

Victim Rights in Vermont

At each stage in the criminal process, Vermont law guarantees crime victims certain rights and opportunities to participate. Generally, these rights include:

- The right to choose whether to participate
- The right to information about Vermont's victim rights and the criminal process
- The right to be notified about events in the case and to be present for court hearings
- The right to be notified about the defendant's release, status, or location
- The right to offer a Victim Impact Statement
- The right to be heard at sentencing or change of plea hearings
- The right to Victims Compensation, where eligible
- The right to request restitution
- The right to speedy prosecution
- The right to safety and to defend one's privacy
- The right to not speak unless subpoenaed
- The right to return of property
- The right to free victim assistance from a Victim Advocate

Victims of certain more serious crimes, which are called "listed crimes," are entitled to additional rights and protections. Vermont's listed crimes can be found in the Vermont Statutes.

The specific rights that a victim is entitled to may vary depending upon where the case is referred in the criminal justice system. For example, different rights apply in Juvenile or Delinquency cases because of the confidential nature of those proceedings.

This page is designed to provide an overview of Vermont's victim rights. For more detailed information, please consult the Vermont statutes. You can also contact the specific office that is handling the case and ask to speak to the victim advocate or contact the Vermont Victim Assistance Program at VCCVS at (802) 241-1250.

A different set of rights applies in federal cases handled by the U.S. Attorney.

The Right to Information

After the Case is Reported to Law Enforcement

The law enforcement agency investigating the crime is required to provide victims with the following information in writing after initial contact is made:

- An explanation of his or her rights
- Information about available assistance to victims:
- Local medical, housing, counseling, and emergency services

- Victims compensation
- Protection for victims, including protective orders
- Access to public records
- Notice of the Defendant's arraignment

For listed crimes law enforcement should also provide the following:

- Information about the identity of the individual accused of committing the crime, unless doing so would compromise the investigation
- Information about whether the individual accused has been taken into custody
- Information about bail or conditions of release ordered by the court prior to arraignment
- The file number of the case and contact information for the law enforcement officer who is investigating it
- Contact information for the prosecutor
- An explanation about the victim's right to refuse to answer questions about the case outside of the courtroom or deposition

See 13 V.S.A. § 5314 and 13 V.S.A. § 5308.

After the Case is Referred to the State's Attorney or the Attorney General

A Victim Advocate is assigned to each case after the local State's Attorney's Office or the Attorney General receives the case from law enforcement and decides to file charges in the Criminal Division. The Victim Advocate should explain:

- Types of protection available to the victim
- The procedure for receiving witness fees
- How to seek restitution, including assistance in documenting and preparing restitution requests and insurance reimbursement
- How to apply for Victims Compensation and minimize financial consequences
- Referrals for counseling services
- The right to appear at sentencing
- The right to request notification about the Defendant's release or escape

See 13 V.S.A. § 5304

The Right to Notification

Before the case is referred to the prosecutor's office

Law enforcement is required to notify the victim about bail or conditions of release ordered by the court prior to arraignment.

While the criminal case is pending

Victims have a right to be notified by the Victim Advocate or the prosecutor's office about the following:

- Issues concerning bail
- The date and location of any court hearings scheduled in his or her case, as well as any cancellations
- The final outcome of the case

For listed crimes, the victim is also entitled to notification regarding:

- Any conditions of release that apply to the Defendant, if the Defendant is released before trial

See 13 V.S.A. § 5304 and 13 V.S.A. § 5305.

After the Defendant is convicted of committing the crime

Victims are entitled to request notification from any agency having custody of the Defendant, if the Defendant is released, escapes, is recaptured, dies, or receives a pardon or commutation of sentence.

Victims can sign up for offender release notifications online using the Department of Corrections' Vermont Automated Notification Service (VANS). The Department of Corrections is required to keep confidential any victim contact information received for purposes of making release notifications.

In most sex crime cases, victims are entitled to request notification from the Vermont Sex Offender Registry regarding the Defendant's address

See 13 V.S.A. § 5305 and 13 V.S.A. § 5410.

For listed crimes the prosecutor's office is required to notify the victim if the Defendant files an appeal or a motion for post-conviction relief after being convicted and/or sentenced.

The prosecutor's office is required to notify the victim of any hearings in a post-conviction relief matter, as well as the disposition of the matter or the outcome of any hearings.

The Department of Corrections is required to notify victims of listed crimes at least 30 days prior to any parole eligibility hearing for the Defendant in order to provide the victim an opportunity to testify.

See 13 V.S.A. § 5315, 13 V.S.A. § 5563, and 28 V.S.A. § 507.

The Right to Be Present

Victims of listed crimes have a right to be present at all court hearings, including arraignment, with limited exceptions under the Vermont Rules of Evidence. Most court hearings are open to the public regardless of the victim rights statute, although access to juvenile or delinquency cases is limited.

See 13 V.S.A. § 5308 and 13 V.S.A. § 5309.

Employers cannot discipline or terminate employees who are victims or family members of victims of a listed crime, because the employee honored a subpoena to testify at a deposition or court hearing.

See 13 V.S.A. § 5313.

The Right to Safety and to Defend One's Privacy

Victims are entitled to information and assistance from Victim Advocates to seek protection from harm arising out of cooperation with the court system.

See 13 V.S.A. § 5304.

Prosecutors are required to advise the court of the victim's position regarding whether the Defendant should be held on bail.

See 13 V.S.A. § 5308.

No one should be required to disclose a victim's address or place of employment at a deposition or during court proceedings unless ordered to do so by the court.

See 13 V.S.A. § 5310 and Vermont Rule of Criminal Procedure 16.

If a Defendant seeks access to a victim's confidential records, such as school records or medical records, the Defendant is required to notify the prosecutor's office prior to making the request in order to give the victim an opportunity to work with whoever holds the records and to object.

A victim's name and identifying information used for purposes of Victims Compensation or Restitution are exempt from public records disclosure requirements.

See 13 V.S.A. § 5322.

Victims are entitled to seek Defendant testing for infectious disease in sexual assault cases.

See 13 V.S.A. § 3256.

The Right to Return of Property

Victims are entitled to assistance from Victim Advocates to regain property seized by law enforcement as evidence during the criminal investigation. Law enforcement is required to take reasonable care of the property while it is held. Unless the property is deemed contraband or is subject to forfeiture, law enforcement is required to notify victims that their property is available to be picked up once it is no longer needed for evidentiary purposes.

See 13 V.S.A. § 5304 and 13 V.S.A. 5311.

The Right to Speedy Prosecution

Victims of listed crimes are entitled to object to delays in the case that could result from a pending motion.

- The prosecutor must notify the victim of a pending motion that may substantially delay a deposition, change of plea, trial, sentencing hearing, or restitution hearing.
- The prosecutor is also required to notify the court as to how the victim was notified and the victim's position on the motion.
- The court is required to consider any objection from the victim when deciding whether to grant a motion that could cause a delay.

See 13 V.S.A. § 5312.

The Right to be Heard

At Sentencing or Change of Plea

Victims are entitled to notification from the prosecutor's office in advance of any sentencing hearings in the case. When the State agrees to recommend a deferred sentence in exchange for a guilty plea, victims are entitled to advance notice of any change of plea hearings.

Victims have a right to personally appear and express their views concerning the crime, the person convicted, and the need for restitution. The court is required to ask whether the victim is present, and if not, whether he or she has filed a statement with the court or has requested that the Victim Advocate read a statement on his or her behalf. The court is required to take the victim's views into consideration when imposing the sentence.

See 13 V.S.A. § 5321, 13 V.S.A. § 7041, and Vermont Rule of Criminal Procedure 49

For listed crimes, prosecutors are required to keep the victim informed and consult with the victim throughout the plea agreement negotiation process. Prosecutors are also required to

explain to the victim at or before the sentencing or change of plea hearing, information about the significance of the sentence, incarceration, and/or parole.

See 13 V.S.A. § 5321.

After the Defendant is Convicted

For listed crimes, victims have a right to testify at parole eligibility hearings.

See 28 V.S.A. § 507.

Victims are also entitled to notice and an opportunity to offer a statement if the Defendant seeks an Order for Criminal Record Sealing or Expungement or an Order for Limited Relief from Collateral Consequences of Conviction.

See 13 V.S.A. § 7608 and 13 V.S.A. § 8015

In sex assault cases where the Defendant serves a term of incarceration, victims are entitled to participate in the Defendant's release plan process in order to ensure their safety.

See 13 V.S.A. § 3272.

The Right to Not Speak Unless Subpoenaed

Victims have a right to not speak to anyone about the case unless they are issued a subpoena or otherwise ordered by the court to do so.

Anyone associated with the prosecution or defense who comes in contact with the victim or the victim's family is required to properly identify himself or herself and by whom he or she is employed.

See 13 V.S.A. § 5316.

The Right to Victims Compensation and Restitution

Victims are entitled to receive assistance from Victim Advocates with preparing claims for restitution.

Other Victim Rights Provisions

Juvenile or "Delinquency" Cases

For listed crimes, victims of cases referred to the juvenile court for delinquency proceedings are entitled to the following rights:

- Notification that a delinquency petition has been filed, along with the name of the child, and an explanation of victim rights and obligations regarding confidentiality in delinquency proceedings
- Notification regarding any conditions of release ordered for the child that relate to the victim or a member of the victim's family or current household
- Notification regarding the scheduling of pre-dispositional or dispositional court hearings
- Notification when delinquency has been found and disposition has occurred, along with any conditions of release or conditions of probation related to the victim or a member of the victim's family or current household
- The right to file a written or recorded statement with the court regarding the impact of the delinquent act and the need for restitution
- The right to attend the disposition hearing for the purpose of presenting a statement or testifying in support of a restitution claim. Victims may not attend the remainder of the disposition hearing unless the court finds that the victim's presence is necessary in the interest of justice. The court is required to consider the victim's views.
- Notification by the agency having custody of the delinquent child before he or she is discharged from a secure or staff-secured residential facility
- Information and consultation with the prosecutor's office throughout the proceedings.

For non-listed crimes, victims of cases referred to the juvenile court for delinquency proceedings are entitled to the following rights:

- Notification that a delinquency petition has been filed and an explanation of victim rights and obligations regarding confidentiality in delinquency proceedings
- Notification regarding any conditions of release ordered for the child that relate to the victim or a member of the victim's family or current household, along with the child's name
- Notification regarding the scheduling of pre-dispositional or dispositional court hearings
- Notification when delinquency has been found and disposition has occurred, along with any conditions of release or conditions of probation related to the victim or a member of the victim's family or current household
- The right to file a written or recorded statement with the court regarding the impact of the delinquent act and the need for restitution
- The right to attend the disposition hearing for the purpose of presenting a statement or testifying in support of a restitution claim. Victims may not attend the remainder of the disposition hearing unless the court finds that the victim's presence is necessary in the interest of justice. The court is required to consider the victim's views.
- The right to learn the identity of the child after final disposition of the case, if not already known, where the court issues an order allowing release.
- Information and consultation with the prosecutor's office throughout the proceedings.

