaed to testify at such hearing or trial or because of any arbitrary or invidious reason. (c) The provisions of this Act are to be construed so as to accomplish these purposes and to promote the same which are hereby declared to be the public policy of this state.

**SECTION 3.** Unless the context clearly requires otherwise or unless different meanings are expressly specified in subsequent provisions of this Act, wherever used in this Act, in the singular or plural case, the term:

(a) "person" shall mean: (1) a human being; (2) a public or private corporation, an unincorporated association, a partnership, or other entity established by law; (3) a government or a governmental instrumentality, including, but not limited to, the State of Alabama or any political subdivision thereof.

(b) "criminal offense" shall mean: (1) conduct which is alleged in any summons, complaint, warrant of arrest, information, presentment, or indictment and for which a sentence to a term of imprisonment, or the death penalty, or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state.

(c) "victim" shall mean: (1) a person who is a victim of the defendant's criminal offense.

**SECTION 4.** The victim of a criminal offense shall be entitled to be present in any court exercising any jurisdiction over such offense and therein to be seated at the counsel table of any prosecutor prosecuting such offense or other attorney representing the government or other persons in whose name such prosecution is brought.

**SECTION 5.** A victim of a criminal offense shall not be excluded from court or counsel table during the trial or hearing or any portion thereof conducted by any court which in any way pertains to such offense, provided, however, a judge may remove a victim from the trial or hearing or any portion thereof for the same causes and in same manner as the rules of court or law provides for the exclusion or removal of the defendant.

**SECTION 6.** A victim of a criminal offense shall be exempt from the operation of rule of court, regulation, or statute or other law requiring the separation or exclusion of witnesses from court in criminal trials or hearings.

**SECTION 7.** (a) Whenever a victim is unable to attend such trial or hearing or any portion thereof by reason of death; disability; hardship; incapacity; physical, mental, or emotional condition; age; or other inability, the victim, the victim's guardian or the victim's family may select a representative who shall be entitled to exercise any right granted to the victim, pursuant to the provisions of this Act. (b) Provided, however, in the event of a dispute, the court in its discretion may designate such representative.

**SECTION 8.** The failure of a victim or a person designated to represent the victim to exercise any right granted by the provisions of this Act shall not be cause or ground for an appeal of a conviction by a defendant or for any court to set aside, reverse or remand a criminal conviction.

**SECTION 9.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**SECTION 10.** All laws or parts of laws which conflict with this Act are hereby repealed.

**SECTION 11.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

# Court Attendance Sample Statute

## Georgia

### A BILL TO BE ENTITLED AN ACT

To amend Article 3 of Chapter 9 of Title 24 of the Official Code of Georgia Annotated, relating to examination of witnesses, so as to provide that the victim of a criminal offense may be entitled to be present in court during the prosecution of such offense; to provide that it shall be within the sole discretion of the judge to implement such provisions of law and determine when to allow such victim or the representative of such victim to be present in such court and, if such victim is permitted to be present, to determine the order in which the testimony of such victim shall be given; to provide for a representative of the victim when the victim is unable to attend such trial or hearing; to provide that failure of the victim or designated representative to exercise such right shall not be a cause or ground for appeal by a defendant or for any court to set aside, reverse, or remand a criminal conviction; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.** Article 3 of Chapter 9 of Title 24 of the Official Code of Georgia Annotated, relating to examination of witnesses, is amended by striking Code Section 24-9-61, relating to sequestration of witnesses, and inserting in lieu thereof a new Code Section 24-9-61 to read as follows:

"24-9-61. *Except as otherwise provided in Code Section 24-9-61.1*, in all cases either party shall have the right to have the witnesses of the other party examined out of the hearing of each other. The court shall take proper care to effect this object as far as practicable and convenient, but no mere irregularity shall exclude a witness."

**SECTION 2.** Said article is further amended by adding a new Code section immediately following Code Section 24-9-61, to be designated Code Section 24-9-61.1, to read as follows:

"24-9-61.1. (a) The victim of a criminal offense may be entitled to be present in any court exercising jurisdiction over such offense. It shall be within the sole discretion of the judge to implement the provisions of this Code section and determine when to allow such victim or the representative of such victim to be present in such court and, if such victim is permitted to be present, to determine the order in which the testimony of such victim shall be given.

(b) Whenever a victim is unable to attend such trial or hearing or any portion thereof by reason of death; disability; hardship; incapacity; physical, mental, or emotional condition; age; or other inability, the victim, the victim's guardian, or the victim's family may select a representative who shall be entitled to exercise any right granted to the victim, pursuant to this Code section. In the event of a dispute, the court, in its discretion, may designate such representative.

(c) The failure of a victim or a person designated to represent the victim to exercise any right granted by this Code section shall not be a cause or ground for an appeal of a conviction by a defendant or for any court to set aside, reverse, or remand a criminal conviction."

**SECTION 3.** All laws and parts of laws in conflict with this Act are repealed.

# Speedy Trial Sample Statute

## Texas

### CHAPTER THIRTY-TWO A. SPEEDY TRIAL

#### Art.

32A.01. Trial Priorities.

32A.02. Time Limitations.

#### Art. 32A.01. Trial Priorities

Insofar as is practicable, the trial of a criminal action shall be given preference over trials of civil cases, and the trial of a criminal action against a defendant who is detained in jail pending trial of the action shall be given preference over trials of other criminal actions.

[Acts 1977, 65th Leg., p. 1970, ch. 787, § 1, eff. July 1, 1978.]

#### Art. 32A.02. Time Limitations

Sec. 1. A court shall grant a motion to set aside an indictment, information, or complaint if the state is not ready for trial within:

(1) 120 days of the commencement of a criminal action if the defendant is accused of a felony;

(2) 90 days of the commencement of a criminal action if the defendant is accused of a misdemeanor punishable by a sentence of imprisonment for more than 180 days; or

(3) 60 days of the commencement of a criminal action if the defendant is accused of a misdemeanor punishable by a sentence of imprisonment for 180 days or less or punishable by a fine only.

Sec. 2. (a) Except as provided in Subsections (b) and (c) of this section, a criminal action commences for purposes of this article when an indictment, information, or complaint against the defendant is filed in court, unless prior to the filing the defendant is either detained in custody or released on bail or personal bond to answer for the same offense or any other offense arising out of the same transaction, in which event the criminal action commences when he is arrested.

(b) If a defendant is to be retried following a mistrial, in order granting a new trial, or an appeal or collateral attack, a criminal action commences for purposes of this article on the date of the mistrial, the order granting a new trial, or the remand.

(c) If an indictment, information, or complaint is dismissed on motion of the defendant, a criminal action commences for the purposes of the article when a new indictment, information, or complaint against the defendant is filed in court, unless the defendant is either detained in custody or released on bail or personal bond to answer for the same offense or any other offense arising out of the same transaction, in which event the criminal action commences when he is detained or released.

Sec. 3. The failure of a defendant to move for discharge under the provisions of this article prior to trial or the entry of a plea of guilty constitutes a waiver of the rights accorded by this article.

Sec. 4. In computing the time by which the state must be ready for trial, the following periods shall be excluded:

(1) a reasonable period of delay resulting from other proceedings involving the defendant, including but not limited to proceedings for the determination

of competence to stand trial, hearing on pretrial motions, appeals, and trials of other charges;

(2) any period during which the defendant is incompetent to stand trial;

(3) a period of delay resulting from a continuance granted at the request or with the consent of the defendant or his counsel, except that a defendant without counsel is deemed not to have consented to a continuance unless the court advised him of his right to a speedy trial and of the effect of his consent;

(4) a period of delay resulting from the absence of the defendant because his location is unknown and:

(A) he is attempting to avoid apprehension or prosecution; or

(B) the state has been unable to determine his location by due diligence;

(5) a period of delay resulting from the unavailability of the defendant whose location is known to the state but whose presence cannot be obtained by due diligence or because he resists being returned to the state for trial;

(6) a reasonable period of delay resulting from a continuance granted at the request of the state if the continuance is granted:

(A) because of the unavailability of evidence that is material to the state's case, if the state has exercised due diligence to obtain the evidence and there are reasonable grounds to believe the evidence will be available within a reasonable time; or

(B) to allow the state additional time to prepare its case and the additional time is justified because of the exceptional circumstances of the case;

(7) if the charge is dismissed upon motion of the state or the charge is disposed of by a final judgment and the defendant is later charged with the same offense or another offense arising out of the same transaction, the period of delay from the date of dismissal or the date of the final judgment to the date the time limitation would commence running on the subsequent charge had there been no previous charge;

(8) a reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run, if there is good cause for not granting a severance;

(9) a period of delay resulting from detention of the defendant in another jurisdiction, if the state is aware of the detention and exercises due diligence to obtain his presence for trial; and

(10) any other reasonable period of delay that is justified by exceptional circumstances.

[Acts 1977, 65th Leg., p. 1970, ch. 787, eff. July 1, 1978. Amended by Acts 1979, 66th Leg., p. 4, ch. 3, § 1, eff. Sept. 1, 1979.]

Section 2 of the 1979 amendatory act provided:

"This Act applies only to offenses committed on or after its effective date, and a criminal action for an offense committed before this Act's effective date is governed by the law existing before the effective date, which law is continued in effect for this purpose as if this Act were not in force. For purposes of this section, an offense is committed on or after the effective date of this Act if any element of the offense occurs on or after the effective date."

**Children's Bill of Rights  
Sample Statute  
Wisconsin  
Substitute Amendment to 1983 AB 115**

AN ACT to renumber 950.02 (1); to amend 48.31 (2), 57.06 (3), and 970.03 (11); and to create 950.02 (1), 950.08, 950.09, 967.04 (7), 970.03 (11) (b), 971.10 (5) and 973.10 (2m) of the statutes, relating to rights of child victims and witnesses of crimes.

THE PEOPLE OF THE STATE OF WISCONSIN, REPRESENTED IN SENATE AND ASSEMBLY,  
DO ENACT AS FOLLOWS:

**SECTION 1.** 48.31 (2) of the statutes is amended to read:

48.31 (2) The hearing shall be to the court unless the child, parent, guardian or legal custodian exercises the right to a jury trial by demanding a jury trial at any time before or during the plea hearing. Chapters 756 and 805 shall govern the selection of jurors except that ss. 972.03 and 972.04 shall apply in cases in which the juvenile is alleged to be delinquent under s. 48.12. If the hearing involves a child victim or witness, the court and the district attorney shall comply with s. 950.09 (2). At the conclusion of the hearing, the court or jury shall make a determination of the facts. If the court finds that the child is not within the jurisdiction of the court or the court or jury finds that the facts alleged in the petition or citation have not been proved, the court shall dismiss the petition or citation with prejudice.

**SECTION 2.** 57.06 (3) of the statutes is amended to read:

57.06 (3) Every paroled prisoner remains in the legal custody of the department unless otherwise provided by the department. If the department alleges that any condition or rule of parole has been violated by the prisoner, the department may take physical custody of the prisoner for the investigation of the alleged violation. If the department is satisfied that any condition or rule has been violated it shall afford the prisoner such administrative hearings as are required by law. The final administrative hearing shall be held before a hearing examiner who is licensed to practice law in this state. The hearing examiner shall enter an order revoking or not revoking parole which order shall be, upon request by either party, reviewed by the secretary. The hearing examiner may order the taking of a videotaped deposition under s. 967.04 (7). If the examiner or the secretary upon review finds that the prisoner has violated the rules or conditions of parole, the examiner, or the secretary upon review, may order the prisoner returned to prison to continue serving his or her sentence, or to continue on parole, and in either case, may order that the prisoner forfeit good time as provided in s. 53.11 (2a). If the prisoner claims or appears to be indigent, the department shall refer the prisoner to the authority for indigency determinations specified under s. 977.07 (1).

**SECTION 3.** 950.02 (1) of the statutes is renumbered 950.02 (1m).

**SECTION 4.** 950.02 (1) of the statutes is created to read:

950.02 (1) "Child" means a person who is less than 18 years of age.

**SECTION 5.** 950.08 of the statutes is created to read:

**950.08 CHILD VICTIMS AND WITNESSES: RIGHTS AND SERVICES.** In addition to all rights afforded to victims and witnesses under s. 950.04 and services provided under s. 950.05, counties are encouraged to designate one or more persons to provide the following additional services on behalf of children who are involved in criminal proceedings as victims or witnesses.

(1) To explain, in language understood by the child, all legal proceedings in which the child will be involved.

(2) To act, as a friend of the court, to advise the judge, whenever appropriate, of the child's ability to understand and cooperate with any court proceedings.

(3) To assist the child and child's family in coping with the emotional impact of the crime and subsequent criminal proceedings in which the child is involved.

(4) To advise the district attorney concerning the ability of a child witness to cooperate with the prosecution and the potential effects of the proceedings on the child.

(5) To advise judges who would be involved in determinations concerning the taking of videotaped dispositions.

**SECTION 6.** 950.09 of the statutes is created to read:

**950.09 CHILD VICTIMS AND WITNESSES: INTENT AND PROCEDURE.**

(1) **LEGISLATIVE INTENT.** The legislature finds that it is necessary to provide child victims and witnesses with additional consideration and different treatment than that usually required by adults. The legislature intends, in ss. 950.08 and 950.09, to provide these children with additional rights and protections during their involvement with the criminal justice system. The legislature urges the news media to use restraint in revealing the identity of child victims or witnesses, especially in sensitive cases.

(2) **DUTY TO EXPEDITE PROCEEDINGS.** In all criminal cases and juvenile fact-finding hearings under s. 48.31 involving a child victim or witness, the court and the district attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of his or her involvement in the proceeding. In ruling on any motion or other re-

quest for a delay or continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.

(3) **VIDEOTAPED DEPOSITIONS.** If a court in a criminal case determines that a video taped deposition may be taken of a child victim or witness, the procedure under s. 967.04 (7) shall be followed.

(4) **PROGRAM RESPONSIBILITY.** In each county, the county board is responsible for the enforcement of rights and the provision of services under ss. 950.08 and 950.09. If the county board seeks reimbursement for a county program under s. 950.06, the county board may submit a program plan to the department for the provision of services to children under ss. 950.08 and 950.09, and the department shall review, approve, monitor and authorize state reimbursement for the programs as provided in s. 950.06.

**SECTION 7.** 967.04 (7) of the statutes is created to read:

967.04 (7) (a) In this subsection:

1. "Child" has the meaning specified in s. 950.02 (1).
2. "Victim" has the meaning specified in s. 950.02 (4).
3. "Witness" has the meaning specified in s. 950.02 (5).

(b) In any prosecution involving a child victim or witness, the court, on its own motion or the motion of the district attorney, for good cause shown, may order the taking of a videotaped deposition of the victim or witness. The court may allow the videotaped deposition to be used at any proceeding in lieu of or in addition to the direct testimony of the child. The judge may specify where the deposition is taken and who may be present when the deposition is taken. The court may exclude persons whose presence is not necessary for the taking of the deposition. If at the time of taking the deposition the district attorney anticipates using the deposition of the child at trial, examination and cross-examination of the child shall proceed in the same manner as permitted at trial. In any proceeding under s. 57.06 (3) or 973.10 (2), the hearing examiner may order the taking of a videotaped deposition as provided in this subsection which may be used in lieu of the direct testimony of the child.

**SECTION 8.** 970.03 (11) of the statutes is amended to read:

970.03 (11) The court may admit a statement which is hearsay and which is not excluded from the hearsay rule under ss. 908.02 to 908.045:

(a) To prove ownership of property or lack of consent to entry to or possession or destruction of property.

**SECTION 9.** 970.03 (11) (b) of the statutes is created to read:

970.03 (11) (b) If the declarant is alleged to be a victim or witness of a crime and is younger than 18 years old.

**SECTION 10.** 971.10 (5) of the statutes is created to read:

971.10 (5) If a criminal action involves a child victim or witness, the court and district attorney shall comply with s. 950.09 (2).

**SECTION 11.** 973.10 (2m) of the statutes is created to read:

973.10 (2m) In any administrative hearing under sub. (2), the hearing examiner may order the taking of a videotaped deposition under s. 967.04 (7).

**SECTION 12. CROSS-REFERENCE CHANGES.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross references shown in Column C:

A	B	C
Statute Sections 103.87	Old Cross-References 950.02 (1)	New Cross-References 950.02 (1m)

**Children's Bill of Rights  
Sample Statute**

**Iowa  
Victim and Witness Protection  
House File 462**

Additions in text are indicated by *italic type*; deletions by ~~strikeouts~~.

AN ACT relating to the protection of victims and witnesses in judicial proceedings, and providing penalties.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

**SECTION 1.** Section 235A.15, subsection 2, Code 1985, is amended by adding the following new paragraph:

*NEW PARAGRAPH.* 1. To the department of public safety for the sole purpose of the filing of a claim for reparation pursuant to section 910A.5 and section 912.4, subsections 3, 4, and 5.

**SECTION 2. NEW SECTION. 802.2 SEXUAL ABUSE OF CHILD.**

An information or indictment for sexual abuse in the first, second or third degree committed on or with a child under the age of ten years shall be found within four years after its commission.

**SECTION 3.** Section 802.3, Code 1985, is amended to read as follows:

**802.3 FELONY—AGGRAVATED OR SERIOUS MISDEMEANOR.**

In all cases, except those enumerated in ~~section~~ *sections 802.1 and 802.2*, an indictment or information for a felony or aggravated or serious misdemeanor shall be found within three years after its commission.

**SECTION 4. NEW SECTION. 910A.1 TITLE.**

This chapter shall be known and may be cited as the "Victim and Witness Protection Act."

**SECTION 5. NEW SECTION. 910A.2 PROTECTION OF CHILD VICTIM'S PRIVACY.**

1. Prior to an arrest or the filing of an information or indictment, whichever occurs first, against a person charged with a violation of chapter 709, section 726.2, or section 728.12, committed with or on a child, as defined in section 702.5, the identity of the child or any information reasonably likely to disclose the identity of the child shall not be released to the public by any public employee except as authorized by the court of jurisdiction.

2. In order to protect the welfare of the child, the name of the child and identifying biographical information shall not appear on the information or indictment or any other public record. Instead, a nondescriptive designation shall appear on all public records. The nonpublic records containing the child's name and identifying biographical information shall be kept by the court. This subsection does not apply to the release of information to an accused or accused's counsel; however, the use or release of this information by the accused or accused's counsel for purposes other than the preparation of defense constitutes contempt.

3. A person who willfully violates this section or who willfully neglects or refuses to obey a court order made pursuant to this section commits contempt.

4. A release of information in violation of this section does not bar prosecution or provide grounds for dismissal of charges.

**SECTION 6. NEW SECTION. 910A.3 RECORDED EVIDENCE.**

1. A court may, upon its own motion or upon motion of any party, order that testimony of a child, as defined in section 702.5, be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court. Only the judge, parties, counsel, persons necessary to operate the equipment, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the child may be present in the room with the child during the child's testimony.

The court may require a party be confined to an adjacent room or behind a screen or mirror that permits the party to see and hear the child during the child's testimony, but does not allow the child to see or hear the party. However, if a party is so confined, the court shall take measures to insure that the party and counsel can confer during the testimony and shall inform the child that the party can see and hear the child during testimony.

2. The court may upon motion of a party order that the testimony of a child, as defined in section 702.5, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 12(2)(b).

3. The court may upon motion of a party admit into evidence the recorded statements of a child, as defined in section 702.5, describing sexual contact performed with or on the child, not otherwise admissible in evidence by statute or court rule if the court determines that the recorded statements substantially comport with the requirements for admission under Iowa rules of evidence 803(24) or 804(5).

**SECTION 7. NEW SECTION. 910A.4 GUARDIAN AD LITEM FOR PROSECUTING WITNESSES.**

A prosecuting witness who is a child, as defined in section 702.5, in a case involving a violation of chapter 709 or section 726.2, 726.3, 726.6, or 728.12, is entitled to have the witness' interests represented by a guardian ad litem at all stages of the proceedings arising from such violation. The

guardian ad litem may but need not be a practicing attorney and shall be designated by the court after due consideration is given to the desires and needs of the child and the compatibility of the child and the child's interests with the prospective guardian ad litem. However, a person who is also a prosecuting witness in the same proceeding shall not be designated guardian ad litem. The guardian ad litem shall receive notice of and may attend all depositions, hearings and trial proceedings to support the child and advocate for the protection of the child but shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses.

**SECTION 8. NEW SECTION. 910A.5 CHILD VICTIM SERVICES.**

1. "Victim" means a child under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony.

2. A professional licensed or certified by the state to provide immediate or short-term medical services or mental health services to a victim may provide the services without the prior consent or knowledge of the victim's parents or guardians. Such a professional shall not deny initial services to a victim due to the fact that the victim is personally unable to pay for the services at the time the services are provided.

3. Such a professional shall notify the victim if the professional is required to report an incidence of child abuse involving the victim pursuant to section 232.69.

**SECTION 9. Section 912.4, subsection 1, Code 1985, is amended to read as follows:**

1. To claim a reparation under the crime victim reparation program, a person shall apply in writing on a form prescribed by the commissioner and file the application with the commissioner within one hundred eighty days after the date of the crime, or of the discovery of the crime, or within one hundred twenty days after the date of death of the victim.

**SECTION 10. Section 912.4, Code 1985, is amended by adding the following new subsections:**

**NEW SUBSECTION. 3.** Notwithstanding subsection 2, a victim under the age of eighteen who has been sexually abused or subjected to any other unlawful sexual conduct under chapter 709 or 726 or who has been the subject of a forcible felony is not required to report the crime to the local police department or county sheriff department to be eligible for reparation if the crime was allegedly committed upon a child by a person responsible for the care of a child, as defined in section 232.68, subsection 6, and was reported to an employee of the department of human services and the employee verifies the report to the commissioner.

**NEW SUBSECTION. 4.** When immediate or short-term medical services or mental health services are provided to a victim under section 910A.5, the department of human services shall file the claim for reparation as provided in subsection 3 for the victim and the provisions of section 912.7, subsection 2, paragraphs "b" and "c" do not apply.

**NEW SUBSECTION. 5.** When immediate or short-term medical services to a victim are provided pursuant to section 910A.5 by a professional licensed or certified by the state to provide such services, the professional shall file the claim for reparation, unless the department of human services is required to file the claim under this section, and the provisions of section 912.7, subsection 2, paragraphs "b" and "c" do not apply. The requirement to report the crime to the local police department or county sheriff department under subsection 2 does not apply to this subsection.

**SECTION 11. NEW SECTION. 912.13 RULEMAKING.**

The department shall adopt rules pursuant to chapter 17A to implement the procedures for reparation payments with respect to section 910A.5 and section 912.4, subsections 3, 4, and 5.

**SECTION 12.** Rule of criminal procedure 3, subsection 4, Iowa court rules, second edition, is amended by adding the following new lettered paragraph:

**NEW LETTERED PARAGRAPH. k.** A person under the age of ten years shall not be required to personally appear before a grand jury to testify against another person related to the person or another person who resided with the person at the time of the action which is the subject of the grand jury's investigation, unless there exists a special order of the court finding that the interests of justice require the person's appearance and that the person will not be disproportionately traumatized by the appearance.

**SECTION 13.** Rule of criminal procedure 8.1, Iowa court rules, second edition, is amended by adding the following new numbered subsection:

**NEW NUMBERED SUBSECTION. 3. PRIORITY ASSIGNMENT.**

Prosecutions for violations of sections 709.2, 709.3, 709.4 and 726.2 shall, as practicable, be given priority on a court's criminal docket.

**SECTION 14.** Rule of criminal procedure 12, section 2, Iowa court rules, second edition, is amended to read as follows:

**2. SPECIAL CIRCUMSTANCES.**

*a.* Whenever the interests of justice and the special circumstances of a case make necessary the taking of the testimony of a prospective witness not included in subsection 1 or 3 of this rule; for use at trial, the court may upon motion of a party and notice to the other parties order that the testimony of the witness be taken by deposition and that any designated book, paper, document, record, recording, or other material, not privileged, be produced at the same time and place. For purposes of this subsection, special circumstances shall be deemed to exist and the court shall order that depositions be taken only upon a showing of necessity arising from either of the following:

a. (1) The information sought by way of deposition cannot adequately be obtained by a bill of particulars or voluntary statements.

b. (2) Other just cause necessitates the taking of the deposition.

b. *The court may upon motion of a party and notice to the other parties order that the testimony of a victim or witness who is a child, as defined in section 702.5, Code 1985, be taken by deposition for use at trial. Only the judge, parties, counsel, persons necessary to record the deposition, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the child may be present in the room with the child during the child's deposition.*

*The court may require a party be confined to an adjacent room or behind a screen or mirror that permits the party to see and hear the child during the child's deposition, but does not allow the child to see or hear the party. However, if a party is so confined, the court shall take measures to insure that the party and counsel can confer during the deposition and shall inform the child that the party can see and hear the child during deposition.*

**SECTION 15.** Rule of criminal procedure 20, subsection 3, Iowa court rules, second edition, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Corroboration of the testimony of victims shall not be required.

**SECTION 16.** Rule of evidence 601, Iowa court rules, second edition, is amended by striking the rule and inserting in lieu thereof the following:

**RULE 601. GENERAL RULES OF COMPETENCY.**

A person of sufficient capacity to understand the obligation of an oath or affirmation is competent to be a witness except as otherwise provided by rule or statute.

However, a child, as defined in section 702.5, Code 1985, is presumed to be competent. If the child's competency is questioned the court shall determine whether the child is mentally capable of understanding the nature of the questions put to the child, whether the child is able to formulate intelligent answers and communicate impressions and recollections regarding the incident about which the child is to testify, and whether the child can understand the responsibility to tell the truth. In making these determinations, the court may do any or all of the following:

1. In consultation with counsels, conduct a voir dire of the child outside the courtroom. If the judge elects to conduct a voir dire of the child outside the courtroom, the judge shall allow only the court reporter, counsels, parties and those persons necessary for the welfare of the child to be present during voir dire. The judge may require a party be confined to an adjacent room or behind a screen or mirror that permits the party to see and hear the child during voir dire, but does not allow the child to see or hear the party. However, if a party is so confined, the judge shall take measures to insure that the party and counsel can confer during the voir dire.

2. Review recorded or nonrecorded evidence.

3. Receive expert testimony.

4. Take any other action permitted by Iowa rules of evidence 611 or 104.

Approved May 23, 1985.

## Federal "Victim and Witness Protection Act of 1982"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Omnibus Victims Protection Act of 1982."

### FINDINGS AND PURPOSES

Sec. 2 (a) The Congress finds and declares that:

(1) Without the cooperation of victims and witnesses, the criminal justice system would cease to function; yet with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

(2) All too often the victim of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of contact with a criminal justice system unresponsive to the real needs of such victim.

(3) Although the majority of serious crimes falls under the jurisdiction of State and local law enforcement agencies, the Federal Government, and in particular the Attorney General, has an important leadership role to assume in ensuring that victims of crime, whether at the Federal, State, or local level, are given proper treatment by agencies administering the criminal justice system.

(4) Under current law, law enforcement agencies must have cooperation from a victim of crime and yet neither the agencies nor the legal system can offer adequate protection or assistance when the victim, as a result of such cooperation, is threatened or intimidated.

(5) While the defendant is provided with counsel who can explain both the criminal justice process and the rights of the defendants, the victim or witness has no counterpart and is usually not even notified when the defendant is released on bail, the case is dismissed, a plea to a lesser charge is accepted, or a court date is changed.

(6) The victim and witness who cooperate with the prosecutor often find that the transportation, parking facilities, and child care services at the court are unsatisfactory and they must often share the pretrial waiting room with the defendant or his family and friends.

(7) The victim may lose valuable property to a criminal only to lose it again for long periods of time to Federal law enforcement officials, until the trial and sometimes the appeals are over; many times that property is damaged or lost which is particularly stressful for the elderly or poor.

(b) The Congress declares that the purposes of this Act are—

(1) to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process.

(2) to ensure that the Federal Government does all that is possible within limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the defendant; and

(3) to provide a model for legislation for State and local governments.

### VICTIM IMPACT STATEMENT

Sec. 3 Paragraph (2) of rule 32(c) of the Federal Rules of Criminal Procedure is amended to read as follows:

"Report.—The presentence report shall contain—

"(A) any prior criminal record of the defendant;

"(B) a statement of the circumstances of the commission of the offense and circumstances affecting the defendant's behavior.

"(C) information concerning any harm, including financial, social, psychological, and physical harm, done to or loss suffered by any victim of the offense, and

"(D) any other information that may aid the court in sentencing, including the restitution needs of any victim of the offense."

### PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

Sec. 4. (a) Chapter 73 of title 18 of the United States Code is amended by adding at the end the following new sections:

1512. Tampering with a witness, victim, or an informant.

(a) Whoever knowingly uses intimidation or physical force, or threatens another person, or attempts to do so, or engages in misleading conduct towards another person with intent to—

"(1) influence the testimony of any person in an official proceeding;

"(2) cause or induce any person to—

"(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding.

"(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding.

"(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

"(D) be absent from an official proceeding to which such person has been summoned by legal process; or

(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be fined not more than \$250,000 or imprisoned not more than ten years, or both.

"(b) whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

"(1) attending or testifying in an official proceeding;

"(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

"(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

"(4) causing a criminal prosecution or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding; or attempts to do, shall be fined not more than \$25,000 or imprisoned not more than one year, or both.

"(c) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

"(d) For the purposes of this section—

"(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

"(2) the testimony, or the record, document, or other object need not be admissible in evidence or free of claim of privilege.

"(e) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—

"(1) that the official proceeding before a judge, court, magistrate, grand jury, or government agency is before a judge or court of the United States, a United States magistrate, a bankruptcy judge, a Federal grand jury, or a Federal Government agency, or

"(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

"(f) There is extraterritorial Federal jurisdiction over an offense under this section.

"1513. Retaliating against a witness, victim, or an informant.

"(a) Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for—

"(1) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding or

"(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceeding given by a person to a law enforcement officer;

or attempts to do so, shall be fined not more than \$250,000 or imprisoned not more than ten years, or both.

"(b) There is extraterritorial Federal jurisdiction over an offense under this section.

"1514. Civil action to restrain harassment of a victim or witness

"(a)(1) A United States district court, upon application of the attorney for the Government, shall issue a temporary restraining order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

"(2)(A) A temporary restraining order may be issued under this section without written or oral notice to the adverse party or such party's attorney in a civil action under this section if the court finds, upon written certification of facts by the attorney for the Government, that such notice should not be required and that there is a reasonable probability that the Government will prevail on the merits.

"(B) A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed forthwith in the office of the clerk of the court issuing the order.

"(C) a temporary restraining order issued under this section shall expire at such time, not to exceed 10 days from issuance, as the court directs; the court, for good cause shown before expiration of such order, may extend the expiration date of the order for up to 10 days or for such longer period agreed to by the adverse party.

"(D) When a temporary restraining order is issued without notice, the motion for a protective order shall be set down from the hearing at the earliest possible time and takes precedence over all matters except older matters of the same character, and when such motion comes on for hearing, if the attorney for the Government does not proceed with the application for a protective order, the court shall dissolve the temporary restraining order.

"(E) If on two days notice to the attorney for the Government or on such shorter notice as the court may prescribe, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

"(F) A temporary restraining order shall set forth the reasons for the issuance of such order, be specific in terms, and describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

"(b)(1) A United States district court, upon motion of the attorney for the Government, shall issue a protective order prohibiting harassment of a victim or witness in a Federal criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

"(2) At the hearing referred to in paragraph (1) of this subsection, any adverse party named in the complaint shall have the right to present evidence and cross-examine witnesses.

"(3) A protective order shall set forth the reasons for the issuance of such order, be specific in terms, describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

"(4) The court shall set the duration of effect of the protective order for such period as the court determines necessary to prevent harassment of the victim or witness but in no case for a period in excess of three years from the date of such order's issuance. The attorney for the Government may, at any time within 90 days before the expiration of such order, apply for a new protective order under this section.

"(c) As used in this section—

"(1) the term 'harassment' means a course of conduct directed at a specific person that—

"(A) causes substantial emotional distress in such a person; and

"(B) serves no legitimate purpose; and

"(2) the term 'course of conduct' means a series of acts over a period time, however short, indicating a continuity of purpose.

"1515. Definitions for certain provisions

"As used in sections 1512 and 1513 of this title and in this section—

"(1) the term 'official proceeding' means—

"(A) a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, or a Federal grand jury;

"(B) a proceeding before the Congress; or

"(C) a proceeding before a Federal Government agency which is authorized by law;

"(2) the term 'physical force' means physical action against another, and includes confinement;

"(3) the term 'misleading conduct' means—

"(A) knowingly making a false statement;

"(B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement;

"(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

"(D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

"(E) knowingly using a trick, scheme, or device with intent to mislead;

"(4) the term 'law enforcement officer' means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant—

"(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

"(B) serving as a probation or pretrial service officer under this title; and

"(5) the term 'bodily injury' means—

"(A) a cut, abrasion, bruise, burn, or disfigurement;

"(B) physical pain;

"(C) illness;

"(D) impairment of the function of a bodily member, organ, or mental faculty; or

"(E) any other injury to the body, no matter how temporary

"(b) The table of sections at the beginning of chapter 73 of title 18 of the United States Code is amended—

"(1) so that the item relating the section 1503 reads as follows:

"1503. Influencing or injuring officer or juror generally."; and

- "(2) by adding at the end of the following:
  - "1512. Tampering with a witness, victim, or an informant.
  - "1513. Retaliating against a witness, victim, or an informant.
  - "1514. Civil action to restrain harassment of a victim or witness.
  - "1515. Definitions for certain provisions."
- "(1) in the heading of such section, by striking out "juror or witness" and inserting of lieu thereof "or juror";
- "(2) by striking out "witness" the first place it appears after "impede any" and all that follows through "or any grand" and inserting "grand" in lieu thereof; and
- "(3) by striking out "injuries any party or witness" and all that follows through "matter pending therein, or"
- "(d) Section 1505 of title 18 of the United States Code is amended by—
  - (1) striking out paragraphs (1) and (2);
  - (2) striking out "such" the first place it appears in the fourth paragraph and inserting in lieu thereof "any pending";
  - (3) striking out "such" the second place it appears in the fourth paragraph and inserting in lieu thereof "any"; and
  - (4) striking out "such inquiry" in the fourth paragraph and inserting in lieu thereof "any inquiry".
- (e) Section 1510(a) of title 18 of the United States Code is amended—
  - (1) by striking out the comma immediately following "bribery" and all that follows through "thereof";
  - (2) by striking out the semicolon immediately following "investigator" the first place it appears and all that follows through "Shall be fined" and inserting "shall be fined" in lieu thereof.

#### RESTITUTION

Sec. 4 (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end the following:

- "3579. Order of restitution
  - "(a)(1) The court, when sentencing a defendant convicted of an offense under this title or under subsection (h), (i), (j), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of the offense.
  - "(2) If the court does not order restitution, or orders only partial restitution, under this section, the court shall state on the record the reasons therefor.
  - "(b) The order may require that such defendant—
    - "(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—
      - "(A) return the property to the owner of the property or someone designated by the owner; or
      - "(B) if return of the property, under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of—
        - "(i) the value of the property on the date of the damage, loss, or destruction, or
        - "(ii) the value of the property on the date of sentencing, less the value (as of the date the property is returned) of any part of the property that is returned;
      - "(2) in the case of an offense resulting in bodily injury to a victim
        - "(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;
        - "(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and
        - "(C) reimburse the victim for income lost by such victim as a result of such offense;
      - "(3) in the case of an offense resulting in bodily injury also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services; and
      - "(4) in any case, if the victim (or if the victim is deceased, the victim's estate) consents, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate.
    - "(c) If the court decides to order restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.
    - "(d) The court shall impose an order of restitution to the extent that such order is as fair as possible to the victim and the imposition of such order will not unduly complicate or prolong the sentencing process.
    - "(e)(1) The court shall not impose restitution with respect to a loss for which the victim has received or is to receive compensation, except that the court may, in the interest of justice, order restitution to any person who has compensated the victim for such loss to the extent that such person paid the compensation. An order of restitution shall require that all restitution to victims under such order be made before any restitution to any other person under such order is made.

"(2) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by such victim in—

"(A) any Federal civil proceeding; and

"(B) any state civil proceeding, to the extent provided by the law of that State.

"(f)(1) The court may require that such defendant make restitution under this section within a specified period or in specified installments.

"(2) The end of such period or the last such installment shall not be later than—

"(A) the end of the period of probation, if probation is ordered;

"(B) five years after the end of the term of imprisonment imposed, if the court does not order probation; and

"(C) five years after the date of sentencing in any other case.

"(3) If not otherwise provided by the court under this subsection, restitution shall be made immediately.

"(g) If such defendant is placed on probation or paroled under this title, any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation and the Parole Commission may revoke parole if the defendant fails to comply with such order. In determining whether to revoke probation or parole, the court or Parole Commission shall consider the defendant's employment status, earning ability, financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

"(h) An order of restitution may be enforced by the United States or a victim named in the order to receive the restitution in the same manner as a judgement in a civil action.

"3580. Procedure for issuing order of restitution

"(a) The court, in determining whether to order restitution under section 3579 of this title and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

"(b) The court may order the probation service of the court to obtain information pertaining to the factors set forth in subsection (a) of this section. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs.

"(c) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of the section.

"(d) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and such defendant's dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

"(e) A conviction of a defendant for an offense involving the act giving rise to restitution under this section shall stop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding to the extent consistent with State law, brought by the victim."

(b) The table of sections at the beginning of chapter 227 of title 18 of the United States Code is amended by adding at the end the following new items:

"3579. Nature of order of restitution.

"3580. Procedure for issuing order of restitution."

Sec. 5 (a) Within 270 days after the date of enactment of this Act, the Attorney General shall develop and implement guidelines for the Department of Justice consistent with the purposes of this Act. In preparing the guidelines the Attorney General shall consider the following objectives:

(1) SERVICES TO VICTIMS OF CRIME—Law enforcement personnel should ensure that victims routinely receive emergency social and medical services as soon as possible and are given information on the following—

“(A) availability of crime victim compensation (where applicable);

“(B) community-based victim treatment programs;

“(C) the role of the victim in the criminal justice process, including what they can expect from the system as well as what the system expects from them; and

“(D) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained.

(2) NOTIFICATION OF AVAILABILITY OF PROTECTION.—A victim or witness should routinely receive information on steps that law enforcement officers and attorneys for the Government can take to protect victims and witnesses from intimidation.

(3) SCHEDULING CHANGES.—All victims and witnesses who have been scheduled to attend criminal justice proceedings should either be notified as soon as possible of any scheduling changes which will affect their appearances or have available a system for alerting witnesses promptly by telephone or otherwise.

(4) PROMPT NOTIFICATION TO VICTIMS OF MAJOR SERIOUS CRIMES.—Victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims should, if such persons provide the appropriate official with a current address and telephone number, receive prompt advance notification, if possible, of judicial proceedings relating to their case, including—

“(B) the initial appearance of an accused before a judicial officer;

(C) the release of the accused pending judicial proceedings; and

(D) proceedings in the prosecution of the accused (including entry of a plea of guilty, trial, sentencing, and, where a term of imprisonment is imposed, the release of the accused from such imprisonment).

(5) CONSULTATION WITH VICTIM.—The victim of a serious crime, or in the case of a minor child or a homicide, the family of the victim, should be consulted by the attorney for the Government in order to obtain the views of the victim or family about the disposition of any Federal criminal case brought as a result of such crime, including the views of the victim or family about—

(A) dismissal;

(B) release of the accused pending judicial proceedings;

(C) plea negotiations; and

(D) pretrial diversion program.

(6) SEPARATE WAITING AREA.—Victims and other prosecution witnesses should be provided prior to court appearance a waiting area that is separate from all other witnesses.

(7) PROPERTY RETURN.—Law enforcement agencies and prosecutors should promptly return victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it.

(8) NOTIFICATION TO EMPLOYER.—A victim or witness who so requests should be assisted by law enforcement agencies and attorneys for the Government in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of cooperation with law enforcement agencies or attorney for the Government, is subjected to serious financial strain, should be assisted by such agencies and attorneys in explaining to creditors the reason for such serious financial strain.

(9) TRAINING BY FEDERAL LAW ENFORCEMENT TRAINING FACILITIES.—Victim assistance education and training should be offered to persons taking courses at Federal law enforcement training facilities and attorneys for the Government so that victims may be promptly, properly, and completely assisted.

(10) GENERAL VICTIM ASSISTANCE.—The guidelines should also ensure that any other important assistance to victims and witnesses, such as the adoption of transportation, parking, and translator services for victim in court be provided.

(b) Nothing in this title shall be construed as creating a cause of action against the United States.

(c) The Attorney General shall assure that all federal law enforcement agencies outside of the Department of Justice adopt guidelines consistent with subsection (a) of this section.

### PROFIT BY A CRIMINAL FROM SALE OF HIS STORY

Sec. 6. Within one year after the date of enactment of this Act, the Attorney General shall report to Congress regarding any laws that are necessary to ensure that no Federal felon derive any profit from the sale of the recollection, thoughts, and feelings of such felon with regards to the offense committed by the felon until any victim of the offense receives restitution.

Sec. 7. Section 3146(a) of Chapter 207 of title 18 United States Code, is amended in the matter preceding paragraph (1)—

(1) by inserting after "judicial officer," the second place it appears the following: "subject to the condition that such person not commit an offense under Section 1503, 1512, or 1513 of this title"; and

(2) by inserting after "impose" the following: "a condition of release that such person not commit an offense under section 1503, 1512, or 1513 of this title and impose".

## The Victims of Crime Act of 1984

### Chapter Title XIV—Victim Compensation and Assistance

**SEC. 1401.** This chapter may be cited as the "Victims of Crime Act of 1984".

#### Crime Victims Fund

**SEC. 1402.** (a) There is created in the Treasury a separate account to be known as the Crime Victims Fund (hereinafter in this chapter referred to as the "Fund").

(b) Except as limited by subsection (c), there shall be deposited in the Fund —

(1) all fines that are collected from persons convicted of offenses against the United States except —

(A) fines available for use by the Secretary of the Treasury pursuant to —

(i) section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)); and

(ii) section 6 (d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375 (d)); and

(B) fines to be paid into —

(i) the railroad unemployment insurance account pursuant to the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.);

(ii) the Postal Service Fund pursuant to sections 2601(a)(2) and 2003 of title 39 of the United States Code and for the purposes set forth in section 404(a)(8) of such title 39;

(iii) the navigable water revolving fund pursuant to section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); and

(iv) county public school funds pursuant to section 3613 of title 18 of the United States Code;

(2) penalty assessments collected under section 3013 of title 18 of the United States Code;

(3) the proceeds of forfeited appearance bonds, bailbonds, and collateral collected under section 3146 of title 18 of the United States Code; and

(4) any money ordered to be paid into the Fund under section 3671(c)(2) of title 18 of the United States Code.

(c)(1) If the total deposited in the Fund during a particular fiscal year reaches the sum of \$100 million, the excess over that sum shall be deposited in the general fund of the Treasury and shall not be a part of the Fund.

(2) No deposits shall be made in the Fund after September 30, 1988.

(d)(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this title without fiscal year limitation.

(2) Fifty percent of the total deposited in the Fund during a particular fiscal year shall be available for grants under section 1403 and fifty percent shall be available for grants under section 1404.

(e) Any sums awarded as part of a grant under this chapter that remain unspent at the end of a fiscal year in which such grant is made may be expended for the purpose for which such grant is made at any time during the next succeeding fiscal year, at the end of which year any remaining unobligated sums shall be returned to the general fund of the Treasury.

(f) As used in this section, the term "offenses against the United States" does not include —

(1) a criminal violation of the Uniform Code of Military Justice (10 U.S.C. 801 et seq.);

(2) an offense against the laws of the District of Columbia; and

(3) an offense triable by an Indian tribal court or Court of Indian Offenses.

#### Crime Victim Compensation

**SEC. 1403.** (a)(1) Except as provided in paragraph (2), the Attorney General shall make an annual grant from the Fund to an eligible crime victim compensation program of 35 percent of the amounts awarded during the preceding

fiscal year, other than amounts awarded for property damage. A grant under this section shall be used by such program only for awards of compensation.

(2) If the sums available in the Fund for grants under this section are insufficient to provide grants of 35 percent as provided in paragraph (1), the Attorney General shall make, from the sums available, a grant to each eligible crime victim compensation program so that all such programs receive the same percentage of the amounts awarded by such program during the preceding fiscal year, other than amounts awarded for property damage.

(b) A crime victim compensation program is an eligible crime victim compensation program for the purposes of this section if—

(1) such program is operated by a State and offers compensation to victims of crime and survivors of victims of crime for —

(A) medical expenses attributable to a physical injury resulting from compensable crime, including expenses for mental health counseling and care;

(B) loss of wages attributable to a physical injury resulting from a compensable crime; and

(C) funeral expenses attributable to a death resulting from a compensable crime;

(2) such program promotes victim cooperation with the reasonable requests of law enforcement authorities;

(3) such State certifies that grants received under this section will not be used to supplant State funds otherwise available to provide crime victim compensation;

(4) such program, as to compensable crimes occurring within the State, makes compensation awards to victims who are nonresidents of the State on the basis of the same criteria used to make awards to victims who are residents of such State;

(5) such program provides com-

penensation to victims of crimes occurring within such State that would be compensable crimes, but for the fact that such crimes are subject to Federal jurisdiction, on the same basis that such program provides compensation to victims of compensable crimes and

(6) such program provides such other information and assurances related to the purposes of this section as the Attorney General may reasonably require.

(c) A State crime victim compensation program in effect on the date grants may first be made under this section shall be deemed eligible crime victim compensation for the purposes of this section until the day after the close of the first regular session of the legislature of that State that begins after such date;

(d) As used in this section—

(1) the term "property damage" does not include damage to prosthetic devices or dental services;

(2) the term "medical expenses" includes to the extent provided under the eligible crime victim compensation program, expenses for dental services and devices and prosthetic devices and for services rendered in accordance with a method of healing recognized by the law of the State;

(3) the term "compensable crime" means a crime the victims of which are eligible for compensation under the eligible crime victim compensation program and;

(4) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

#### Crime Victim Assistance

*SEC. 1404.* (a)(1) Subject to the availability of money in the Fund, the Attorney General shall make an annual grant from any portion of the Fund not used for grants under section 1403 with respect to a particular fiscal year, and after any deduction under subsection (c), to the chief executive of each

State for the financial support of eligible crime victim assistance programs.

(2) Such chief executive shall—

(A) certify that priority shall be given to eligible crime victim assistance programs providing assistance to victims of sexual assault, spousal abuse, or child abuser;

(B) certify that funds awarded to eligible crime victim assistance programs will not be used to supplant State and local funds otherwise available for crime victim assistance; and

(C) provide such other information and assurances related to the purposes of this section as the Attorney General may reasonably require;

(3) The amounts of grants under paragraph (1) shall be—

(A) \$100,000 to each State; and

(B) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

(4) If the amount available for grants under paragraph (1) is insufficient to provide \$100,000 to each State, the funds available shall be distributed equally among the States.

(b)(1) A victim assistance program is an eligible crime victim assistance program for the purposes of this section if such program—

(A) is operated by a public agency or a nonprofit organization or a combination of such agency or organization or of both such agencies and organization and provides services to victims of crime;

(B) demonstrates—

(i) a record of providing effective services to victims of crime and financial support from sources other than the Fund; or

(ii) substantial financial support from sources other than the Fund;

(C) utilizes volunteers in providing such services, unless and to

the extent the chief executive determines that compelling reasons exist to waive this requirement;

(D) promotes within the community served coordinated public and private efforts to aid crime victims; and

(E) assists potential recipients in seeking crime victim compensation benefits.

(2) An eligible crime victim assistance program shall expend sums received under subsection (a) only for providing services to victims of crime.

(c)(1) The Attorney General may in any fiscal year deduct from amounts available under section 1404 an amount not to exceed 5 percent of the amount in the Fund, and may expend the amount so deducted to provide services to victims of Federal crimes by the Department of Justice or reimburse other instrumentalities of the Federal Government otherwise authorized to provide such services.

(2) The Attorney General shall appoint or designate an official of the Department of Justice to be the Federal Crime Victim Assistance Administrator (hereinafter in this chapter referred to as the "Federal Administrator") to exercise the responsibilities of the Attorney General under this subsection.

(3) The Federal Administrator shall—

(A) be responsible for monitoring compliance with guidelines for fair treatment of crime victims and witnesses issued under section 6 of the Victim Witness Protection Act of 1982 (Public Law 97-291);

(B) consult with the heads of Federal law enforcement agencies that have responsibilities affecting victims of federal crimes;

(C) Coordinate services provided by the Federal Government with victim services offered by other public agencies and nonprofit organizations; and

(D) perform such other functions related to the purposes of this title

as the Attorney General may assign.

(4) The Attorney General may reimburse other instrumentalities of the Federal Government and contract for the performance of functions authorized under this subsection.

(d) As used in this section—

(1) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and, except for the purposes of paragraphs (3)(A) and (4) of subsection (a) of this section, any other territory or possession of the United States; and

(2) the term "services to victims of crime" includes—

(A) crisis intervention services;

(B) providing, in an emergency, transportation to court, short-term child care services, and temporary housing and security measures;

(C) assistance in participating in criminal justice proceedings; and

(D) payment of all reasonable costs for a forensic medical examination of a crime victim, to the extent that such costs are otherwise not reimbursed or paid;

(3) the term "services to victims of Federal crime" means services to victims of crime with respect to Federal crime, and includes—

(C) salaries of personnel who provide services to victims of crime, to the extent that such personnel provide such services;

(4) the term "crisis intervention services" means counseling to provide emotional support in crises arising from the occurrence of crime; and

(5) the term "chief executive" includes a person designated by a chief executive to perform the functions of the chief executive under this section.

#### **Penalty Assessment**

*SEC. 1405.* (a) Chapter 201 of title 18 of the United States Code is amended by adding at the end the following:

3013. Special assessment on convicted persons

(a) The court shall assess on any person convicted of an offense against the United States—

(1) in the case of a misdemeanor—

(A) the amount of \$25 if the defendant is an individual; and

(B) the amount of \$100 if the defendant is a person other than an individual; and

(2) in the case of a felony—

(A) the amount of \$50 if the defendant is a person other than an individual; and

(B) the amount of \$200 if the defendant is a person other than an individual.

(b) Such amount so assessed shall be collected in the manner that fines are collected in criminal cases.

(b) The table of sections for chapter 201 of title 18 of the United States Code is amended by adding at the end the following:

3013. Special assessment on convicted persons.

#### **Special Forfeiture of Collateral Profits of Crime**

*SEC. 1406.* (a) Title 18 of the United States Code is amended by adding after chapter 231 the following:

#### **Chapter 232-Special Forfeiture of Collateral Profits of Crime**

*Sec. 3671.* Order of special forfeiture

(a) Upon the motion of the United States attorney made at any time after conviction of a defendant for an offense against the United States resulting in physical harm to an individual, and

after notice to any interested party, the court shall, if the court determines that the interest of justice or an order of

restitution under chapter 227 or 231 of this title so requires,

order with defendant to forfeit all or any part of proceeds received or to be received by that defendant, or a transferee of that defendant, from a contract relating to a depiction of such crime in a movie, book, newspaper, magazine, radio or television production, or live enter-

tainment of any kind, or an expression of that defendant's thoughts, opinions, or emotions regarding such crime.

(b) An order issued under subsection (a) of this section shall require that the person with whom the defendant contracts pay to the Attorney General any proceeds due the defendant under such contract.

(c) (1) Proceeds paid to the Attorney General under this section shall be retained in escrow in the Crime Victims Fund in the Treasury by the Attorney General for five years after the date of an order under this section, but during that five year period may—

(A) be levied upon to satisfy—

(i) a money judgment rendered by a United States district court in favor of a victim of an offense for which such defendant has been convicted, or a legal representative of such victim; and

(ii) a fine imposed by a court of the United States; and—

(B) if ordered by the court in the interest of justice, be used—

(i) satisfy a money judgement rendered in any court in favor of a victim of any offense for which such defendant has been convicted, or a legal representative of such victim; and

(ii) pay for legal representation of the defendant in matters arising from the offense for which such defendant has been convicted, but no more than 20 percent of the total proceeds may be so used.

(2) The court shall direct the disposition of all such proceeds in the possession of the Attorney General at the end of such five years and may require that all or any part of such proceeds be released from escrow and paid into the Crime Victims Fund in the Treasury.

(d) As used in this section, the term "interested party" includes the defendant and any transferee of proceeds due the defendant under the contract, the person with

whom the defendant has contracted, and any person physically harmed as a result of the offense for which the defendant has been convicted.

*3672. Notice to victims of order of special forfeiture*

The United States attorney shall, within 30 days after the imposition of an order under this chapter and at such other times as the Attorney General may require, publish in a newspaper of general circulation in the district in which the offense for which a defendant was convicted occurred, a notice that states—

(1) the name of, and other identifying information about, the defendant;

(2) the offense for which the defendant was convicted; and

(3) that the court has ordered a special forfeiture of certain proceeds that may be used to satisfy a judgment obtained against the defendant by a victim of an offense for which the defendant has been convicted.

(b) The table of chapters for part II of title 18 of the United States Codes is amended by adding after the item for chapter 231 the following:

"232. Special forfeiture of collateral profits of crime."

**Administrative Provisions**

*SEC. 1407.* (a) The Attorney General may establish such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Attorney General under this chapter and may delegate to any officer or employee of the Department of Justice and such function as the Attorney General deems appropriate.

(b) Each recipient of sums under this chapter shall keep such records as the Attorney General shall prescribe, including records that fully disclose the amount and disposition by such recipient of such sums, the total cost of the undertaking for which such sums are used, and that portion of the cost of the undertaking supplied by

other sources, and such other records as will facilitate an effective audit.

(c) The Attorney General or any duly authorized representative of the Attorney General shall have access, for purpose of audit and examination, to any books, documents, papers, and records of the recipient of sums under this chapter that, in the opinion of the Attorney General or any duly authorized representative of the Attorney General, may be related to the expenditure of funds received under this chapter.

(d) Except as otherwise provided by Federal law, no officer or employee of the Federal Government, and no recipient of sums under this chapter, shall use or reveal any research or statistical information furnished under this chapter by any identifiable to any specific person or any purpose other than the purpose for which such information was obtained in accordance with this chapter. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding.

(f) No person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under this chapter.

(g) If, after reasonable notice and opportunity for a hearing on the record, the Attorney General finds that a State has failed to comply substantially with any provision of this chapter or a rule, regulation, guideline, or procedure issued under this chapter, or an application submitted in accordance with

this chapter or the provisions of any other applicable law, the Attorney General shall—

(1) terminate payments to such State;

(2) suspend payments to such State until the Attorney General is satisfied that such noncompliance has ended; or

(3) take such other action as the Attorney General deems appropriate.

(h) the Attorney General shall, no later than December 31, 1987, report to the President and to the Congress on the revenue derived from each source described in section 1002 and on the effectiveness of the activities supported under this chapter. The Attorney General may include in such report recommendations for legislation to improve this chapter.

#### **Parole Proceeding Amendments**

**SEC. 1408.** (a) Section 4207 of title 19 of the United States Codes is amended—

(1) by striking out “and” at the end of paragraph (4); and

(2) by inserting after paragraph (4) the following new paragraph;

(5) “a statement, which may be presented orally or otherwise, by any victim of the offense for which the prisoner is imprisoned about the financial, social, psychological, and emotional harm done to, or loss suffered by such victim; and”.

(b) Section 6(a) of the Victim and Witness Protection Act of 1982 is amended —

(1) in the catchline of paragraph (4), by striking out “Major”;

(2) in paragraph (4), by striking out “if possible, of judicial proceedings relating to their case, including—” and inserting in lieu thereof “if possible, of —”, and

(3) in subparagraph (D) of paragraph (4)—

(A) by inserting “and punishment” after “prosecution”, and

(B) by inserting “a hearing to determine a parole release date and after imposed.”.

(c) Section 4215 of title 18 of the United States Code is amended—

(1) so that the heading of such section reads as follows:

1215 Appeal

(2) in subsection (a)—

(A) in the first sentence—

(i) by striking out "have the decision reconsidered" and inserting in lieu thereof "appeal such decision", and

(ii) by striking out "regional commissioner" and inserting in lieu thereof "National Appeal Board"; and

(B) by striking out the second sentence; and

(3) in subsection (b), by striking out the first sentence.

(d) The table of sections at the beginning of chapter 311 of title 18

of the United States Code is amended so that the item relating to section 4215 reads as follows:

" 4215. Appeal".

#### **Effective Dates**

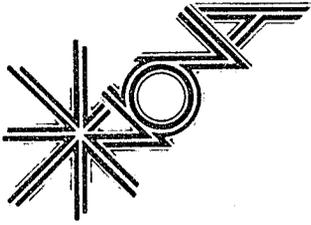
**SEC. 1409.** (a) Except as provided in subsection (b), this chapter and the amendments made by this chapter shall take effect 30 days after the date of enactment of this joint resolution.

(b) Sections 1402, 1403, 1404, and 1407 of this chapter shall take effect on October 1, 1984.

#### **Conforming Amendment**

##### **Section 1410.**

**Section 3150** (a) of title 18 U.S.C. is amended by striking out "the general fund of".



## National Organization for Victim Assistance

The National Organization for Victim Assistance is a private, non-profit organization of victim and witness assistance practitioners, criminal justice professionals, researchers, former victims, and others committed to the recognition of victim rights. NOVA's activities are guided by four purposes:

1. To serve as the national forum for victim advocacy in support of victim-oriented legislation and public policy.
2. To be of service to victims and witnesses of crime throughout the United States as they seek better treatment from the criminal justice systems and their communities.
3. To be of service to local programs of victim and witness assistance.
4. To be of service to its members.

NOVA's members, who come from 50 states and several foreign countries, elect twenty-two of their numbers to the Board of Directors (up to eleven others are appointed). The Board and staff publish a monthly newsletter, sponsor the annual National Forum on Victim Rights and the annual North American Victim Assistance Conference, and join with others to advance the cause of victim rights through NOVA's committee structure.

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