

# **The Rights of Crime Victims in New York State**



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# Rights of Crime Victims

## 1. Your Right to Certain Kinds of Compensation and Assistance:

The New York State Office of Victim Services may be able to reimburse you for your direct out-of-pocket expenses caused by the crime. These expenses may include the repair or replacement of essential personal property, loss of earnings or support, medical bills, including the cost of counseling, vocational rehabilitation, crime scene cleanup or funeral bills. A claim form can be obtained from a police station, sheriff's office, District Attorney's (DA) office, local victim advocate's office, hospital emergency room, or by requesting one from the Office of Victim Services or our website: <http://www.ovs.ny.gov>. The New York State Office of Victim Services may be reached at:

NYS Office of Victim  
Services  
1-800-247-8035  
TTY: 1-888-289-9747  
<http://www.ovs.ny.gov>  
e-mail: [ovsinfo@ovs.ny.gov](mailto:ovsinfo@ovs.ny.gov)

NYS Office of Victim  
Services  
55 Hanson Place  
Brooklyn, NY 11217  
(718) 923-4325

NYS Office of Victim  
Services  
AE Smith Office Bldg  
80 S. Swan St., 2d Fl  
Albany, NY 12210  
(518) 457-8727

Claims must be filed within one year of the crime or within one year of the victim's death. If a delay in filing is justified, the Office may accept claims filed over a year after the crime or victim's death.

There are several other ways you may be compensated for your losses:

- You can also file a civil lawsuit against your offender or a liable third party (e.g. if your landlord fails to supply sufficient lighting or other security measures) for recovery for your losses. If you decide to file a civil lawsuit, you will need to see an attorney who will explain your choices and advise you.
- If the crime occurred during the course of employment or arising out of employment, you may be eligible for workers' compensation benefits. The workers' compensation benefits you may be eligible to receive through the Workers' Compensation Board are: medical care, payment for lost wages, payment for permanent disability, rehabilitation or death benefits.
- If the crime is related to a vehicle, you may qualify for benefits under an automobile insurance policy.
- You may be eligible for compensation from other sources such as: mortgage insurance, homeowner's/renter's insurance, liability insurance, disability (private or state), veteran's benefits, social security benefits or a funeral/burial policy.

The NYS Office of Victim Services is the payer of last resort when other sources such as these are available (with the exception of the FRE payments available, see page 20).

You may also be eligible for assistance from other programs such as rape crisis centers, victim/witness assistance programs, and domestic violence programs or shelters. Ask the DA's office about these programs or contact the nearest Office of Victim Services office or visit the website.

*Statutory reference: Executive Law Article 22.*

## **2. Your Right to be Notified of Judicial Proceedings:**

If you have provided a current address and telephone number to the appropriate official (such as the District Attorney) you have the right to be notified of the accused's:

1. arrest;
2. first appearance before a judge;
3. release from jail while the criminal proceeding is pending;
4. entry of a guilty plea;
5. trial;
6. sentencing;
7. maximum and minimum terms of imprisonment if the defendant is sentenced to prison.

You also may have a right to be given notice of the release or escape of a person committed to a state mental health facility.

If you ask the DA to notify you of the final disposition of the case, you will be notified within 60 days of that disposition. If a term of imprisonment is imposed, you also will be notified of your right to submit a written, audio-taped or videotaped victim impact statement to the Division of Parole or to meet personally with a member of the Parole Board and give an oral statement, at a time and place separate from the inmate's parole interview. The statement may be considered along with other factors in the discretionary release of the defendant. Victims can contact the Division of Parole's Victim Impact Unit at the toll free number 1-800-783-6059.

The victim in any case that involves a homicide or a violent felony offense is eligible to request a notification of an inmate's release. The victim is notified when the inmate is released to post-release supervision, paroled, discharged, conditionally released, escapes or absconds. If the inmate is discharged, paroled, conditionally released or released to post-release supervision, the notification will be by certified

mail directly to the address provided by the victim. In the event the inmate has escaped or absconded, the notice will be made in the most reasonable and expedient manner. The Department of Corrections and Community Supervision (DOCCS) will subsequently notify the victim by certified mail when the escapee or absconder is taken into custody.

The victim's request for notification of an inmate's release must be submitted by the prosecuting DA's Office. The victim should complete the form and return it to the DA, not directly to the Department of Corrections and Community Supervision. Likewise, the victim should notify the DA if there is a change of address and the DA will advise the Department of Corrections and Community Supervision.

The Department of Corrections and Community Supervision Office of Victim Assistance can be contacted to answer questions that may arise while the offender is in custody. The toll-free number for the Department's Office is 1-800-783-6059.

In addition, crime victims can obtain crime and release data on all prison inmates by calling the toll-free Victim Information and Notification Everyday (VINE) number or at the Department's website **[www.doccs.ny.gov](http://www.doccs.ny.gov)**. Once an offender has been booked into custody at the DOCCS, victims and their families can call the toll-free VINE number (1-888-VINE4NY or 1-888-846-3469) to access custody information and register to receive automatic telephone notification of an offender's release.

When calling VINE, victims have to provide the offender's full name and date of birth, the inmate's New York State identification number (NYSID) or DIN number. The DA's office will provide the NYSID number and date of birth. If registering for notification, victims need to provide the telephone number where they can be reached and a 4-digit PIN code to be used for message confirmation. Two

telephone numbers can be registered during each call and victims must keep their registration information current with VINE.

A prosecutor may not want the victim and/or family to attend proceedings for strategic reasons related to the prosecution, but court proceedings are, as a rule, public and a victim or his/her family always have the right to attend court proceedings that are open to the public.  
*Statutory references: Executive Law Sections 641(3), 641(3)(b), 641(3)(c), 259-i(2)(c)(v); Criminal Procedure Law Sections 330.20, 380.50(4) & (5), 440.50.*

### **3. Your Rights During Judicial Proceedings:**

The victims of certain felony offenses shall be consulted by the DA in order to obtain the views of the victim regarding disposition of the criminal case by dismissal, plea of guilty or trial.

In such a case in which the victim is a minor child, or in the case of a homicide, the DA shall consult for such purpose with the family of the victim. In addition, the DA shall consult and obtain the views of the victim or family of the victim, as appropriate, concerning the release of the defendant in the victim's case pending judicial proceedings upon an indictment, and concerning the availability of sentencing alternatives such as community supervision and restitution from the defendant.

The victim or witness may request assistance from law enforcement agencies and DA's in informing employers, creditors or others that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work or create an inability to meet other obligations.

The court shall consider the views of such crime victims regarding discretionary decisions relating to the criminal case, including, but not limited to, plea

agreements and sentence. In addition, the court shall consider the views of the victim or family of the victim, as appropriate, concerning the release of the defendant in the victim's case pending judicial proceedings upon an indictment, and concerning the availability of sentencing alternatives such as community supervision and restitution from the defendant.

Law enforcement agencies and DA's shall promptly return property held for evidentiary purposes unless there is a compelling reason for retaining it relating to proof at trial. The court shall assist in and expedite the return of such property.

*Statutory reference: Executive Law Sections 642(1),(3),(4) and Section 647(1),(3).*

#### **4. Your Right to be Free from Intimidation:**

Crime victims have the right to be protected from threats, physical injury, or other kinds of intimidation. The police, sheriff's department, or DA can offer advice regarding appropriate measures. If necessary, the court can issue an Order of Protection.

Additionally, intimidating a witness is a felony, apart from any charges the defendant may already face. If you are threatened or harassed by anyone about the case, contact the DA's office, police or sheriff's department. If you receive unwanted contact once the offender is in custody with the New York State Department of Corrections and Community Supervision, contact the Department's Office of Victim Assistance, immediately. Witnesses and victims may receive assistance in relocating themselves and their families and may even get assistance to change their identity when necessary.

*Statutory references: Criminal Procedure Law Sections 530.12, 530.13; Penal Law Sections 215.15, 215.16, 215.17; 9 NYCRR 6170; Executive Law Section 837(17).*



The victims and other prosecution witnesses shall, where possible, be provided, when awaiting court appearances, a secure waiting area that is separate from all other witnesses.

*Statutory reference: Executive Law Sections 642(2) and Section 647(2).*

#### **5. Your Right to Submit a Victim Impact Statement:**

The "pre-sentence report" is prepared by the county probation department when the defendant has been convicted of a felony, or a misdemeanor when the sentence includes probation or more than ninety days imprisonment. A pre-sentence report may contain a "**victim impact statement**" in which your version of the offense and the extent of your injury, out-of-pocket and other economic losses are summarized for the court. The victim impact statement sets forth your views on the disposition of the criminal case, and the amount of restitution and reparation you seek. The prosecutor and defense attorney may agree to waive the pre-sentence investigation under certain circumstances, and in the case of a misdemeanor conviction a "short form" report may be appropriate. So, it is important for the DA to know your views about sentencing.

If the defendant is being sentenced for a felony conviction, you or a member of your family may request to speak at the time the sentence is pronounced. You must give the court 10 days advance notice. You may speak on "any matter relevant to the question of sentence". The DA's office may assist you. If you are the relative of a deceased victim, or a victim who is so disabled as to make it impracticable to appear in court in person, you may speak on the victim's behalf.

As indicated on page 3, you may also submit a written, oral, audio-taped or videotaped victim impact statement to the Parole Board, which will be considered before any discretionary release on parole is granted.

*Statutory references: Criminal Procedure Law Sections 380.50(2), 390.30, 390.50(2), 440.50; Executive Law Section 259-i.*

## **6. Your Right to Restitution:**

Restitution is compensation paid to a victim by the perpetrator of a criminal offense for the losses or injuries incurred as a result of the criminal offense. Restitution is NOT for payment of damages for future losses, mental anguish or “pain and suffering”. Anyone who has been the victim of a criminal offense and has suffered injuries, economic losses or damages can seek restitution. It must be ordered by the court at the time of sentencing and is considered part of the sentence. Restitution may include but is not limited to reimbursement for medical bills, counseling expenses, loss of earnings and the replacement of stolen or damaged property.

You should contact the DA’s office and advise them of the extent of your injury, your out-of-pocket losses and the amount of damages you are requesting as restitution. The DA is under an obligation to petition the court to order restitution on your behalf. You need to clearly explain your need for restitution as soon as possible to the DA, the victim/witness advocate, and the probation department. Unless waived by mutual consent, plea agreements can occur within days of the actual criminal offense. If this information is not provided before sentencing, you may have to pursue restitution by bringing a lawsuit in Civil Court.

It is your responsibility to give the police, DA and, upon request, the local probation department copies of the bills and other documents showing the extent of your injuries, your out-of-pocket losses and the amount of damages you want considered by the court. Your claim for restitution will be included in any probation investigation report (pre-sentence, pre-plea or pre-disposition report). Be sure to:

- Keep accurate records such as original receipts of any expenses you have as a direct result of the criminal offense, AND
- Give copies of these receipts to the police, DA and local probation department.

In requesting restitution you can ask for, but are not limited to, any of the following:

- Medical expenses (doctor, physical therapist, ambulance, transportation, emergency services, etc.)
- Counseling expenses
- Loss of earnings
- Property expenses (replace, repair and/or clean damaged or stolen property)
- Funeral expenses
- Insurance deductible
- Incidental expenses (changing locks, towing fees, and the cost of changing your phone number)
- Any expense you incur as a result of the criminal offense

The amount of restitution is based on proof of your out-of-pocket losses incurred as a result of the criminal offense. The perpetrator has a right to object to the amount of restitution. The court may hold a hearing on the issue of restitution where the court may consider the perpetrator's ability to pay. The DA's office may contact you and ask you to testify at the restitution hearing. If you have a concern about appearing personally in court, you should explore alternatives with the DA assigned to your case.

When the DA's office advises the court that you have requested restitution or when the victim impact statement contained in the probation investigation report (pre-sentence, pre-plea or pre-disposition report) indicates that you are seeking restitution, the court must

order restitution unless the interests of justice dictate otherwise. When the judge does not order restitution, the judge must clearly state his/her reasons on the record. The Department of Corrections and Community Supervision will collect restitution if ordered by the court and the restitution order is documented on the inmate's commitment paper.

Minors can be ordered to pay restitution by the Family Court. However, restitution from juvenile delinquents may be limited to \$1,500 and restitution from persons in need of supervision (PINS) may be limited to \$1,000. Additional restitution may be pursued by commencing a civil lawsuit under certain circumstances against the parent(s) or guardian(s) of the minor.

Restitution payments are usually made to the local probation department by the perpetrator. In New York City, all restitution is referred to Safe Horizon. Payments are based on the amount ordered and disbursed according to the schedule of payments in the restitution order. The appropriate restitution collection agency will then send a check to you accordingly. You must furnish the restitution collection agency with your current address. Always notify the restitution collection agency, which is listed on the restitution order, if you have a change of address.

If the NYS Office of Victim Services has paid your bills, the court may order that restitution payments be made to the Office of Victim Services for those paid items. If you filed a claim with the NYS Office of Victim Services, it is important that you advise the Office if the court orders the perpetrator to pay restitution.

*Statutory reference: Criminal Procedure Law Section 420.10; Penal Law 60.27.*

**7. Your General Rights:**

- a. A victim of a crime, including a victim of

identity theft, can get, without charge, a copy of the police report of the crime.

*Statutory reference: Executive Law Section 646.*

- b. The victim has the right to the prompt return of property held for evidence unless there is a compelling reason for holding it.  
*Statutory reference: Executive Law Section 642(3).*
- c. The Commissioner of the Department of Motor Vehicles may waive payment of fees for replacement of driver's license, permit, registration, and license plates which are lost, destroyed or stolen as a result of a crime.  
*Statutory reference: Vehicle and Traffic Law Sections 401(3) and 503(3).*
- d. Victims (this includes next of kin of deceased victims, a "representative" of a crime victim under Section 621(6) of the Executive Law and good samaritans) shall not be subject to discharge from a job or penalty on the job when appearing as a witness in a criminal proceeding, to give a statement to the Parole Board, or consultation with the DA. Violation of this law by an employer is a B Misdemeanor. An employer may, however, withhold wages from a victim appearing as a witness in a criminal proceeding or consultation with the DA during the period of such attendance.  
*Statutory reference: Penal Law Section 215.14.*
- e. The victim or witness who so requests, shall be assisted by law enforcement agencies and the DA in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work. In addition, such agencies or the DA should assist the victim or witness by providing creditors accurate information about the

circumstances of the crime if the inability to meet obligations is a direct result of the crime.

*Statutory reference: Executive Law Section 642(4).*

- f. The victim can request that a defendant convicted of a felony sexual offense (Penal Law Article 130) be ordered to submit to human immunodeficiency (HIV) testing. The test results shall not be disclosed to the court, but will be “communicated to the defendant and the victim”. Any request made by the victim must be in writing, filed with the court and provided by the court to the defendant or his/her counsel. If the victim is an infant or incompetent person, the application for an order to compel a convicted person to undergo an HIV test can be made by a representative (as defined in Civil Practice Laws and Rules §1201).  
*Statutory reference: Criminal Procedure Law Section 390.15.*
- g. A victim of identity theft, including a victim that suffered a financial loss, is entitled to a free copy of the police report. Due to the nature of the crime, several counties may have jurisdiction over the criminal matter.  
*Statutory reference: Executive Law Section 646(2); Criminal Procedure Law Section 20.40(4)(1).*
- h. For the safety of victims who apply for a name change, if a Court finds that the applicant would have his/her safety jeopardized by publication of the name change, the Court may order the current name, new name and other identifying information sealed to prevent unauthorized use or disclosure.  
*Statutory reference: Civil Rights Law Section 64-a.*
- i. The definition of “property of another” has

been expanded for criminal mischief to include any property another has an interest in even if the defendant has an interest in the property also.

*Statutory reference: Penal Law Section 145.13.*

## **8. Rights of Child Victims:**

In addition to the rights of adult crime victims, children who are victims of crime are afforded additional rights. These rights are as follows:

1. The right to expect the various governmental agencies, including the criminal justice system and the social service agencies including child advocacy centers, to work together to minimize the number of times the child must recite the events of the crime.
2. The judge presiding should be sensitive to the psychological and emotional stress a child witness may undergo when testifying.
3. The right to expect that the same prosecutor will handle all aspects of the case whenever possible.
4. The right to a speedy trial.
5. In certain cases, the right to testify by means of a video tape or by live two way closed-circuit television.
6. The right to have a support person present and accessible during the child's testimony.
7. A child witness should be permitted, at the discretion of the court, to use anatomically correct dolls and drawings during his/her testimony.
8. All forms of child abuse, regardless of severity, will be addressed by a multidisciplinary team.

*Statutory reference: Executive Law Section 642-a, Criminal Procedure Law Article 65 and Sections 190.30(4) and 190.32; Social Services Law Sections 422 and 423.*

**9. Victims of Domestic Violence Related Crimes:**

The Penal Law includes victims of Stalking, Kidnapping in the First and Second Degree, Unlawful Imprisonment in the First Degree, Menacing in the First Degree and specific charges within Menacing in the Second Degree, Criminal Obstruction of Breathing or Blood Circulation, Harassment in the First Degree and specific charges within Harassment in the Second Degree, specific charges within Aggravated Harassment in the First and Second Degree, specific charges within Criminal Contempt in the First Degree, Labor Trafficking or Sex Trafficking. In addition, the Executive Law includes these crimes to make these victims eligible for compensation from the NYS Office of Victim Services.

*Statutory reference: Penal Law Sections 120.13, 120.14, 120.45, 120.50, 120.55, 120.60, 121.11, 135.10, 135.20, 135.25, 135.35, 215.51, 230.34, 240.25, 240.26, 240.30, and 240.31; Executive Law Sections 621(5), 631(11) and 631(12).*



# Rights of Domestic Violence Victims

Victims of domestic violence who are “members of the same family or household” can go to either Criminal Court or Family Court to obtain an order of protection. For this purpose, “members of the same family or household” include persons related by blood or marriage, persons who were formerly married regardless of whether they still reside in the same household and unrelated persons who are or have been in an intimate relationship. An intimate relationship is determined by the Court, but does not have to mean a relationship which is sexual in nature. Therefore, unmarried couples, dating couples and same-sex partners can choose to go to either Family Court or Criminal Court to obtain an order of protection.

*Statutory reference: Family Court Act Section 812(1);  
Criminal Procedure Law Section 530.11.*

Both Family Court and Criminal Court have jurisdiction over the following family offenses (Family Court Act Section 812):

- Criminal Mischief (even if property is co-owned by the offender)
- Disorderly Conduct
- Harassment in the First Degree
- Harassment in the Second Degree
- Aggravated Harassment in the Second Degree
- Menacing in the Second Degree
- Menacing in the Third Degree
- Reckless Endangerment
- Assault in the Second Degree
- Assault in the Third Degree
- Attempted Assault
- Stalking in the First, Second, Third and Fourth Degree

- Identity Theft in the First, Second and Third Degree
- Grand Larceny in the Third and Fourth Degree
- Coercion in the Second Degree (pursuant to Penal Law Sections 135.60(1),(2),(3))

Law enforcement officers must serve the order of protection without charging a fee for the service of the order regardless of whether the order of protection arises out of Criminal Court or Family Court.

*Statutory reference: Civil Practice Laws and Rules Section 8011(h)(2).*

The Criminal Procedure Law Section 140.10(4)\* requires an arrest in the following circumstances involving family/household members:

**Felonies** - If the police find that your abuser committed a felony against you, they must make an arrest. (Criminal Procedure Law Section 140.10). An example of a felony would be Assault in the Second Degree, which is an intentional assault that results in serious physical injury like a broken bone or a wound, from a weapon that lasts over a period of time. (Penal Law Section 120.05).

**Misdemeanors** - If the police find that a misdemeanor constituting a family offense is committed against you, they are required to make an arrest unless you specifically ask the police not to make the arrest. (Criminal Procedure Law Section 140.10(4)(c)). Even if you do ask them not to arrest, many police agencies will still make the arrest if they have evidence of a crime. An example of a misdemeanor would be Harassment in the First Degree, which is when a person intentionally and repeatedly harasses another by following them in a public place or by engaging in a

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\* This section expires and will be deemed repealed on Sept. 1, 2017.

course of conduct or repeatedly commits acts which places them in reasonable fear of physical injury. (Penal Law Section 240.25). In cases where the police officer has reasonable cause to believe that more than one family/household member committed a misdemeanor constituting a family offense, the police are not required to arrest both parties, but must attempt to determine who is the primary physical aggressor in the situation. In doing so, they will consider factors such as the extent of injuries, any history of domestic violence and whether one party acted in self-defense against the other. (Criminal Procedure Law Section 140.10(4)(c)).

**Order of Protection Violations** - Police must arrest when a duly served order of protection or an order that the abuser has direct knowledge of, because he or she was present in court when it was issued, has been violated by either the abuser failing to "stay away" from you or by committing another offense. This is true even if the order of protection was issued in another county or even another state, territorial or tribal jurisdiction. (Criminal Procedure Law Section 140.10(4)(b)). In many circumstances, such as when the abuser violates the order by threatening to injure you, by committing Aggravated Harassment or destroying your property worth \$250 or more, the charge that should be filed against the abuser is Criminal Contempt in the First Degree, a Class E felony. (Penal Law Section 215.51). Should the abuser violate the order by actually causing you physical injury, the charge should be Aggravated Criminal Contempt, a Class D felony. (Penal Law Section 215.52). Criminal Contempt charges can only be handled in Criminal Court, even if the original order of protection was issued out of Family Court.

If the police witness a violation (sometimes called a petty offense) being committed, they have the authority to make an arrest, although they are not required to do so. If the police do not witness the violation or do not choose to arrest, you can make a civilian arrest. This does not mean that you must physically make the arrest, but it means that you would have to sign the complaint against your partner. The police may either help you with this and take your abuser into custody, or give you information on how to get the court to take some action. (Criminal Procedure Law Section 140.40).

In addition to making arrests when appropriate, the police can help you:

- Get to a safe place away from the violence. All victims of domestic violence, including non-qualified aliens, are eligible for emergency domestic violence residential services;
- Get information on how the court can help protect you against the violence;
- Get medical care for injuries you or your children may have;
- Get necessary, personal belongings from your home for you and your children;
- Get a copy of any incident reports at no cost from the law enforcement agency; and
- File a complaint in Criminal Court and tell you where your local Criminal Court is located.

Victims of Domestic Violence are allowed to place or temporarily lift a “freeze” on their credit report free of charge upon written notice to the credit reporting agency. In addition to the written notice, proof of a valid domestic violence incident report, police report, order of protection or signed affidavit of a medical

provider or of certain victim advocates must be submitted. Additionally, credit reporting agencies are prohibited from sharing with any third party the fact that domestic violence is the basis for the request of or placement of a freeze. Victims of domestic violence shall not be discriminated against by an employer or licensing agency in terms of hiring or employment practices. Neither the state nor any political subdivision or public authority or employee thereof shall compel a victim of domestic violence to contact his or her abuser. Victims of domestic violence may also request a new telephone number, at no cost to the customer.

*Statutory Reference: General Business Law Sections 380-t and 399-yy; Penal Law Section 65.10; Executive Law Sections 292(34) and 296(1); Social Services Law Section 459-g; Public Service Law Section 91(7).*

## **Rights of Rape/Sexual Assault Victims**

If you are the victim of a sex offense, the law enforcement officer must inform you in writing, of the name, address and telephone number of the nearest rape crisis center. In addition, all police departments, DAs and presentment agencies (agencies that prosecute juvenile delinquents or persons in need of supervision) must provide a private setting for interviewing rape/sexual assault victims. The only people permitted to be present during the interview are: 1) persons directly and immediately related to the interviewing of a particular victim, 2) the victim, 3) if the victim wants, a social worker, rape crisis counselor, psychologist or other professional providing emotional support and 4) if requested by the victim, their parent(s).

*Statutory reference: Executive Law Section 642(2-a).*

A rape or sexual assault victim cannot be asked or required to take a polygraph test or psychological stress evaluator examination.

The Office of Victim Services will provide for direct reimbursement for sexual assault forensic rape exams (FRE) performed by a hospital, licensed sexual assault examiner, or other appropriate licensed health care provider. Examiners and facilities are required to accept the state's determined reimbursement fee from OVS as payment in full. The victim may assign their private insurance benefits to the examination provider, in which case, the OVS would not be billed. However, the victim may choose not to provide their private insurance information if they are concerned for their privacy and/or safety.

*Statutory reference: Executive Law Section 631(13).*

Every hospital providing emergency treatment to a rape victim shall provide information, either orally or written, regarding the availability of emergency

contraception and its use and efficacy. These hospitals are required to provide emergency contraception, unless the victim refuses or if the rape victim is already pregnant.

Hospitals are required to offer sexual offense victims the opportunity to have a rape crisis advocate or other trained sexual assault advocate present during the sexual offense examination. The sexual offense evidence will be collected and kept in a locked separate and secure area. The victim will be notified after one month that the refrigerated evidence will be discarded according to State and local health codes. The victim's clothes will be returned upon their request.

As stated previously on page 12 (7f), the victim can request that a defendant convicted of a felony sexual offense be ordered to undergo an HIV test.

Sexual assault laws have been reformed to help protect sexual assault victims, including forcible touching, persistent sexual abuse and possession and sale of the date-rape drug, GHB. The Sexual Assault Reform Act (SARA) provides stronger penalties for offenses, new crime classifications, and language changes in the penal law. Under this Act, certain sex offenders placed on conditional release or parole are prohibited from entering upon school grounds or other facilities where children are cared for unless the offender obtains the necessary authorization. Secondly, under SARA, and as a sexual assault victim, you are no longer required to report the crime to the police in order to establish eligibility for NYS Office of Victim Services compensation funds. SARA allows reimbursement for sexual assault forensic exams performed by a hospital, sexual assault examiner program or licensed health care provider. Thirdly, SARA established statutory funding for rape crisis programs. Finally, SARA allows for Sexual Assault Examiner Programs (SAE) to be designated throughout the state. SAE programs were established to improve the delivery of emergency care

to sexual assault victims. Examiners are specifically trained to care for sexual assault victims, to provide a sensitive examination, and collect forensic evidence as components of the overall treatment process. After the exam, the victim can shower and dress and is provided with follow-up information, counseling, medical treatment and referrals.

“Megan’s Law” is the “Sex Offender Registration Act” (SORA), which requires sex offenders to register with local law enforcement officials. Sexual offenders who have been designated a sexual predator, a sexually violent offender or predicate sex offender remain on the Sex Offender Registry for life. All other sex offenders register for a period of ten years. The failure of offenders to register is a crime.

There are four procedures for notifying the community about sex offenders. First, law enforcement agencies are notified whenever a sex offender moves into their jurisdiction. That agency must notify schools and other “entities with vulnerable populations” about the presence of certain offenders, if they pose a threat to public safety. Second, SORA established a telephone number which victims, employers, parents, children’s groups and the general public can call to determine whether an individual is a convicted sex offender who is required to register [1-800-262-3257, you must be at least 18 years old to call]. To learn the status of an individual, you must have the individual’s name and at least one of the following identifiers: the individual’s street address and apartment number, driver’s license number, social security number, or birth date. Third, SORA provides for distribution of the *Subdirectory of Level 3 Sex Offenders* to law enforcement agencies throughout the state. Citizens can review that *Subdirectory* at local law enforcement agencies. The *Subdirectory* includes photographs of all Level 3 offenders. Fourth, the *Subdirectory* may also be accessed via the internet at the Division of Criminal Justice Services’ website [www.criminaljustice.ny.gov](http://www.criminaljustice.ny.gov).



Citizens can also receive notices of change or update in the subdirectory of level 2 and 3 sex offenders by e-mail in a specific locality at no charge.

The “Electronic Security and Targeting of Online Predators Act” requires that sex offenders register their internet identifiers with law enforcement, permits social networking sites to access these identifiers of convicted sexual predators to prescreen or remove the predators from services used by children and prohibits certain high risk sex offenders from using the internet to victimize children. The act also authorizes sentencing courts to impose, as a condition of probation, certain limitations on sex offenders’ internet use.

*Statutory references: Executive Law Section 642(2-a)(b); Criminal Procedure Law Sections 160.45(1) and 390.15; Public Health Law Sections 2805-i and 2805-p; Penal Law Article 130 and Section 65.10(4-a); Chapter 1 of the Laws of 2000 (The Sexual Assault Reform Act); and Chapter 67 of the Laws of 2008 effective April 28, 2008 (The Electronic Security and Targeting of Online Predators Act); Correction Law Section 168-q(1).*

# State and National Contact Information for Crime Victims

A listing of local services can be obtained on our website <http://ovs.ny.gov> or by contacting the New York State Office of Victim Services.

## **American Bar Association**

1-800-285-2221 or 312-988-5522

Website - <http://www.americanbar.org>

## **Child Abuse and Maltreatment Hotline**

1-800-342-3720

## **Crime Victims' Rights**

New York State Office of Victim Services

1-800-247-8035 (victims/claimants only)

Website - <http://www.ovs.ny.gov>

e-mail - [ovsinfo@ovs.ny.gov](mailto:ovsinfo@ovs.ny.gov)

Albany (Voice) 518-457-8727

(TTY) 888-289-9747

New York City (Voice) 718-923-4325

National Association of Crime Victim

Compensation Boards

703-780-3200

e-mail - [dan.eddy@nacvcb.org](mailto:dan.eddy@nacvcb.org)

Website - <http://www.nacvcb.org>

## **Disabled**

Information and Referral (Voice and TDD)

1-800-522-4369

New York State Hotline for the Hearing Impaired

Emergency Services Dispatch

1-800-342-4357

New York Relay Service General Information

1-800-342-3377

Persons with TDD to contact persons without

1-800-662-1220

Persons without TDD to contact persons with  
1-800-421-1220

**Domestic Violence**

New York State Domestic Violence Hotline  
English – 1-800-942-6906  
Spanish – 1-800-942-6908

TDD (Telecommunications Device for the Deaf)  
Domestic Violence Hotline – 1-800-873-6363

**Elderly**

New York State Office for the Aging Senior Citizen  
Hotline – 1-800-342-9871

**National Center for Missing and Exploited  
Children**

1-800-843-5678

**National Crime Victim Bar Association**

202-467-8753  
Referral Service (attorneys specializing in victim-  
related litigation) – 202-467-8716  
website - <http://www.victimsofcrime.org>  
e-mail - [victimbar@ncvc.org](mailto:victimbar@ncvc.org)

**New York State Department of Corrections and  
Community Supervision**

1-800-783-6059

**New York State Parole Victim Impact Unit**

518-486-4400 or 1-800-639-2650

**Sex Offender Registry Information Line**

1-800-262-3257  
Website - <http://www.criminaljustice.ny.gov>

**U.S. Attorney Offices**

Northern District of New York, Syracuse  
315-448-0672

Southern District of New York, New York  
1-212-637-2200

Eastern District of New York, Brooklyn  
718-254-7000

Western District of New York, Buffalo  
1-800-320-0682

**Victim Information and Notification Everyday  
(VINE)**

1-888-VINE4NY (846-3469)

Website - <http://www.doccs.ny.gov>

(Crime & release information on convicted  
felony offenders in custody of the New York  
State Department of Corrections and  
Community Supervision)

# **LOCAL VICTIM SERVICE**

# **THE CRIMINAL JUSTICE** **PROCESS**

## **FELONY OFFENSES:**



Note: With the permission of the court, a defendant may plead guilty at any stage of the criminal proceeding after (and including when) he/she is arraigned. An exception is when the defendant is arraigned on a felony complaint in local court. The defendant must plead to a felony in superior (county or supreme) court.

## MISDEMEANOR OFFENSES:



**Arrest** - The process of taking a person into legal custody to answer a criminal charge.

**Arraignment** - The initial step in a criminal process where a defendant is formally charged in court with an offense and is given a copy of the written accusatory instrument filed against the defendant.

**Indictment** - A written accusation by a Grand Jury, charging one or more persons with a crime. Felonies must be presented to a Grand Jury before trial.

**Hearing** - A hearing is a proceeding where judicial functions are held before a magistrate and without a jury at any stage of the proceeding, usually brought by a motion made by the defense or prosecution. Preliminary hearings determine such matters as what evidence will be admitted, and if there is sufficient evidence to go forward.

**Trial** - A judicial examination, held with or without a jury, of issues between parties before a court that has jurisdiction over the cause. Trials are governed by established procedures and court rules and usually involve offering of testimony or evidence.

**Pre-Sentence Report** - Material consisting of prior convictions, employment history, education, family, social background and a victim impact statement prepared by a probation department to assist the trial court in sentencing a criminal defendant after he/she has been convicted.

**Sentencing** - The punishment ordered by a court to be imposed upon a person convicted of a crime. It may include restitution, fines, community service, counseling, probation, incarceration in a jail or prison, or a combination of one or more

