



# Your Rights as **Victim** or **Witness**



July 2018

## YOUR RIGHTS AS A VICTIM OR WITNESS:

We realize that for many persons, being a victim or witness to a crime is their first experience with the justice system. As a victim or witness, you have certain rights outlined in this brochure. For further information regarding these rights please contact the State Attorney's Office or the law enforcement agency handling your case.

### **CRIMINAL JUSTICE PROCESS**

The stages of the criminal justice system are as follows:

**CRIME COMMITTED** – After a crime is reported, law enforcement investigates. If they have sufficient evidence, they may make an arrest.

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

(or)

**INTAKE** – After a victim reports a crime to the local State Attorney's Office, the prosecutor may choose to file charges and issue a summons for the suspect to appear in court.

**FIRST APPEARANCE** – Each suspect kept in jail must appear before a judge within 24 hours. The judge decides whether charges are reasonable, and considers whether a bond should be set and if so how much. The judge will also consider conditions for release and appoint a public defense attorney if the suspect cannot afford one.

**FILING OF FORMAL CHARGES** – The prosecutor files papers with the court detailing the charges. If this does not occur within 21 days from the date of arrest or service of a summons, the defendant has a right to a hearing (called an adversary preliminary hearing) to determine whether probable cause exists to support criminal charges.

**ARRAIGNMENT** – The accused is formally charged in court and enters a plea of guilty, not guilty or no contest.

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

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

**PLEA** – Defendant pleads guilty or no contest without a trial.

**SENTENCING** – If the defendant is found guilty or enters a plea, the judge reviews sentencing guidelines, plea agreements, etc., and determines what type of sentence the defendant should receive.

## **JUVENILE JUSTICE PROCESS**

**INTAKE** – Juveniles under the age of 18 will be placed in detention until the case is resolved. There are three forms of detention status: home, non-secure or secure.

**DIVERSION PROGRAMS** – As an alternative to trial, the juvenile is placed in a community-based program such as juvenile arbitration, juvenile alternative services program (JASP) or a treatment plan. If a juvenile successfully completes the diversion program, the charges are usually dismissed.

**FORMAL CHARGES** – The filing of a petition in court by the State Attorney’s Office. The charge may be filed in either juvenile court or adult court, depending upon the crime and age of the offender.

**ARRAIGNMENT** – The accused juvenile is formally charged in court and enters a plea of guilty, not guilty or no contest.

**ADJUDICATORY HEARING** – The trial, conducted in front of a judge who decides whether the juvenile committed the offense.

**DISPOSTIONAL HEARING (SENTENCING)** – When a juvenile is found to have committed an offense, the court determines what sanctions to impose – ranging from community-based sanctions like probation and community service up to residential commitment.

**JUVENILES TRIED AS ADULTS** – Juveniles who commit very serious crimes may be tried as adults and sentenced to adult or juvenile sanctions.

Contact your State Attorney or law enforcement agency for more information regarding the stages of the criminal and juvenile justice process.

## YOUR RIGHTS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS

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

VICTIM – A person against whom a crime was committed. Some victims suffer physical injury or property damage, and some have psychological injury or both.

Victims have certain rights in Florida. Next-of-kin, and parents or guardians of minor victims, may also claim these rights.

As a crime victim, you have the following rights:

### TO STAY INFORMED

Knowledge is your best asset. As a crime victim, you are entitled to the following to insure that you are kept up to date and treated fairly:

- The right to receive information regarding what to expect from the criminal justice system, as well as what the system may expect from you.
- The right to receive information about the stages of the criminal justice process and the how information about such stages may be obtained. **Note: You cannot be notified if we cannot locate you. It is your responsibility to keep the State Attorney’s Office informed of any changes in your address or telephone number.**
- The right to be notified of the arrest and release of the offender - including release to community control or work release.

- The right to be informed, present and heard at all crucial stages of a criminal or juvenile proceeding, as long as this right does not interfere with the constitutional rights of the accused.
- The right to be notified as soon as possible of any change in scheduling which will affect your appearance at a criminal justice proceeding.
- Either you or the State Attorney's Office with your consent, have standing to assert any legal rights of a crime victim as provided by law or The Florida Constitution.
- The statutory obligation of the victim or Next-of-kin of a homicide victim, that any information gained pursuant to F.S. Chapter 960, regarding any case handled in juvenile court, must not be revealed to any outside party.
- The right of a victim or the victim's legal guardian, or the parent or legal guardian of a victim, if the victim is a minor, to request that a person who is charged with any offense enumerated in section 775.0877(1)(a)-(n), Florida Statutes, that involves the transmission of body fluids from one person to another, undergo hepatitis and HIV testing.
- The right to receive advance notification proceedings relating to the case, including all proceedings or hearings relating to:
  - The arrest of the accused.
  - The release of the accused pending judicial proceedings, any modification of release condition to include release to community control or work release.
  - Proceedings in the prosecution or petition for delinquency of the accused, including the filing of the accusatory



instrument, the arraignment, disposition of the accusatory instrument, trial or adjudicatory hearing, sentencing or disposition hearing, appellate review, subsequent modification of sentence, collateral attack of a judgment, and when a term of imprisonment, detention, or involuntary commitment is imposed, the release of the defendant or juvenile offender from such imprisonment, detention or commitment by expiration of sentence or parole and any meeting held to consider such release.

- The right to review certain portions of a pre-sentence investigation report for adult and youthful offenders prior to the sentencing of the accused.
- The right to know in certain cases and at the earliest possible opportunity, if the person charged with an offense has tested positive for human immunodeficiency virus (HIV) infection.
- The right to a prompt and timely disposition of the case as long as it does not interfere with the constitutional rights of the accused.
- The right to be notified if the offender escapes from custody.

## TO BE HEARD

Your voice is important, both as a witness and as someone directly affected by the outcome of a crime and the results of a trial. To ensure that you are heard, Florida has established:

- The right to be included at any portion of any hearing, trial or proceeding pertaining to the offense based solely upon the fact that such person is subpoenaed to testify, unless the court determines otherwise.

- The rights of the victim's family in certain cases – such as a homicide, or if the victim is a minor child – to express their views to the court regarding:
  - The release of the accused pending judicial proceedings
  - Plea Agreements
  - Participation in pretrial diversion programs
  - Sentencing of the accused
- The right to submit an impact statement prior to sentencing of the offender, including social, psychological, or physical harm, financial losses, or loss of earnings resulting from the crime.
- The right, if you are incarcerated, to be informed and submit written statements at all crucial stages of the proceedings.

## TO PRIVACY

Due to the sensitive nature of many crimes, victims have several rights to protect their privacy and insure their safety. These include:

- The right of victims of domestic violence to have their address kept confidential.
- The right to request, for specific crimes, that your home and work telephone numbers, home and work addresses, and personal assets not be disclosed to anyone.
- The right of the victim of a sexual offense to have the courtroom cleared, with certain exceptions during his or her testimony, regardless of the victim's age or mental capacity.
- The right of the victim who is not incarcerated to not be required to attend discovery depositions in any correctional facility.



- The right to request, in certain circumstances, that the offender be required to attend a different school than the victim or siblings of the victim, if they are minors.
- The right of a victim of a sexual offense to request the presence of a victim advocate during the forensic medical examination. An advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination.
- No law enforcement officer, prosecuting attorney or government official shall ask or require a victim of a sexual offense to submit to a polygraph examination or other truth-telling device as a condition of the investigation.

## TO COMPENSATION

Victims have the right to a prompt return of property unless there is a compelling law enforcement need to retain it.

In some cases, victims (or their relatives if the victim is deceased) may be eligible for financial compensation from the State of Florida. Information regarding eligibility may be obtained from the State Attorney's Office, local Witness Coordination Office (where available), law enforcement agency or the Bureau of Crimes Compensation, Office of the Attorney General, 1-800-226-6667.

The State Attorney will seek your assistance to document your losses for the purpose of requesting and receiving restitution, and will inform you if and when restitution is ordered. The state will also inform you of your rights of enforcement in the event an offender does not pay.

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



## TO SERVICES

Many services are available to help crime victims recover physically, psychologically, and financially. Victims have the right to assistance, including:

- The right to receive information on crisis intervention and community services including counseling, shelter, legal assistance or other types of help. Telephone numbers of these services are provided at the end of this brochure.
- The right to receive information on how law enforcement and the State Attorney's Office can protect you from intimidation and harassment. If you are being threatened or intimidated, please contact the appropriate agency or any law enforcement officer.
- The right to request that a victim advocate be permitted to attend and be present during any deposition. Victim advocates may include personnel from rape crisis centers, domestic violence advocacy groups, alcohol and substance abuse groups and others.
- The right to receive reasonable consideration and assistance from state, county and municipal agencies, including help finding accessible transportation and parking, directions to separate pretrial waiting areas when such facilities are available, and translators when necessary.
- The right to ask the State Attorney or law enforcement agency to help you explain to employers and creditors that you may face additional burdens by taking time off from work to assist law enforcement, and you may undergo serious financial strain either because of the crime or by cooperating with authorities.



## REFERRAL NUMBERS

### **Abuse Registry**

(Elderly and Children)

1-800-962-2873

### **Victim Information Referral Line (Attorney General)**

1-800-226-6667

### **Florida Bar Lawyer Referral Service**

1-800-342-8011

### **Florida Department of Financial Services**

#### **Bureau of Consumer Assistance**

1- 877-MY-FL-CFO (1-877-693-5236)

### **Florida Division of Investigative and Forensic Services**

200 East Gaines Street

Tallahassee, Florida 32399-0324

(850) 413-3115

[www.MyFloridaCFO.com/fraud](http://www.MyFloridaCFO.com/fraud)

### **Florida Commission on Offender Review (FCOR)**

1-800-435-8286

### **Florida Domestic Violence**

1-800-500-1119

### **Bureau of Fire and Arson Investigations Hotline**

1-877-NO-ARSON (1-877-662-7766)

### **Insurance Fraud Hotline**

1-800-378-0445

Responding Officer's Name \_\_\_\_\_

Division of Fraud Invest. Case # \_\_\_\_\_

Responding Officer's Contact Phone # \_\_\_\_\_

Local Law Enforcement Agency Phone # \_\_\_\_\_

Local Law Enforcement Agency Case # \_\_\_\_\_

State Attorney's Phone # \_\_\_\_\_

BFAI Case # \_\_\_\_\_