

# VICTIMS' RIGHTS

When victims' rights are not protected, victims are less likely to report sex crimes, less willing or able to assist with prosecution, and more likely to be physically and/or emotionally harmed as a result of their involvement with the criminal justice system.

Fortunately, several laws are available to help ensure the rights of victims are fully protected. Crime Victims' Rights laws were created specifically to establish "the minimum conduct of criminal justice professionals with respect to crime victims." For information see KRS 421.576. Victims' rights are also protected by laws that protect fundamental rights, such as the U.S. Constitution.

Criminal justice professionals must actively work to protect victims' rights. This includes giving victims information about their rights, and how they can be protected. Victims must act to claim their rights, verbally and in writing. Others must help with enforcement efforts and develop new strategies when old ones fail. Only through these combined efforts will promises of victims' rights ever be realized.

## CRIME VICTIMS' RIGHTS

KRS 421.500-575 (Kentucky's Crime Victim Bill of Rights) and 42 USC 112 § 10606 require law enforcement officials and prosecutors to protect victims rights and establish that victims have the right to be:

- ◇ Treated with fairness and respect for the victim's dignity and privacy;
- ◇ Informed of emergency, protective, social, and medical services, crime victim compensation, community treatment programs and the criminal justice process;
- ◇ Accompanied by an advocate in all court proceedings, and allowed to consult with the advocate both orally and in writing;
- ◇ Informed about protection from harassment, intimidation, and retaliation;
- ◇ Notified about the arrest of the accused, any court proceedings, and any other important occurrences;
- ◇ Informed about registering for the VINE System, which provides notice about release of offenders;
- ◇ Consulted about the disposition of criminal cases, including dismissal, plea bargaining, pre-trial release, or conditions of release;
- ◇ Assisted in contacting employers when prosecution requires time away from work;
- ◇ Given back property held as evidence as soon as possible;
- ◇ Heard by the court, by means of a victim impact statement describing the effects of the crime on the victim before the sentencing of the defendant;
- ◇ Heard by the parole board, by means of a victim impact statement, and notified of any parole hearings or release;
- ◇ Notified if a conviction is appealed and of any decision by an appellate court;
- ◇ Represented by a court appointed special advocate, where the victim is a minor or legally incapacitated; and
- ◇ The right to have a speedy trial, where the victim is less than 16 years old and the crime is a sexual offense.

## RIGHTS OF CHILD VICTIMS TO SPECIAL ACCOMMODATIONS

Pursuant to KRS 26A.140, courts must implement measures to accommodate the special needs of children involved in criminal proceedings, such as:

- ◇ Trained guardians ad litem (GALs, i.e., attorneys) or special advocates shall be appointed for all child victims when needed to represent the child's interest;
- ◇ Where a child is a victim or witness, the environment shall be modified through the use of small chairs, frequent breaks, and age appropriate language;
- ◇ Children expected to testify shall be prepared for the courtroom experience by the prosecuting attorney handling the case; and
- ◇ In appropriate cases, procedures shall be used to shield the child from visual contact with the perpetrator.

## OTHER FUNDAMENTAL RIGHTS

- ◇ Right to privacy, i.e., refuse to discuss personal information ('remain silent') and make certain decisions. See U.S. Constitution 4th and 14th Amendments.
- ◇ Right to intervene in legal proceedings where one's medical records may be used. For information see KRS 422.315.
- ◇ Right to control the use of one's name or identifying information by print, broadcast, or other media.
- ◇ Right to be treated with respect and to be believed, regardless of age, gender, race, marital status, relation to perpetrator, profession, or other personal factor.
- ◇ Right to refuse to submit to polygraph examination without adverse effects on the pending case; and the right to be accompanied by an advocate to any polygraph exam. For information see 502 KAR 20:020 Section 3.
- ◇ Right to protection from further violence or intimidation. Funding for protection by law enforcement may be available through the Victim & Witness Protection Program. For information see KRS 15.247 & 40 KAR 6:010. Contact the Prosecutor's Advisory Council at (502) 696-5500.

