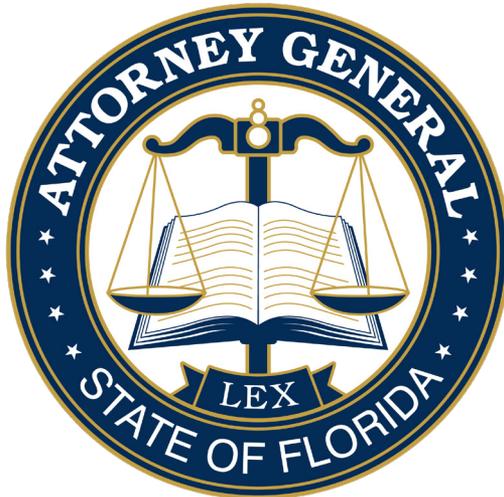


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# THE RIGHTS OF CRIME VICTIMS IN FLORIDA



Office of the Attorney General  
Ashley Moody

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Article 1, Section 16 of the Florida Constitution gives crime victims the following rights at the time of victimization. **You have the right:**

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



Also, where **you make a specific request**, you have these additional rights:

- to reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing, or adjudication, even if you are a witness at the proceeding. (For this purpose, consider providing the prosecutor an address, e-mail address, or telephone number at which you can quickly be reached, and update it during the pendency of your case).
- to reasonable, accurate, and timely notice of any release or escape of the defendant and of any proceeding during which a right of yours as the victim may be implicated.
- to be heard in any public proceeding involving bail or pretrial release, plea, release, sentencing, adjudication, or parole.
- to confer with the prosecutor concerning any plea agreements, restitution issues, participation in pretrial diversion or release programs by the defendant, and sentencing or any other case disposition.
- to provide information to anyone conducting or compiling a presentence investigation regarding the crime's impact on you or your family, and to have such information considered by the court. Once the report is completed, you have a right to receive a copy of it, except for portions made confidential by law.
- to be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of a convicted offender, his or her release date, or the date of their escape from custody.
- to participate in and be informed of all post-conviction processes and procedures and to provide information to the release authority to be considered before any such release. This right obtains as to every person harmed by the offender.
- to be informed of any clemency or expungement procedures engaged in by the offender, to provide information to the release authority and to have that information considered by the authority before a decision about release is made, and to be given notice of that authority's decision before the offender's release.
- Chapter § 960(1)(a)(6), Florida Statutes, also provides that if you are incarcerated and a victim, you have the right to be informed and submit written statements for all crucial stages of the criminal proceeding.

The following provides a broad overview of the stages of the criminal or juvenile justice process. If you have specific questions, contact the assigned prosecuting attorney or law enforcement personnel assigned to your case.

## STAGES IN THE CRIMINAL JUSTICE PROCESS

### PRETRIAL

After committing a crime:

- An offender may be arrested by a law enforcement officer.
- A court can issue an arrest warrant.
- The Office of Statewide Prosecution may file an Information; or
- A grand jury may recommend charges by returning an Indictment or Presentment.

**FIRST APPEARANCE** - (Following the Arrest) If the defendant cannot post bond within hours of the arrest or has been arrested on a no bond offense, or committed a crime which requires a first appearance, the court holds a “first appearance” hearing. The Judge decides whether the defendant can be released and if so, what conditions are necessary to protect you, the witnesses, and the public.

**INTAKE** - If probable cause is found, the Office of Statewide Prosecution may choose to file charges and summons the suspect into court. You may be required to meet with your local division of the Office of Statewide Prosecution.

**FILING OF FORMAL CHARGES** - The Office of Statewide Prosecution may file formal charges after reviewing law enforcement arrest reports, and within 21 days in certain circumstances. The Office of Statewide Prosecution has discretion whether to prosecute a person for a crime. The Office of Statewide Prosecution must inform any victims of its decision.

**ARRAIGNMENT** - The accused is formally charged and enters a plea of guilty, not guilty, or no contest. The Office of Statewide Prosecution will notify you of the arraignment date. You have the right to be present at the arraignment. In some cases, there will not be a formal arraignment hearing in court.

**RELEASE HEARING (SETTING BOND)** - If the defendant was unable to post a bond after the initial arrest, or if bond was not set, the defendant is entitled to a bond hearing. If you have requested notification, the Office of Statewide Prosecution can notify you of the scheduled hearing and you can have an opportunity to speak regarding the defendant’s release and conditions or have the Statewide Prosecutor make known your wishes.

**PRE-TRIAL CONFERENCE** - There may be numerous pre-trial conferences (including case status conferences) that allow the court to ensure the case is progressing in a timely manner. You, as a victim, will receive notice of the hearing dates. You are not required to attend these hearings, unless subpoenaed, but you have a right to be present and a victim advocate or your attorney can accompany you or attend these proceedings on your behalf, if you choose.

## **DISCOVERY (PREPARATION FOR TRIAL)**

**Subpoenas** - You may receive a subpoena for trial, a deposition and/or other hearings. A subpoena summons a person to appear at the time, date, and location specified.

**Depositions** - The defendant's attorney can issue a subpoena for you to appear for a deposition. You have the right to request a victim advocate from the government or non-profit sector to attend the deposition with you. You have the right, as a victim who is not incarcerated, to not be required to attend discovery depositions in any correctional facility.

**PLEA NEGOTIATIONS** - Many cases are settled through a plea negotiation where the defendant pleads guilty or no contest without a trial. Upon the victim's request, the Office of Statewide Prosecution must confer with the victim before finalizing the plea agreement with the defendant. Absent a request, the Statewide Prosecutor may inform the victim of a negotiated settlement.

**PRE-TRIAL INTERVENTION/DIVERSION PROGRAM** - According to their discretion and office policy, the Office of Statewide Prosecution may agree to utilize pretrial intervention and diversion programs.

**Pre-Trial Intervention Program** - A defendant with no more than one nonviolent misdemeanor, who is charged with any misdemeanor or any third degree felony is eligible for release to the pretrial intervention program on approval of the administrator of the program, the consent of the victim, Judge, and the Statewide Prosecutor. Successful completion of the program results in a dismissal of the charges.

**Diversion Program** - Diversion is similar to probation where the defendant accepts responsibility for the offense and is released under supervision for a specified period of time. During the program, the probation office or diversionary program supervises the defendant. You have a right to provide the Statewide Prosecutor with your opinion on the defendant's participation in the pretrial diversion program.

## TRIAL

Generally, 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. You, as a victim, may be called to testify.

The Office of Statewide Prosecution will assist you during this process. Subject to some exceptions, you are generally permitted to be present in any hearing, trial or proceeding relating to the offense. Your rights involving the trial stage are listed in this brochure.

## SENTENCING

**PRESENTENCE INVESTIGATION (PSI)** - You have the right to provide information regarding the impact of the offender's conduct on you and your family to the individual responsible for conducting and/or compiling the presentence investigation. You have a right to review the non-confidential portions of the presentence investigation prior to the sentencing hearing.

**SENTENCING HEARING** - If the defendant is found or pleads guilty, the judge reviews sentencing guidelines, plea agreements, and other factors and determines what type of sentence the defendant should receive. You have a right to provide an oral and/or written victim impact statement (VIS) to the Office of Statewide Prosecution at any time before the court imposes the sentence.

*NOTE: If the victim and the offender attend the same school, the victim's parents have the right to attend the sentencing or disposition of the offender and request that the offender be required to attend a different school. (sec. 960.001(1)(s), Florida Statutes).*



## STAGES IN THE JUVENILE JUSTICE PROCESS

**The Office of Statewide Prosecution typically does not prosecute offenders in juvenile court. That duty is generally afforded to the State Attorney's Office of that judicial circuit.**

**INTAKE** - The process of determining where a child under the age of 18 will be placed until the case is resolved. There are three forms of detention status: home, non-secure or secure.

**DIVERSION PROGRAMS** - This is an alternative to trial where 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, then the charges are generally dismissed.

**FORMAL CHARGES** - The filing of a petition in court by the Office of Statewide Prosecution. The charge may be filed in either juvenile court or adult court, depending upon the crime and age of the offender.

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

**DISCOVERY** - The discovery process for cases in the Juvenile Justice System is like that of the adult system, described above. This means juvenile witnesses can be subject to deposition.

**ADJUDICATORY HEARING** - The trial of a juvenile that is conducted in front of a judge. The judge will decide whether the juvenile committed the charged offense(s).

**DISPOSITIONAL HEARING (SENTENCING)** - When a juvenile is found to have committed a delinquent act, the court will hold a dispositional hearing to determine which sanctions to impose on the juvenile. The sanctions could range from community-based sanctions like probation and community services up to residential commitment.

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

*This is not an exhaustive overview of the criminal justice system but is meant as an overview for how the process works. Each court and case could have unique components. You may contact your Statewide Prosecutor or law enforcement agency for more information regarding the stages of the criminal justice and juvenile justice processes.*

This may be your first experience with the criminal justice system. This brochure is provided to assist you with any questions you may have regarding your role and rights as a victim, what may be expected of you and what you can expect during this process. This brochure is for informational purposes only and is not intended as legal advice. If you need legal advice, consult an attorney. If you have questions, please contact the Division of Victim Services at the Office of the Attorney General, and/or the appropriate law enforcement agency handling your case. For more information regarding your rights and victim services that may be available to you, visit the Florida Attorney General Office's Victim Services page at [www.myfloridalegal.com](http://www.myfloridalegal.com).

**OFFICER'S NAME & ID NUMBER:**

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**CASE NUMBER:**

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**REFERRAL NUMBERS**

Report Elderly  
or Child Abuse  
**1-800-962-2873**

Florida Bar  
Lawyer Referral Service  
**1-800-342-8060**

Crimes Compensation  
(Attorney General)  
**1-800-226-6667**

Victim Programs  
and Services Directory  
**1-800-226-6667**  
<http://myfloridalegal.com/directory>

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