

VICTIMS RIGHTS

Have you ever been a victim or a witness to a crime? If so, you may be entitled to certain rights under **Louisiana's Crime Victim Bill of Rights**.

As a victim or designated family member of a victim, you may have the right of notification of certain proceedings in the criminal justice system that may affect you. For this registration you must file a **Victim Notice and Registration Form** with the arresting law enforcement agency, the clerk of court or the prosecuting agency that has jurisdiction over the case. By registering as a victim, you are also entitled to do a **Victim Impact Statement**. For you to have these Statutory Rights, the defendant must be charged with any homicide, felony crime of violence, vehicular negligent injuring, first-degree vehicular negligent injuring, sexual offense, or an attempt thereof.

CRIME VICTIMS BILL OF RIGHTS

- The right to reasonable notice and to be present and heard during all critical stages of pre-conviction and post-conviction proceedings.
- The right to be informed upon the release from custody of the escape of the accused or the offender.
- The right to confer with the prosecution prior to final disposition of the case.
- The right to refuse to be interviewed by the accused or a representative of the accused.
- The right to review and comment upon the pre-sentence report prior to imposition of sentencing.
- The right to seek restitution.
- The right to a reasonably prompt conclusion to the case.

As a witness you have many of the same rights given to the victim. For example, the witness has a right to advance notification concerning judicial proceedings and to be provided a secure waiting area during court proceedings, which does not require close proximity to defendants and their family or friends.

STEPS IN PROSECUTION OF A CRIMINAL CASE

The Arrest

After an arrest, the police prepare a written report of the incident, collect evidence, take statements, etc. Once the investigation is completed, all of the information is forwarded to the District Attorney's office and assigned to an Assistant District Attorney

Screening

The Assistant District attorney (ADA) will review all of the information. If it is determined that the evidence is sufficient on which to base a prosecution, then formal charges will be filed against the defendant.

Grand Jury

A grand Jury is a closed hearing. In other words, the Grand Jury hearing is not open to the public. It is made up of normal citizens, like yourself, that hear testimony and decide what the defendant's formal charge, if any, will be.

Arraignment

After formal charges are filed, the defendant will be arraigned. At an arraignment, the defendant pleads, "guilty" or "not guilty." The defendant has the opportunity to hire an attorney or is appointed an attorney by the public defender's office. Most defendants plead "not guilty" and a pretrial motion is scheduled. If the defendant pleads guilty, then he will be sentenced by the judge at that time.

Pretrial Motion

In a criminal case, one or more pretrial motion hearings may be scheduled. A motion is a written or verbal request by the defendant's attorney for the judge to issue a ruling or an order. A common motion in all criminal cases is a preliminary Exam in which a judge determines whether or not probable cause exists. Usually an officer will testify as to why the defendant was arrested. If the judge does not find probable cause, then the defendant will be released from his/her bond obligation.

Pretrial Conference

Once all the pretrial motion hearings are completed, a pretrial conference will be scheduled. At this hearing, the ADA, the defendant's attorney, and the judge discuss the case in more detail. A guilty plea may be considered and in most cases sentencing will be discussed with the defendant. If the defendant maintains his "not guilty" plea, a trial date will be scheduled.

Trial

There are usually several cases set for trial on the same day or in the same week. Subpoenas are issued for witnesses, and in felony cases, a jury is selected. A felony criminal trial can last a week, and a misdemeanor trial will last about an hour. The trial consists of opening arguments, testimony, and closing arguments. In felony cases, the jury will decide if the defendant is guilty or not guilty. In misdemeanor cases, the Judge will decide.

Sentencing

If a defendant is found guilty by a judge or a jury, he/she may be sentenced that same day. A judge is responsible for sentencing the defendant. Some judges order a pre-sentence investigation in which the defendant's prior offences, severity of the crime, and impact upon the victim is examined. The judge will schedule sentencing at a later date once the pre-sentence investigation is complete.

Victim Impact statement

Victims are allowed to make a victim impact statement to help the court to better understand what impact the crime has on your life. This is presented in open court with the judge, ADA, and defendant present.

Restitution

Judges will sometimes order restitution as a condition of probation or parole. This means that the defendant will have to pay you for losses incurred as a result of the crime. The probation or parole officer is responsible for collecting payments

COMMONLY ASKED QUESTIONS

How long will this take to go to trial?

The average length of time it takes for a case to go to trial varies. The more serious (rape, murder, etc.) cases take longer, averaging from 1 to 3 years. The average time for misdemeanor cases is about 6 months.

How can the defendant plead "not guilty" when he/she confessed to the crime?

Even though the defendant has given a signed confession, he/she has the constitutional right to a trial. Often defendants are advised to plea "not guilty" at arraignment, so that their attorney will have an opportunity to file motions in order to receive information about the crime.

How come my case keeps getting continued?

Many victims become annoyed because of continuations. Judges grant continuations for a variety of reasons. Unfortunately, a continuation cannot be anticipated and a victim may wait all day in the courtroom to find out that their case will be continued. Continuances are frustrating, but very common in the criminal court process.

Will I have to testify?

Victims often have a great fear of having to appear in a public courtroom and tell their story. A victim may have to testify at the Grand Jury hearing and at trial. The victim's advocate and the ADA will take a number of steps to alleviate this fear and make the experience less traumatic. After testifying, most victims feel stronger and have a sense of relief since they were able to face their perpetrator.

Can the perpetrator get out of jail once he is arrested?

After a perpetrator is arrested a bond is set within 72 hours. The amount of the bond depends entirely upon the judge. That perpetrator can bond out of jail at any time if his/her bond is paid. A defendant might be out of jail a short time after the crime is committed until trial. Defendants that cannot pay their bond may have a bond reduction hearing in which the judge has the opportunity to lower their bond.

Where do I go for help to pay my medical bills?

The Crime Victim Reparation Fund can assist you with medical bills associated with injuries resulting from a crime. The victim assistance office can give you more information on how to apply for Crime Victim Reparation money

Do I have to hire an attorney?

No. In criminal matters you are represented by the state of Louisiana. In other words, an Assistant District Attorney is assigned to your case. Civil matters are handled differently and you would be required to hire an attorney on your behalf.

If a defendant pleads guilty and gets probation, does that mean he got away with it?

It is always important to remember that when a defendant pleads guilty it is a good situation. When a defendant pleads guilty it shortens the amount of time it takes for your case to be resolved. It will also relieve the victims and witnesses from having to testify at trial. A probated sentence is often misunderstood, and thought of as a "free ride" for the defendant. Probation requires the defendant's active participation that he/she is required to report to a probation officer in court monthly. These monthly monitoring court dates can last from 6 months to 5 years depending on the duration of the probation that is set by the judge. The defendant will also be required to pay fines, court costs, monitoring fees, fees to the public defender, and restitution to the victim. If the defendant does not fulfill all of the special conditions of his/her probation, it is likely the defendant will have to serve jail time.

FLOW CHART OF CRIMINAL PROCEEDINGS

