



Select Victims' Rights – Tennessee

USING THIS RESOURCE

This resource is intended to provide a base of knowledge regarding crime victims' rights in Tennessee and promising practices to ensure compliance with and enforcement of those rights. To keep this *Guide* as user-friendly as possible in light of the breadth, complexity and evolving nature of law, the *Guide* does not include all laws. The *Guide* is intended for informational purposes only. It does not constitute legal advice, nor does it substitute for legal advice. For more in-depth information about the laws governing privacy, confidentiality and privilege in Tennessee, see the companion resource: *Law Enforcement-Based Victim Services in Tennessee: Privacy, Privilege and Confidentiality*.

The following icons are used throughout this resource to highlight key moments for the user.



= Promising Practices: As used in this *Guide*, the “promising practices” indicator highlights procedures, methods or techniques, grounded in victim-centered and trauma-informed research and experience, that afford victims meaningful rights in the justice system.



= Take Note: As used in this *Guide*, the “take note” indicator provides context for the law cited or discussed. For example, if a law has a particularly narrow application or does not explicitly prohibit an action the “take note” indicator is used to highlight or provide clarity around the law.

This draft publication was developed by the National Crime Victim Law Institute (NCVLI) under 2018-V3-GX-K049, awarded to the International Association of Chiefs of Police (IACP) by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this draft publication are those of the contributors and do not necessarily represent the official position of the U.S. Department of Justice.

Right to Privacy16, 20–21, 25–26, 26–29, 35–37, 42, 43, 43–45

Right to Protection12, 13, 15, 16, 20–21, 25–26,
26–29, 30, 32–33, 35–37, 37–38, 38,
39, 40–42, 42, 43, 43–45, 45–46, 46

Right to Refuse Defense Request for Interview or Other Communication32

Right to Restitution13, 23–24

Right to Return of Property.....23–24

Right to Speedy Trial13, 22–23, 32

SELECT DEFINITIONS	Tennessee Statutes
<p>Constitutional Rights of Victims Definitions.</p> <p>As used in this part, unless the context otherwise requires:</p> <p>(1) “Crime” means: (A) Any offense the punishment for which is a Class A, B, C, D or E felony; (B) First degree murder; or (C) Assault under § 39-13-101(a)(1);</p> <p>(2) “Critical stages of the criminal justice process” are: (A) Bond hearings or bond reduction hearings if hearing from the victim is deemed relevant by the appropriate district attorney general; (B) Any hearing on a motion to dismiss or on a plea agreement requiring approval by the trial court; (C) The defendant’s sentencing hearing; (D) Any hearing at which the issue of whether the defendant should pay restitution or the amount of restitution that should be paid is discussed; (E) Any parole hearing at which the defendant’s release on parole will be discussed or determined; and (F) Any other hearing that proposes a final disposition of the case;</p> <p>(3) “Family member” means the victim’s spouse, natural parent, child, adopted child, grandparent, grandchild, stepparent, adoptive parent, or brother or sister of the whole or half-blood or by adoption. If a “family member” is a minor, the minor may be represented by a guardian where appropriate; and</p> <p>(4)(A) “Victim” means: (i) A natural person against whom a crime was committed;</p>	<p>Tenn. Code Ann. § 40-38-302.</p>

<p>(ii) If the victim is a minor, then the parent or legal guardian of the minor; or (iii) If the victim is deceased or is physically or emotionally unable to exercise the victim’s rights, then the following persons, or their designees, in the order of preference in which they are listed: (a) A family member; or (b) A person who resided with the victim; (B) “Victim” does not include any person charged with or alleged to have committed the crime or who is charged with some form of criminal responsibility for commission of the crime.</p> <p> These definitions apply to victims’ constitutional rights, pursuant to the portion of the Victims Bill of Rights that governs the implementation of Tenn. Const. art. I, § 35. <i>See generally</i> Tenn. Code Ann. §§ 40-38-301 through 40-38-303. The General Assembly has provided that, if any other provision of law confers additional, enhanced or more expansive rights upon victims of crime than are set out in this part or Article I, § 35 of the Constitution of Tennessee, a victim shall also be entitled to the additional, enhanced or expansive statutory rights. Tenn. Code Ann. § 40-38-301(b). Further, if any other provision of law contains a broader definition of “crime,” “victim” or “critical stages of the criminal justice process” for any purpose other than implementation of Article I, § 35 of the Constitution of Tennessee, the broader definition shall control for such purpose. <i>Id.</i> at § 40-38-301(c).</p>	
<p>Victim Impact Statement Act Definitions.</p> <p>As used in this part, unless the context otherwise requires:</p> <p>(1) “Victim” means an individual who suffers direct or threatened physical, emotional or financial harm as the result of the commission of a crime or an immediate family member of a minor victim or a homicide victim;</p> <p>(2) “Victim impact statement” means a statement providing information about the financial, emotional and physical effects of the crime on the victim and the victim’s family and specific</p>	<p>Tenn. Code Ann. § 40-38-203.</p>

<p>information about the victim, the circumstances surrounding the crime and the manner in which it was perpetrated; and</p> <p>(3) “Victim representative” means a spouse, parent, child, sibling or other relative of a deceased or incapacitated victim or of a victim who is under eighteen (18) years of age or a person who has had a close personal relationship with the victim and who is designated by the court to be a victim representative.</p> <p> The above definitions explicitly apply to the provisions of the Victim Impact Statement Act, Tenn. Code Ann. §§ 40-38-201 through 208.</p>	
<p>Address Confidentiality Program Definitions.</p> <p>As used in this part:</p> <p>(1) “Address confidentiality program” or “program” means the program created under this part to protect the confidentiality of the confidential address of a relocated victim of domestic abuse, stalking, human trafficking, rape, sexual battery, or any other sexual offense;</p> <p>(2) “Administrator of elections” means the chief county election administrative officer appointed by the county election commission;</p> <p>(3) “Application” means the form or forms submitted, in the manner prescribed by the secretary of state, by an individual requesting certification for the address confidentiality program;</p> <p>(4) “Application assistant” means an employee or volunteer at an agency or organization that serves victims of domestic abuse, stalking, human trafficking, rape, sexual battery, or any other sexual offense, who has received training and certification from the secretary of state to help individuals complete applications to be program participants;</p>	<p>Tenn. Code Ann. § 40-38-601.</p>

- | | |
|--|--|
| <p>(5) “Confidential address” means the actual address of a program participant’s residence, school, institution of higher education, business, or place of employment, as specified on an application to be a program participant or on a notice of change of address filed under this part;</p> <p>(6) “Coordinator of elections” means the official appointed by the secretary of state in accordance with § 2-11-201 as the chief administrative election officer of the state and such official’s designee or designees;</p> <p>(7) “Domestic abuse” has the same meaning as defined in § 36-3-601;</p> <p>(8) “Domestic abuse victim” has the same meaning as defined in § 36-3-601;</p> <p>(9) “Fiduciary” has the same meaning as defined in § 34-1-101;</p> <p>(10) “Governmental entity” means the state, a political subdivision of the state, or any department, agency, board, commission, or other instrumentality of the state or a political subdivision of the state;</p> <p>(11) “Human trafficking” has the same meaning as used in § 39-13-314;</p> <p>(12) “Minor” has the same meaning as defined in § 34-1-101;</p> <p>(13) “Parent” includes biological and adoptive parents, as defined in § 36-1-102;</p> <p>(14) “Person with a disability” has the same meaning as defined in § 34-1-101;</p> <p>(15) “Process” means judicial process and all orders, demands, notices, or other papers required or permitted by law to be served on a program participant;</p> <p>(16) “Program participant” means a person who is certified by the secretary of state as a program participant;</p> | |
|--|--|

<p>(17) “Secretary of state” or “secretary” means the secretary of state of Tennessee and any designee of the secretary;</p> <p>(18) “Sexual offender” has the same meaning as defined in § 40-39-202;</p> <p>(19) “Sexual offense” means a sexual offense or violent sexual offense as defined in § 40-39-202;</p> <p>(20) “Stalking” has the same meaning as defined in § 39-17-315; and</p> <p>(21) “Substitute address” means an address designated by the secretary of state under the address confidentiality program that is used instead of a confidential address as set forth by this part.</p> <p> The above definitions explicitly apply to the provisions governing the Home Address Confidentiality Program, Tenn. Code Ann. §§ 40-38-601 through 4-38-613.</p>	
<p>Orders of Protection Definitions.</p> <p>As used in this part, unless the context otherwise requires:</p> <p>(1) “Abuse” means inflicting, or attempting to inflict, physical injury on an adult or minor by other than accidental means, placing an adult or minor in fear of physical harm, physical restraint, malicious damage to the personal property of the abused party, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by an adult or minor, or placing an adult or minor in fear of physical harm to any animal owned, possessed, leased, kept, or held by the adult or minor;</p> <p>(2) “Adult” means any person eighteen (18) years of age or older, or who is otherwise emancipated;</p>	<p>Tenn. Code Ann. § 36-3-601.</p>

(3)(A) "Court," in counties having a population of not less than two hundred thousand (200,000) nor more than eight hundred thousand (800,000), according to the 1980 federal census or any subsequent federal census, means any court of record with jurisdiction over domestic relation matters;

(B) Notwithstanding subdivision (3)(A), "court," in counties with a metropolitan form of government with a population of more than one hundred thousand (100,000), according to the 1990 federal census or any subsequent federal census, means any court of record with jurisdiction over domestic relation matters and the general sessions court. In such county having a metropolitan form of government, a judicial commissioner may issue an ex parte order of protection. Nothing in this definition may be construed to grant jurisdiction to the general sessions court for matters relating to child custody, visitation, or support;

(C) "Court," in all other counties, means any court of record with jurisdiction over domestic relation matters or the general sessions court;

(D) "Court" also includes judicial commissioners, magistrates and other officials with the authority to issue an arrest warrant in the absence of a judge for purposes of issuing ex parte orders of protection when a judge of one of the courts listed in subdivisions (3)(A), (3)(B) or (3)(C) is not available;

(E) In counties having a population in excess of eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census, "court" means any court of record with jurisdiction over domestic relations matters or the general sessions criminal court. In such counties, "court" also includes judicial commissioners, magistrates and other officials with the authority to issue an arrest warrant in the absence of a judge for purposes of issuing any order of protection pursuant to this part when a judge of one of the courts listed in subdivisions (3)(A), (3)(B) or (3)(C) is not available. Nothing in this definition may be construed to grant jurisdiction to the general sessions court, both criminal and civil, for matters relating to child custody, visitation, or support;

(F) Any appeal from a final ruling on an order of protection by a general sessions court or by any official authorized to issue an order of protection under this subdivision (3) shall be to the circuit or chancery court of the county. Such appeal shall be filed within ten (10) days and shall be heard de novo;

- (4) "Domestic abuse" means committing abuse against a victim, as defined in subdivision (5);
- (5) "Domestic abuse victim" means any person who falls within the following categories:
 (A) Adults or minors who are current or former spouses;
 (B) Adults or minors who live together or who have lived together;
 (C) Adults or minors who are dating or who have dated or who have or had a sexual relationship. As used herein, "dating" and "dated" do not include fraternization between two (2) individuals in a business or social context;
 (D) Adults or minors related by blood or adoption;
 (E) Adults or minors who are related or were formerly related by marriage; or
 (F) Adult or minor children of a person in a relationship that is described in subdivisions (5)(A)–(E);
- (6) "Firearm" means any weapon designed, made or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use;
- (7) "Petitioner" means the person alleging domestic abuse, sexual assault or stalking in a petition for an order for protection;
- (8) "Preferred response" means law enforcement officers shall arrest a person committing domestic abuse unless there is a clear and compelling reason not to arrest;
- (9) "Respondent" means the person alleged to have abused, stalked or sexually assaulted another in a petition for an order for protection;
- (10) "Sexual assault victim" means any person, regardless of the relationship with the perpetrator, who has been subjected to, threatened with, or placed in fear of any form of rape, as defined in § 39-13-502, § 39-13-503, § 39-13-506 or § 39-13-522, or sexual battery, as defined in § 39-13-504, § 39-13-505, or § 39-13-527;

<p>(11) “Stalking victim” means any person, regardless of the relationship with the perpetrator, who has been subjected to, threatened with, or placed in fear of the offense of stalking, as defined in § 39-17-315; and</p> <p>(12) “Weapon” means a firearm or a device listed in § 39-17-1302(a)(1)–(7).</p> <p> The above definitions explicitly apply to the provisions governing orders of protection for victims of domestic abuse, stalking or sexual assault, Tenn. Code Ann. §§ 36-3-601 through 36-3-627.</p>	
--	--

<p>SELECT CRIME VICTIMS' RIGHTS</p>	<p>Tennessee Constitutional Provisions and Statutes</p>
<p>Victims’ Right to Confer with the Prosecution.</p> <p>To preserve and protect the rights of victims of crime to justice and due process, victims shall be entitled to . . . [t]he right to confer with the prosecution.</p>	<p>Tenn. Const. art. I, § 35(1).</p>
<p>Victims’ Right to be Free From Intimidation, Harassment and Abuse Throughout the Criminal Justice System.</p> <p>To preserve and protect the rights of victims of crime to justice and due process, victims shall be entitled to . . . [t]he right to be free from intimidation, harassment and abuse throughout the criminal justice system.</p>	<p>Tenn. Const. art. I, § 35(2).</p>

<p>Victims' Right to be Present at All Proceedings Where the Defendant Has the Right to Be Present.</p> <p>To preserve and protect the rights of victims of crime to justice and due process, victims shall be entitled to . . . [t]he right to be present at all proceedings where the defendant has the right to be present.</p>	<p>Tenn. Const. art. I, § 35(3).</p>
<p>Victims' Right to be Heard at All Critical Stages of the Criminal Justice Process.</p> <p>To preserve and protect the rights of victims of crime to justice and due process, victims shall be entitled to . . . [t]he right to be heard, when relevant, at all critical stages of the criminal justice process as defined by the General Assembly.</p>	<p>Tenn. Const. art. I, § 35(4).</p>
<p>Victims' Right to be Informed of All Proceedings and of the Release, Transfer or Escape of the Accused or Convicted Person.</p> <p>To preserve and protect the rights of victims of crime to justice and due process, victims shall be entitled to . . . [t]he right to be informed of all proceedings, and of the release, transfer or escape of the accused or convicted person.</p>	<p>Tenn. Const. art. I, § 35(5).</p>
<p>Victims' Right to Speedy Trial or Disposition and Prompt and Final Conclusion of the Case After Conviction or Sentence.</p> <p>To preserve and protect the rights of victims of crime to justice and due process, victims shall be entitled to . . . [t]he right to a speedy trial or disposition and a prompt and final conclusion of the case after the conviction or sentence.</p>	<p>Tenn. Const. art. I, § 35(6).</p>

<p>Victims' Right to Restitution.</p> <p>To preserve and protect the rights of victims of crime to justice and due process, victims shall be entitled to . . . [t]he right to restitution from the offender.</p> <p> Victims should be informed that they are entitled to restitution upon the conviction of defendant for losses caused by defendant's criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	<p>Tenn. Const. art. I, § 35(7).</p>
<p>Victims' Right to be Informed of Their Rights.</p> <p>To preserve and protect the rights of victims of crime to justice and due process, victims shall be entitled to . . . [t]he right to be informed of each of the rights established for victims.</p>	<p>Tenn. Const. art. I, § 35(8).</p>
<p>Implementation of Victims' Constitutional Rights: Legislative Intent.</p> <p>(a) It is the intent of the general assembly by enactment of this part to implement and make fully operational the provisions of Constitution of Tennessee, Article I, § 35, relative to the rights of victims of crime. The proposed amendment that became the Constitution of Tennessee, Article I, § 35 was ratified by the voters of Tennessee at the November 3, 1998, general election, but there was some question as to whether it required the general assembly to define certain terms before the amendment could be implemented and in full force and effect.</p> <p>(b) It is the further intent of the general assembly that this part only govern the implementation of the Constitution of Tennessee, Article I, § 35. If any other provision of law confers additional, enhanced or more expansive rights upon victims of crime than are set out in this part or the Constitution of Tennessee, Article I, § 35, a victim shall also be entitled to the additional, enhanced or expansive statutory rights.</p>	<p>Tenn. Code Ann. § 40-38-301.</p>

<p>(c) If any other provision of law contains a broader definition of “crime,” “victim” or “critical stages of the criminal justice process” for any purpose other than implementation of the Constitution of Tennessee, Article I, § 35, the broader definition shall control for such purpose.</p>	
<p>Victims’ Exercise of Constitutional Right to Be Heard; Immunity From Civil Liability Related to Victims’ Testimony Before Parole Board; Constitutional Right to Be Free from Intimidation, Harassment and Abuse.</p> <p>(a) In order for a victim of crime to meaningfully exercise the victim’s constitutional right to be heard, when relevant, at all critical stages of the criminal justice process, a victim is immune from civil liability or any civil cause of action brought by the offender that arises from the victim’s testimony at the offender’s hearing before the board of parole or a panel of the board. The immunity from suit shall not apply if the victim’s testimony is intentionally and maliciously false and defamatory.</p> <p>(b)(1) If the offender brings a cause of action against the victim based upon the victim’s testimony before the board of parole or a panel of the board, in spite of the immunity conferred by subsection (a), as an attachment to the complaint, the offender shall proffer all statements made by the victim alleged to be intentionally and maliciously false and defamatory. Within five (5) days the court shall examine the offender’s complaint to determine if the statements of the victim proffered by the offender could reasonably be construed as sufficient to overcome the victim’s immunity conferred by this section.</p> <p>(2) If the court finds that the victim’s statements to the board of parole or a panel of the board may reasonably be construed as intentionally and maliciously false and defamatory, it shall allow the cause of action to proceed.</p> <p>(3) If the court finds that the offender has not produced sufficient evidence to overcome the victim’s immunity conferred by subsection (a), it shall dismiss the cause of action with prejudice.</p>	<p>Tenn. Code Ann. § 40-38-303.</p>

<p>(4) If the court finds that, not only was the action without merit but was brought for the purpose of intimidating, harassing or abusing the victim in violation of Article I, § 35 of the Constitution of Tennessee, it: (A) Shall notify the appropriate warden of the offender’s institution and recommend disciplinary action against the offender, including the loss of sentence reduction credits; and (B) May prohibit the offender from filing any future actions of a similar nature in the court.</p>	
<p>Victims’ Bill of Rights: Legislative Intent.</p> <p>(a) The general assembly finds and declares that victims and witnesses shall have certain rights in this state and that they shall be made aware of these rights.</p> <p>(b) This part shall be known and may be cited as the “Victims’ Bill of Rights.”</p>	<p>Tenn. Code Ann. § 40-38-101.</p>
<p>Victims’ Right to be Treated With Dignity and Compassion.</p> <p>All victims of crime and prosecution witnesses have the right to . . . [b]e treated with dignity and compassion.</p>	<p>Tenn. Code Ann. § 40-38-102(a)(1).</p>
<p>Victims’ Right to Protection and Support with Prompt Action if Victims Experience Intimidation or Retaliation.</p> <p>All victims of crime and prosecution witnesses have the right to . . . [p]rotection and support with prompt action in the case of intimidation or retaliation from the defendant and the defendant’s agents or friends.</p>	<p>Tenn. Code Ann. § 40-38-102(a)(2).</p>
<p>Victims’ Right to Separate and Secure Waiting Areas.</p>	<p>Tenn. Code Ann. § 40-38-102(b)(1).</p>

<p>Without requiring the expenditure of additional funds or additional construction or renovation whenever possible, victims of crime and prosecution witnesses should be provided waiting areas that are separate and secure from the defendant or defense witnesses during all stages of the judicial process.</p>	
<p>Victims' Right to Restitution.</p> <p>All victims of crime shall have the right to collect court-ordered restitution in the same manner as a civil judgment, as authorized pursuant to § 37-1-131(b)(2) or § 40-35-304(h).</p> <p> Victims should be informed that they are entitled to restitution upon the conviction of defendant for losses caused by defendant's criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	<p>Tenn. Code Ann. § 40-38-102(c).</p>
<p>Victims' Right to Informed About the Criminal Justice System, All Proceedings, Input Regarding Defendant's Sentence, Appellate Action, Release or Hearings Regarding Parole/Clemency, Restitution and Compensation Fund.</p> <p>All victims of crime shall, upon their request, have the right to . . . [b]e fully informed orally, in writing or by video tape by the office of the district attorney general, acting through the appropriate victim-witness coordinator, of the following:</p> <ul style="list-style-type: none"> (A) The various steps and procedures involved in the criminal justice system; (B) The procedure and basis for continuances in the proceedings; (C) The procedure involved in the plea-bargaining process and how to request input into the process; 	<p>Tenn. Code Ann. § 40-38-103(a)(1).</p>

- (D) The times, dates and locations of all pertinent stages in the proceedings following presentment or indictment by the grand jury;
- (E) The methods by which the victim may have input into a convicted defendant's sentence, including the presentence report and the sentencing hearing;
- (F) The stages in the appellate process and how to obtain information concerning appellate action that has an effect on the defendant's conviction or sentence and the date a defendant's sentence becomes final;
- (G) How to obtain pertinent information relating to the possible release of an appropriate inmate, including notification of any department of correction decision permitting the inmate's release into the community or any scheduled hearing by the board of parole concerning the inmate's parole or application for executive clemency;
- (H) The methods by which the victim may obtain restitution directly from the defendant and information about obtaining assistance in obtaining restitution; and
- (I) The methods by which the victim may obtain a monetary award or other benefits from the criminal injuries compensation fund and information about obtaining assistance in securing the award or benefits.



A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.



A promising practice is to have a policy and procedure in place to assist victims in providing their contact information to relevant agencies and to remind victims, throughout their participation in the justice system, that to protect their notification rights their contact information must be kept current.

<p>Victims' Rights to Information Regarding Plea Bargains; to Speak at Parole Hearings; and to Provide Victim Impact Statements.</p> <p>All victims of crime shall, upon their request, have the right to . . . [w]henver possible, be advised and informed of plea bargaining discussions and agreements prior to the entry of any plea agreement where the victim is a victim of violent crime involving death of a family member or serious bodily injury, speak at parole hearings, submit a victim impact statement to the courts and the board of parole and give impact testimony at court sentencing hearings.</p> <p> A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p> <p> A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your jurisdiction’s law, victims may choose to: (1) read or speak their impact statement aloud at the sentencing proceeding, or have another person do it for them; (2) submit a written victim impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.</p>	<p>Tenn. Code Ann. § 40-38-103(a)(2).</p>
<p>Victims' Right to Information Regarding Their Right to Notification of Release.</p> <p>All victims of crime shall, upon their request, have the right to . . . [b]e informed that § 41-21-240 requires the department to notify them, upon their request, at least ninety (90) days prior to the date an inmate with a sentence of two (2) years or more is scheduled to be</p>	<p>Tenn. Code Ann. § 40-38-103(a)(3).</p>

<p>released by reason of expiration of the inmate’s sentence and be informed how the request of the department is made.</p> <p> A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p> <p> A promising practice is to have a policy and procedure in place to assist victims in providing their contact information to relevant agencies and to remind victims, throughout their participation in the justice system, that to protect their notification rights their contact information must be kept current.</p>	
<p>Victims’ Right to Compensation for Travel Expenses.</p> <p>All victims of crime shall, upon their request, have the right to . . . [b]e compensated for expenses actually and reasonably incurred as the result of traveling to and from the trial of the defendant or defendants and traveling to and from appellate, postconviction or habeas corpus proceedings resulting from the trial of the defendant or defendants alleged to have committed a compensable offense subject to the provisions of title 29, chapter 13, part 1, and the availability of funds in the criminal injuries compensation fund.</p> <p> A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must “request” the exercise of certain rights. Agencies should carefully maintain documentation of a victim’s request to exercise rights.</p>	<p>Tenn. Code Ann. § 40-38-103(a)(4).</p>
<p>Violent Crime Victims’ Right to Law Enforcement Form for Notification of Release.</p>	<p>Tenn. Code Ann. § 40-38-103(b).</p>

Upon the request of a victim of violent crime involving serious bodily injury or death of a relative, the victim shall be supplied information and a request form by the law enforcement agency responsible for the investigation of the crime or the arrest of the defendant, the sheriff or other custodian of the defendant, or the victim-witness coordinator as to how the victim or relative of a victim may request and secure notification of the release from custody of an offender from a jail or detention facility prior to trial. The jailer, sheriff, or other custodian of criminal offenders shall maintain a physical or electronic record or file of the victim's request for notification and, prior to the release of an offender about whom a notification request has been made, give immediate and prompt notice of the release to the requesting victim or family member of a victim by the most direct means available, including telephone, messenger, or telegram; provided, that if the victim or family member of a victim is registered with the state's electronic victim notification system, the notice required by this section shall be communicated by the method or methods indicated by the registration in the system. Any identifying information contained in the request forms shall be confidential. For purposes of this subsection (b), "identifying information" means the name, home and work addresses, telephone numbers, email address, and social security number of the person being notified or requesting that notification be provided.



A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.



A promising practice is to have a policy and procedure in place to assist victims in providing their contact information to relevant agencies and to remind victims, throughout their participation in the justice system, that to protect their notification rights their contact information must be kept current.

<p>Photograph of Homicide Victim While Alive Admissible at Trial.</p> <p>In a prosecution for any criminal homicide, an appropriate photograph of the victim while alive shall be admissible evidence when offered by the district attorney general to show the general appearance and condition of the victim while alive.</p>	<p>Tenn. Code Ann. § 40-38-103(c).</p>
<p>Right of Parents of Child-Homicide Victims to Receive Compensation for Grief Counseling.</p> <p>If a child is the victim of a homicide not committed by the parents, the parents of the child shall be able to apply to the criminal injuries compensation fund for reimbursement to the parents for expenses incurred in obtaining necessary grief counseling.</p>	<p>Tenn. Code Ann. § 40-38-104(a).</p>
<p>Violent Crime Victims' Right to Preference in Admissions for Vocational Schools and Technical Institutes.</p> <p>All vocational schools and technical institutes operated by the board of regents shall, if there are limitations as to the number of persons who may be admitted to a particular school or institute or in a particular class or program, give preference in making the admissions to victims of violent crime. For purposes of this subsection (b), "victim" means the person who will become the primary wage earner in the victim's family if the victim was the primary wage earner and the crime resulted in the victim's death or permanent disability.</p>	<p>Tenn. Code Ann. § 40-38-104(b).</p>
<p>Victims' Right to Prompt Disposition of a Case; Person Crimes Take Priority Over Property Crimes.</p> <p>(a) All parties affected by a criminal offense, including the victim, survivors of the victim and witnesses to the offense, shall be able to expect that the operation of the criminal justice</p>	<p>Tenn. Code Ann. § 40-38-105.</p>

<p>system will not be unnecessarily delayed and that they will be able to return to normal lives as soon as possible. To this end, all persons involved in the criminal justice system shall make every effort to dispose of any charges against a defendant within one hundred eighty (180) days of the date of the defendant's indictment and, in those cases in which the defendant is charged with a crime of violence involving death or serious bodily injury to a victim, all applications for continuance of any court date by any party shall be in writing setting out the reasons for the continuance. If, at any time during the proceeding, the court grants a continuance to the defendant and the defendant is not represented by an attorney, the court shall file an order in the records setting out the reasons why the court granted the continuance. If, for any reason, the case is not tried or otherwise disposed of in one hundred eighty (180) days of the indictment, the court shall set out in a certificate the reasons why the case is still pending before the court.</p> <p>(b) All parties affected by a criminal offense shall be able to expect that cases involving crimes against the person are given judicial and prosecutorial priority over cases involving property crimes.</p>	
<p>Victims' Property-Related Rights: Recovery, Restitution, Compensation.</p> <p>Victims of crimes involving offenses against property shall have the right to:</p> <p>(1) Recover property in the custody of the police or the court as soon as is reasonably possible;</p> <p>(2) Restitution ordered as a condition of probation or a suspended sentence or parole and the swift revocation of the privileges for failure to make the ordered restitution; and</p> <p>(3) Once a claim under the criminal injuries compensation fund has been filed with the state, the claim shall be disposed of expeditiously and any award or other benefit to which a victim may be entitled shall be paid promptly.</p>	<p>Tenn. Code Ann. § 40-38-106.</p>

<p> A promising practice is to have a policy and procedure in place that clearly defines what “as soon as is reasonably possible” means in the context of the victim’s right to return of property. Instructions should be ready and available to provide to victims, explaining how they may obtain their property, in addition to the name of a person they may contact to check the status of the return.</p> <p> If a defendant files a request for return of property, victims and the prosecution must be notified immediately to ensure that they are on notice and have an opportunity to be meaningfully heard on the matter.</p> <p> Victims should be informed that they are entitled to restitution upon the conviction of defendant for losses caused by defendant’s criminal conduct. Assisting victims with the documentation of their losses—including anticipated future expenses—is recommended from the earliest moments of the case.</p>	
<p>Victims’ Right to Written Publication Containing Information About Victims’ Rights; District Attorney’s Duty to Deliver Publication to Victims; Victim-Witness Coordinator’s Duty to Distribute a Listing of Referral Services to Victims.</p> <p>(a) The state treasurer, in consultation with the executive director of the district attorneys general conference, shall prepare and distribute to each district attorney general a booklet, pamphlet, brochure, handout or other publication that sets forth all of the provisions of this chapter and a summary of any other provision of law or regulation that pertains to victims or that would be of assistance to victims. It is the duty of the office of district attorney general to deliver free of charge to each victim, assisted by the victim-witness coordinator, a copy of the publication setting out the provisions of this chapter and other pertinent provisions.</p>	<p>Tenn. Code Ann. § 40-38-107.</p>

<p>(b) It also is the duty of the appropriate victim-witness coordinator to distribute to the victim a listing of all appropriate referral services that are available in that particular area to victims of crime.</p>	
<p>Victims' Right to Written Notice from the Prosecutor of Victims' Eligibility for Compensation.</p> <p>The office of the district attorney general shall notify, in writing, each victim of a violent crime who may be eligible for compensation under the Criminal Injuries Compensation Act, compiled in title 29, chapter 13, of the methods by which the victim may obtain compensation. The written notice shall be substantially in the form and content as prescribed by the state treasurer. In cases involving the death of a victim, the notification shall be given to the closest relative to the deceased victim. For purposes of this section, "closest relative" has the same meaning as that given in § 34-1-101.</p>	<p>Tenn. Code Ann. § 40-38-109.</p>
<p>Victims' Rights to Notice of: Scheduled Proceedings; Dismissal; Pardon; Recapture, Release; or Transfer.</p> <p>(a) A victim of crime has the right to be informed of the following proceedings or occurrences by the appropriate agency at the earliest practicable opportunity:</p> <ol style="list-style-type: none"> (1) Cancelled or rescheduled hearings; (2) Bail hearing for the defendant; (3) Dismissal of the defendant's case; (4) Pardon of the defendant; (5) Defendant's recapture; (6) Defendant's release from a mental institution under § 33-5-410 or § 33-6-708; and (7) Defendant's transfer to a different correctional complex if the complex has a lower security designation. 	<p>Tenn. Code Ann. § 40-38-110.</p>

<p>(b) This section shall not be construed as limiting rights already in existence under Tennessee statute and shall be construed as working in conjunction with existing statutes.</p> <p>(c) The victim has a duty to keep current information regarding the victim’s location so that the appropriate agency may be able to contact the victim.</p> <p>(d)(1) Any identifying information concerning a crime victim received pursuant to this section shall be confidential. (2) For purposes of subdivision (d)(1), “identifying information” means the name, home and work addresses, telephone numbers and social security number.</p> <p> A promising practice is to have a policy and procedure in place to assist victims in providing their contact information to relevant agencies and to remind victims, throughout their participation in the justice system, that to protect their notification rights their contact information must be kept current.</p>	
<p>Victims’ Rights to Information About Their Rights and Notification of Proceedings; Methods of Notification by Different Participants in the Justice System, Including Courts, Law Enforcement and Prosecutors.</p> <p>(a) Victims, under the provisions of the Tennessee Constitution, article I, § 35, have the right to be informed of proceedings and the right to be informed of each of the rights conferred upon the victims.</p> <p>(b) When a victim appears before a judicial commissioner, magistrate or general sessions court clerk or one of the clerk’s duly sworn deputies to obtain an arrest warrant, the commissioner, magistrate, general sessions court clerk or the clerk’s duly sworn deputy shall notify the victim of the victim’s rights under the Tennessee Constitution, article I, § 35. The victims of crime state coordinating council will provide, upon request, sufficient copies of the form or brochure to be used to provide notice to victims under this subsection (b).</p>	<p>Tenn. Code Ann. § 40-38-111.</p>

(c) If a law enforcement officer obtains an arrest warrant on behalf of a victim, the agency employing the officer shall notify the victim of the victim's rights under the Tennessee Constitution, article I, § 35 and of the first court date at which the defendant will be required to appear. The victims of crime state coordinating council will provide, upon request, sufficient copies of the form or brochure to be used to provide notice to victims under this subsection (c).

(d) At the defendant's initial court appearance, the judge shall inform the victim, if the victim is present, of the victim's rights under the Tennessee Constitution, article I, § 35. The judge shall also inform the victim that the clerk of the court will have a form on which the rights are listed and a telephone number that the victim can call for further information regarding future proceedings involving the defendant.

(e) Following the indictment or presentment being returned by a grand jury against the defendant for a violent crime, the district attorney general of the district in which the indictment or presentment was returned shall notify the victim of the offense of that victim's rights under the Tennessee Constitution, article I, § 35, and of the dates of all future trial court proceedings involving the defendant.

(f) Following the indictment or presentment being returned by a grand jury against the defendant for a nonviolent crime, the district attorney general of the district in which the indictment or presentment was returned shall notify the victim of the offense of that victim's rights under the Tennessee Constitution, article I, § 35 and shall give the victim a telephone number to call for further information regarding future trial court proceedings involving the defendant.

(g) As used in this section, "violent crime" means any of the following offenses:

- (1) Aggravated arson, as defined in § 39-14-302;
- (2) Aggravated assault, as defined in § 39-13-102 which results in serious bodily injury;
- (3) Aggravated child abuse and neglect, as defined in § 39-15-402;
- (4) Aggravated kidnapping, as defined in § 39-13-304;
- (5) Aggravated rape, as defined in § 39-13-502;

<p>(6) Aggravated robbery, as defined in § 39-13-402;</p> <p>(7) Aggravated sexual battery, as defined in § 39-13-504;</p> <p>(8) Aggravated vehicular homicide, as defined in § 39-13-218;</p> <p>(9) Carjacking, as defined in § 39-13-404;</p> <p>(10) Criminally negligent homicide, as defined in § 39-13-212;</p> <p>(11) Especially aggravated burglary, as defined in § 39-14-404;</p> <p>(12) Especially aggravated kidnapping, as defined in § 39-13-305;</p> <p>(13) Especially aggravated robbery, as defined in § 39-13-403;</p> <p>(14) First degree murder, as defined in § 39-13-202;</p> <p>(15) Incest, as defined in § 39-15-302;</p> <p>(16) Kidnapping, as defined in § 39-13-303;</p> <p>(17) Rape, as defined in § 39-13-503;</p> <p>(18) Rape of a child, as defined in § 39-13-522;</p> <p>(19) Reckless homicide, as defined in § 39-13-215;</p> <p>(20) Second degree murder, as defined in § 39-13-210;</p> <p>(21) Sexual battery by an authority figure, as defined in § 39-13-527;</p> <p>(22) Sexual battery, as defined in § 39-13-505;</p> <p>(23) Stalking, as defined in § 39-17-315;</p> <p>(24) Statutory rape, as defined in § 39-13-506;</p> <p>(25) Vehicular assault, as defined in § 39-13-106;</p> <p>(26) Vehicular homicide, as defined in § 39-13-213; or</p> <p>(27) Voluntary manslaughter, as defined in § 39-13-211.</p> <p>(h) As used in this section, “nonviolent crime” means any crime not defined as a “violent crime” in subsection (g).</p> <p>(i)(1) Any identifying information concerning a crime victim obtained pursuant to this section shall be confidential.</p> <p>(2) For purposes of subdivision (i)(1), “identifying information” means the name, home and work addresses, telephone numbers and social security number.</p>	
---	--

<p> After indictment or presentment for a violent crime (as defined in this section), the prosecutor is required to give victims notice of victims' rights as well as the dates of all future trial court proceedings. If the crime is anything other than one listed as a violent crime for purposes of this provision, the prosecutor must provide notice of victims' rights, but not notice of future proceedings; however, the prosecutor must provide a telephone number that victims may call to obtain information about such proceedings.</p> <p> A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.</p> <p> A promising practice is to have a policy and procedure in place to assist victims in providing their contact information to relevant agencies and to remind victims, throughout their participation in the justice system, that to protect their notification rights their contact information must be kept current.</p>	
<p>Prosecutor's Duty to Give Victims Information About Criminal Procedures, Future Proceedings and the Forms to Invoke Compensation Benefits and Other Rights.</p> <p>(a) After indictment, presentment or information, the office of the prosecuting attorney, through the victim witness coordinator, shall provide the victim with the following information:</p> <ol style="list-style-type: none"> (1) The procedural steps involved in a criminal prosecution; (2) Dates, times and places of all proceedings involving the victim's case; (3) The availability of victim's compensation benefits; and (4) Forms to invoke compensation benefits and other rights. 	<p>Tenn. Code Ann. § 40-38-112.</p>

<p>(b) The victim has a duty to keep current information regarding the victim’s location so that the victim-witness coordinator may be able to contact the victim, if necessary.</p> <p> A promising practice is to have a policy and procedure in place to assist victims in providing their contact information to relevant agencies and to remind victims, throughout their participation in the justice system, that to protect their notification rights their contact information must be kept current.</p>	
<p>Law Enforcement’s Duty to Provide Victims with Notice of Rights and Services.</p> <p>Law enforcement agencies shall provide notice of the following information to any victim of crime:</p> <p>(1) The victim’s rights under the Tennessee Constitution, article I, § 35, to be free from intimidation, harassment and abuse throughout the criminal justice system;</p> <p>(2) The availability, if any, of crisis intervention services and emergency and medical services;</p> <p>(3) The name of the law enforcement agency and telephone number;</p> <p>(4) In cases of domestic violence, the procedures and resources available for protection of the victim;</p> <p>(5) The names and telephone numbers of public and private victim assistance programs, including the state criminal injuries compensation program and programs that provide counseling, treatment and other support services; and</p> <p>(6) The procedural steps involved in a criminal prosecution.</p>	<p>Tenn. Code Ann. § 40-38-113.</p>

 A promising practice is to provide victims with this information as soon as possible. Consideration should be given to providing written notice in the primary language of the victim, as well as in a form accessible to those with vision impairment.	
<p>Victims' Right to Confer with the Prosecution Prior to Final Disposition; Effect of Failure to Confer.</p> <p>(a) The prosecuting attorney shall confer with the victim prior to the final disposition of a criminal offense, including the views of the victim regarding a decision not to proceed with a criminal prosecution or a decision to dismiss a charge or to enter into plea or sentencing agreements or the victim's views regarding a decision to enter a pretrial or other type of diversion program.</p> <p>(b) The prosecuting attorney shall confer with the victim before the commencement of a trial. Any information received by the victim relating to the substance of the case shall be confidential, unless otherwise authorized by law or required by the courts to be disclosed.</p> <p>(c) The rights of the victim do not include the authority to direct the prosecution of the case.</p> <p>(d) Failure of the prosecuting attorney to confer with the victim does not affect the validity of an agreement between the prosecutor and the defendant in the case, a pretrial diversion of the defendant, a dismissal of an indictment or complaint filed against the defendant, a plea entered by the defendant or any other disposition in the case.</p> <p>(e) Under this section, the victim has a duty to keep current information regarding the victim's location so the prosecuting attorney may be able to contact the victim. If the prosecuting attorney is unable to contact the victim due to the victim's failure to keep current information regarding the victim's location, the prosecuting attorney may only confer with the victim if practical under the circumstances.</p>	<p>Tenn. Code Ann. § 40-38-114.</p>

 A promising practice is to have a policy and procedure in place to assist victims in providing their contact information to relevant agencies and to remind victims, throughout their participation in the justice system, that to protect their notification rights their contact information must be kept current.	
<p>Victims' Right to Presence of Advocate or Victim-Witness Coordinator at Defense Interviews.</p> <p>(a) Any victim of crime may have a crime victim advocate from a crime assistance program or a victim-witness coordinator as provided for in § 8-7-206 present at any defense interviews with the victim. This section applies if practical and if the presence of the crime victim advocate or victim-witness coordinator does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate or victim-witness coordinator is to provide emotional support to the victim.</p> <p>(b) As used in subsection (a), "crime assistance program" includes, but is not limited to, programs that provide appropriate counseling and support to victims.</p>	<p>Tenn. Code Ann. § 40-38-115.</p>
<p>Victims' Right to Speedy Trial; Victims' Right to Have Views Considered by the Court Regarding Any Continuance and When Setting Hearing and Trial Dates.</p> <p>(a) In any criminal proceeding in which a continuance is requested, the court shall consider the victim's views and the victim's right to a speedy trial. If the continuance is granted over the victim's objection, the court shall state on the record the reason for the continuance and the procedures that have been taken to avoid further delays.</p> <p>(b) In determining a date for any criminal trial or other important criminal hearing, the court shall consider the interests of the victim's right to a speedy trial.</p>	<p>Tenn. Code Ann. § 40-38-116.</p>

<p>Victims' Right to Refuse Defense Request for Interview or Other Communication.</p> <p>Any victim of crime has the right to refuse a request by the defendant, the defendant's attorney or any other person acting on behalf of the defendant for an interview or other communication with the victim.</p>	<p>Tenn. Code Ann. § 40-38-117.</p>
<p>Law Enforcement's Duty to Inform Victims of Certain Crimes About the Tennessee Statewide Automated Victim Information and Notification Service.</p> <p>(a) When a law enforcement officer responds to a report of a crime, and the crime is one (1) of the crimes listed in subsection (b), the officer shall inform the alleged victim of the Tennessee statewide automated victim information and notification service created by part 5 of this chapter, provided by the Tennessee sheriffs' association. The officer shall provide written informational materials, if available, and briefly explain the purpose of the program and the requirements for participating. If the alleged victim is injured or otherwise unable to understand the officer, the officer shall leave materials, if available, regarding the notification system with the alleged victim.</p> <p>(b) The offenses to which this section applies are:</p> <ul style="list-style-type: none"> (1) Domestic assault, as prohibited by § 39-13-111; (2) Vandalism, as prohibited by § 39-14-408, or false imprisonment, as prohibited by § 39-13-302, where the victim of the offense is a domestic abuse victim, as defined in § 36-3-601(5); (3) Violation of an order of protection or restraining order, as prohibited by § 39-13-113; and (4) Stalking, as prohibited by § 39-17-315. <p>(c) Any law enforcement agency that does not already have written informational materials regarding the Tennessee statewide automated victim information and notification service</p>	<p>Tenn. Code Ann. § 40-38-118.</p>

<p>shall, by July 1, 2016, obtain a supply, if available, from the victim witness coordinator in the district attorneys general office or from the Tennessee sheriffs' association.</p> <p> A promising practice is to provide victims with written notice in the primary language of the victim, as well as in a form accessible to those with vision impairment.</p>	
<p>Sentencing Court's Duty to Solicit and Consider Victim Impact Statements.</p> <p>The sentencing judge shall solicit and consider a victim impact statement prior to sentencing a convicted offender who has caused physical, emotional or financial harm to a victim, as defined in § 40-38-203.</p> <p> A promising practice is to be familiar with the acceptable formats for victim impact statements so that victims can be informed about all of their options. Depending on your jurisdiction's law, victims may choose to: (1) read or speak their impact statement aloud at the sentencing proceeding, or have another person do it for them; (2) submit a written victim impact statement to the court in advance of sentencing; (3) provide an impact statement using technology to facilitate remote attendance; and/or (4) play or submit an impact statement that was created using audio and video technology.</p>	<p>Tenn. Code Ann. § 40-38-202.</p>
<p>Department of Corrections' Duty to Ensure Victim Notification and Opportunity for Victims to Present Impact Statements.</p> <p>(a) If a defendant is convicted of a felony involving one (1) or more identifiable victims who suffered death or physical, emotional, or financial injury, the department of correction shall ensure notification of the victim or the victim representative and advise the victim or victim representative of the opportunity to present a victim impact statement.</p>	<p>Tenn. Code Ann. § 40-38-204.</p>

<p>(b) The department shall establish a policy concerning the victim impact statement. This policy shall include the development of a uniform victim impact statement form. In developing the form, the department shall first consult with the executive director of the district attorneys general conference.</p>	
<p>Department of Corrections' Duty to Prepare Written Victim Impact Statement as Part Of Presentence Report.</p> <p>Prior to imposition of sentence in a felony case, the department of correction shall prepare a written victim impact statement as part of the presentence report on the defendant. The statement shall include applicable information obtained during consultation with the victim or the victim representative. If the victim or victim representative cannot be located or declines to participate in the preparation of the statement, the department shall include a notation to that effect in the statement. If there are multiple victims and preparation of individual victim impact statements is not feasible, the department may submit one (1) or more representative statements.</p>	<p>Tenn. Code Ann. § 40-38-205.</p>
<p>Victims' Right to Not Submit Victim Impact Statement or Participate in its Preparation.</p> <p>This part shall not be construed to require a victim or victim representative to submit a victim impact statement or to cooperate in the preparation of a victim impact statement.</p>	<p>Tenn. Code Ann. § 40-38-208.</p>
<p>Victim Address Confidentiality Program.</p> <p>(a) The secretary of state shall establish a crime victim address confidentiality program, which shall be open to a victim of domestic abuse, stalking, human trafficking, rape, sexual battery, or any other sexual offense who satisfies the requirements of this part, at no cost to the program participant.</p>	<p>Tenn. Code Ann. § 40-38-602.</p>

(b) This program shall provide the participant with the use of a substitute address for the participant and the participant's minor children and shall not disclose the participant's name, confidential address, phone number, or any other information contained within the program participant's file except as otherwise provided by this part.

(c) Whenever a program participant is required by law to swear to or affirm the participant's address, the participant may use the participant's substitute address. Wherever a program participant is required by law to establish residency, the participant may present evidence of program participation and use the participant's substitute address. Where residency must be verified in order to establish eligibility for public benefits, the governmental entity requiring verification shall submit a written request to the secretary of state, on a form prescribed by the secretary of state, whereby the secretary of state shall provide the governmental entity with a statement as to whether the program participant, or the program participant's minor child, or a person with a disability on whose behalf the person is applying, is eligible for benefits, based on the information known to the secretary of state.

(d) The substitute address shall not be used:

- (1) For purposes of listing, appraising, or assessing property taxes and collecting property taxes; or
- (2) On any document related to real property recorded with a county clerk and recorder.

(e) Notwithstanding any other applicable law, the substitute address may be used for motor vehicle records and may be printed on a person's driver or photo identification license.

(f) Except as otherwise provided in this part, a program participant's confidential address, and any other information contained within a program participant's file, maintained by a state or local government agency, or disclosed by the secretary of state under this part, is not a public record. This subsection (f) shall not apply:

- (1) To any public record created more than thirty (30) days prior to the date that the program participant applied to be certified in the program; or

(2) If a program participant voluntarily requests that a state or local government agency use the participant's confidential address or voluntarily gives the confidential address to the state or local government agency, except voter registration records and absentee ballot requests shall be confidential for purposes of this part.

(g) For any public record created within thirty (30) days prior to the date that a program participant applied to be certified in the program, a state or local governmental agency shall redact the confidential address from a public record or change the confidential address to the substitute address in the public record, if a program participant presents evidence of program certification and requests the agency that maintains the public record to use the substitute address instead of the confidential address on the public record.

(h) Except as provided in this part, where a program participant has provided evidence of program participation to a governmental entity, any record that includes a program participant's confidential address pursuant to this part shall be confidential and not available for inspection by anyone other than the program participant.

(i) Notwithstanding any other applicable law, documentation concerning any tool of designation or identification or internal processes implemented by a governmental entity in documenting program participation within the governmental entity's records shall be confidential and not available for inspection.

(j) An application or voter registration form completed under this part, along with any supporting materials, is not a public record that is subject to inspection and shall be kept confidential.



Additional information about Tennessee's Address Confidentiality Program is Contained in other statutory provisions. *See, e.g.*, Tenn. Code Ann. § 40-38-603 (persons ineligible to participate); *id.* at § 40-38-604 (applications of minors of persons with a disability); *id.* at § 40-38-605 (notice of change in participant's address; participation renewal); *id.* at § 40-38-606 (requests for governmental entities to use substitute address; utility service providers; voter registration; transmittal of mail and service of process); *id.* at

<p>§ 40-38-607 (voter registration records; absentee voting; jury duty); <i>id.</i> at § 40-38-608 (cancellation of program participation); <i>id.</i> at § 40-38-609 (nondisclosure of participant's confidential information; exceptions); <i>id.</i> at § 40-38-610 (false applications; disclosing or obtaining confidential information as crime; punishment); <i>id.</i> at § 40-38-611 (domestic abuse counseling and shelters); <i>id.</i> at § 40-38-612 (effect on child custody or visitation orders); <i>id.</i> at § 40-38-613 (no right of action for negligent disclosure; notice to program participant of unlawful disclosure).</p>	
<p>Right of Victims of Domestic Abuse, Stalking or Sexual Assault to Seek an Order of Protection.</p> <p>(a) Any domestic abuse victim, stalking victim or sexual assault victim who has been subjected to, threatened with, or placed in fear of, domestic abuse, stalking, or sexual assault, may seek relief under this part by filing a sworn petition alleging domestic abuse, stalking, or sexual assault by the respondent.</p> <p>(b) Any petition filed by an unemancipated person under eighteen (18) years of age shall be signed by one (1) of that person's parents or by that person's guardian. The petition may also be signed by a caseworker at a not-for-profit organization that receives funds pursuant to title 71, chapter 6, part 2 for family violence and child abuse prevention and shelters; provided, however, that a petition signed by a caseworker may not be filed against the unemancipated minor's parent or legal guardian. In such case, unless the court finds that the action would create a threat of serious harm to the minor, a copy of the petition, notice of hearing and any ex parte order of protection shall also be served on the parents of the minor child, or if the parents are not living together and jointly caring for the child, upon the primary residential parent. In cases before the juvenile court where the department of children's services is a party or where a guardian ad litem has been appointed for the child by the juvenile court, the petition may be filed on behalf of the unemancipated person by the department or the guardian ad litem.</p> <p>(c) Deleted by 2018 Pub. Acts, c. 586, § 1, eff. July 1, 2018.</p>	<p>Tenn. Code Ann. § 36-3-602.</p>

<p>(d) Venue for a petition for an order of protection, and all other matters relating to orders of protection, shall be in the county where the respondent resides or the county in which the domestic abuse, stalking or sexual assault occurred. If the respondent is not a resident of Tennessee, the petition may be filed in the county where the petitioner resides.</p>	
<p>Right of Victims of Assault, Aggravated Assault, Domestic Assault and Violation of a Protective Order to be Informed by Arresting Officer that Offender May be Eligible to Post Bond and be Released.</p> <p>(a) After a person has been arrested for assault pursuant to § 39-13-101, aggravated assault pursuant to § 39-13-102, against a victim as defined in § 36-3-601, domestic assault pursuant to § 39-13-111, or violation of a protective order pursuant to § 39-13-113, the arresting officer shall inform the victim that the person arrested may be eligible to post bond for the offense and be released until the date of trial for the offense.</p> <p>(b) Subsection (a) is solely intended to be a notification provision, and no cause of action is intended to be created thereby.</p>	<p>Tenn. Code Ann. § 36-3-615.</p>
<p>Right of Victims of Domestic Abuse, Stalking and Sexual Assault to No Cost Protection Order.</p> <p>(a)(1) Notwithstanding any other law to the contrary, no domestic abuse victim, stalking victim or sexual assault victim shall be required to bear the costs, including any court costs, filing fees, litigation taxes or any other costs associated with the filing, issuance, registration, service, dismissal or nonsuit, appeal or enforcement of an ex parte order of protection, order of protection, or a petition for either such order, whether issued inside or outside the state. If the court, after the hearing on the petition, issues or extends an order of protection, all court costs, filing fees, litigation taxes and attorney fees shall be assessed against the respondent.</p>	<p>Tenn. Code Ann. § 36-3-617.</p>

<p>(2) If the court does not issue or extend an order of protection, the court may assess all court costs, filing fees, litigation taxes and attorney fees against the petitioner if the court makes the following finding by clear and convincing evidence: (A) The petitioner is not a domestic abuse victim, stalking victim or sexual assault victim and that such determination is not based on the fact that the petitioner requested that the petition be dismissed, failed to attend the hearing or incorrectly filled out the petition; and (B) The petitioner knew that the allegation of domestic abuse, stalking, or sexual assault was false at the time the petition was filed.</p> <p>(b)(1) The clerk of the court may provide order of protection petition forms to agencies that provide domestic violence assistance. (2) Any agency that meets with a victim in person and recommends that an order of protection be sought shall assist the victim in the completion of the form petition for filing with the clerk. (3) No agency shall be required to provide this assistance unless it has been provided with the appropriate forms by the clerk.</p>	
<p>Law Enforcement’s Duties Regarding Domestic Abuse Calls and Arrests; Domestic Abuse Victims’ Rights.</p> <p>(a) If a law enforcement officer has probable cause to believe that a person has committed a crime involving domestic abuse, whether the crime is a misdemeanor or felony, or was committed within or without the presence of the officer, the preferred response of the officer is arrest.</p> <p>(b) If a law enforcement officer has probable cause to believe that two (2) or more persons committed a misdemeanor or felony, or if two (2) or more persons make complaints to the officer, the officer shall try to determine who was the primary aggressor. Arrest is the preferred response only with respect to the primary aggressor. The officer shall presume that arrest is not the appropriate response for the person or persons who were not the primary aggressor. If the officer believes that all parties are equally responsible, the officer shall</p>	<p>Tenn. Code Ann. § 36-3-619.</p>

exercise such officer's best judgment in determining whether to arrest all, any or none of the parties.

(c) To determine who is the primary aggressor, the officer shall consider:

- (1) The history of domestic abuse between the parties;
- (2) The relative severity of the injuries inflicted on each person;
- (3) Evidence from the persons involved in the domestic abuse;
- (4) The likelihood of future injury to each person;
- (5) Whether one (1) of the persons acted in self-defense; and
- (6) Evidence from witnesses of the domestic abuse.

(d) A law enforcement officer shall not:

- (1) Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel; or
- (2) Base the decision of whether to arrest on:
 - (A) The consent or request of the victim; or
 - (B) The officer's perception of the willingness of the victim or of a witness to the domestic abuse to testify or participate in a judicial proceeding.

(e) When a law enforcement officer investigates an allegation that domestic abuse occurred, the officer shall make a complete report and file the report with the officer's supervisor in a manner that will permit data on domestic abuse cases to be compiled. If a law enforcement officer decides not to make an arrest or decides to arrest two (2) or more parties, the officer shall include in the report the grounds for not arresting anyone or for arresting two (2) or more parties.

(f) Every month, the officer's supervisor shall forward the compiled data on domestic abuse cases to the administrative director of the courts.

(g) When a law enforcement officer responds to a domestic abuse call, the officer shall:

- (1) Offer to transport the victim to a place of safety, such as a shelter or similar location or the residence of a friend or relative, unless it is impracticable for the officer to transport the

victim, in which case the officer shall offer to arrange for transportation as soon as practicable;

(2) Advise the victim of a shelter or other service in the community; and

(3) Give the victim notice of the legal rights available by giving the victim a copy of the following statement:

IF YOU ARE THE VICTIM OF DOMESTIC ABUSE, you have the following rights:

1. You may file a criminal complaint with the district attorney general (D.A.).
2. You may request a protection order. A protection order may include the following:
 - (A) An order preventing the abuser from committing further domestic abuse against you;
 - (B) An order requiring the abuser to leave your household;
 - (C) An order preventing the abuser from harassing you or contacting you for any reason;
 - (D) An order giving you or the other parent custody of or visitation with your minor child or children;
 - (E) An order requiring the abuser to pay money to support you and the minor children if the abuser has a legal obligation to do so; and
 - (F) An order preventing the abuser from stalking you.

The area crisis line is _____

The following domestic abuse shelter/programs are available to you:

(4) Offer to transport the victim to the location where arrest warrants are issued in that city or county and assist the victim in obtaining an arrest warrant against the alleged abuser.

(h)(1) For good cause shown, the court may issue an ex parte order of protection pursuant to § 36-3-605 upon a sworn petition filed by a law enforcement officer responding to an incident of domestic abuse who asserts in the petition reasonable grounds to believe that a person is in immediate and present danger of abuse, as defined in § 36-3-601, and that the person has consented to the filing in writing; provided, that the person on whose behalf the law enforcement officer seeks the ex parte order of protection shall be considered the petitioner for purposes of this part.

<p>(2) The law enforcement officer may seek on behalf of the person the ex parte order regardless of the time of day and whether or not an arrest has been made.</p>	
<p>Confidentiality of Records of Domestic Violence Shelters, Rape Crisis Centers and Human Trafficking Service Providers.</p> <p>(a) The records of domestic violence shelters, rape crisis centers, and human trafficking service providers shall be treated as confidential by the records custodian of such shelters, centers, or providers unless:</p> <p>(1) The individual to whom the records pertain authorizes their release; or</p> <p>(2) A court approves a subpoena for the records, subject to such restrictions as the court may impose, including in camera review.</p> <p>(b) As used in this section, “human trafficking service providers” means agencies or groups that are incorporated as a not-for-profit organization for at least six (6) months, are tax-exempt under § 501 of the Internal Revenue Code (26 U.S.C. § 501), and that have provided services to victims of human trafficking.</p>	<p>Tenn. Code Ann. § 36-3-623.</p>
<p>Parole Board’s Duty to Receive and Consider Victim Impact Statements; Confidentiality of Victim Impact Statements.</p> <p>(a) The board shall receive and consider victim impact statements.</p> <p>(b) Written victim impact statements shall not be made available to the public and shall be considered confidential.</p> <p>(c) Assertions made in a victim impact statement may be investigated and verified by the board.</p>	<p>Tenn. Code Ann. § 40-28-504.</p>

Parole Board's Duty to Notify Victim of Parole Hearing and Decision; Remedies for Failure to Notify.

(b) At least thirty (30) days prior to a scheduled parole hearing and three (3) days prior to a parole revocation hearing conducted pursuant to § 40-28-122, the board of parole shall send a notice of the date and place of the hearing to the following individuals:

....

(4) The victim or the victim's representative who has requested notification of the date and place of the scheduled hearing or notice of the board's final decision. However, at any time, the victim or victim's representative may withdraw the request for notice by sending the board a written notarized statement that the request for notice is withdrawn or, if the victim or victim's representative is registered with the state's electronic victim notification system, by cancelling that registration in the system.

(c) No later than thirty (30) days after a parole or parole revocation decision has been finalized, the board shall send notice of its decision to those required to receive notice under subsection (b), together with notice that any victim whom the board failed to notify as required in subsection (b) has the opportunity to have a written victim impact statement considered by the board, pursuant to subsection (d).

(d) The following remedies apply if there is a failure to provide the required advance notice:

(1) Prior to a parole or parole revocation hearing, a party to whom the board failed to provide the notice required in subsection (b) may request the board to postpone the scheduled hearing. Upon that request, the board may, for just cause, postpone the scheduled parole or parole revocation hearing in order to provide a reasonable opportunity for the party to attend the hearing and, if that party is a victim, to submit a victim statement; and

(2) If within fifteen (15) days after a parole or a parole revocation decision has been finalized, the board receives a written victim impact statement from a party to whom the board failed to provide the notice required in subsection (b), the board shall consider the statement. If the board finds that the victim impact statement warrants a new hearing, it shall schedule the hearing, subject to all notification requirements under subsection (b).

Tenn. Code Ann. § 40-28-505(b)(4)–(h).

(e) Any notice required to be provided to the victim or victim's representative by this section shall be mailed to the last known address of the victim or the victim's representative unless the victim or victim's representative is registered with the state's electronic victim notification system, in which case the notice shall be communicated to the victim or victim's representative by the method or methods indicated by the registration in the system. It is the responsibility of the victim or victim's representative to provide the board a current mailing address.

(f) This section shall apply only to an inmate who has received a sentence of two (2) or more years.

(g) Any notice of an inmate's release on parole required to be provided to the victim or the victim's representative shall include the proposed county of residence of the inmate.

(h)(1) Any identifying information concerning a crime victim or a crime victim's representative who has been notified or requested that notification be provided to the victim or the victim's representative pursuant to this section shall be confidential.

(2) For purposes of subdivision (h)(1), "identifying information" means the name, home and work addresses, telephone numbers and social security number of the person being notified or requesting that notification be provided.



A promising practice is to have a policy and procedure in place to ensure that victims are aware at the earliest stages of a case that they must "request" the exercise of certain rights. Agencies should carefully maintain documentation of a victim's request to exercise rights.



A promising practice is to have a policy and procedure in place to assist victims in providing their contact information to relevant agencies and to remind victims, throughout their participation in the justice system, that to protect their notification rights their contact information must be kept current.

<p>Victims of Crime Executive Clemency Notification Act; Victim-Witness Coordinator’s Duty to Notify Victims of Impending Grants of Clemency.</p> <p>(a) This section shall be known and may be cited as the “Victims of Crime Executive Clemency Notification Act.”</p> <p>(b) Prior to any reprieve, commutation, pardon, exoneration, or any other form of executive clemency being made public, the governor shall notify or cause to be notified the attorney general and reporter and the district attorney general of the judicial district in which the conviction occurred of the impending clemency action.</p> <p>(c)(1) Prior to notice of the clemency action being made public, the district attorney general, through the victim-witness coordinator, shall notify the victim or victims of the offense for which the person is receiving clemency, or the victim’s representative, of the impending grant of clemency.</p> <p>(2) If notice is required by this section, the district attorney general, through the victim-witness coordinator, shall contact the victim or victim’s representative by telephone, electronic mail, facsimile or by other means intended to ensure that the victim receives immediate notification; provided, that the victim or victim’s representative has provided the district attorney general’s office with contact information necessary to accomplish such immediate notification.</p> <p> A promising practice is to have a policy and procedure in place to assist victims in providing their contact information to relevant agencies and to remind victims, throughout their participation in the justice system, that to protect their notification rights their contact information must be kept current.</p>	<p>Tenn. Code Ann. § 40-27-110.</p>
<p>Victims’ Right to Advance Notice of Parole of Defendant Convicted of Kidnapping.</p>	<p>Tenn. Code Ann. § 40-28-107(d).</p>

(d) At least three (3) days prior to the release on parole of a defendant convicted of any kidnapping offense involving a hostage or victim, the board shall notify the sheriff of the county in which the crime was committed and the sheriff shall make all reasonable and diligent efforts to notify the hostage or victim of the offense that the defendant will be released on parole. If the hostage or victim is less than eighteen (18) years of age or is otherwise unavailable, the sheriff shall make all reasonable and diligent efforts to so notify the family, if any, of the hostage or victim.



A promising practice is to have a policy and procedure in place to assist victims in providing their contact information to relevant agencies and to remind victims, throughout their participation in the justice system, that to protect their notification rights their contact information must be kept current.

This draft publication was developed by the National Crime Victim Law Institute (NCVLI) under 2018-V3-GX-K049, awarded to the International Association of Chiefs of Police (IACP) by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this draft publication are those of the contributors and do not necessarily represent the official position of the U.S. Department of Justice.