



Brief 98-3

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RIGHTS OF CRIME VICTIMS AND WITNESSES

1997 Wisconsin Act 181, passed by the legislature and signed by Governor Tommy Thompson to take effect on December 1, 1998, expands the rights of victims and witnesses of crimes and provides enforcement mechanisms.

BACKGROUND

In April 1993, Wisconsin voters ratified a constitutional amendment that added Article I, Section 9m to the Declaration of Rights to require the state to treat crime victims “with fairness, dignity and respect for their privacy”. Section 9m recognizes specified privileges and protections for crime victims and directs the legislature to provide remedies for violations of those rights. Subsequent to the referendum, the Crime Victims Council, which had been created in 1980, held hearings around the state that helped to shape 1997 Wisconsin Act 181 (1997 Assembly Bill 342). Act 181 implements the constitutional amendment by reorganizing, adding to, and strengthening the statutory protections granted crime victims and witnesses. These rights apply to all felonies and misdemeanors.

RIGHTS OF CRIME VICTIMS

Act 181, effective December 1, 1998, lists in Section 950.04 (1v), Wisconsin Statutes, the rights of crime victims as protected by the Wisconsin Constitution and statutory law. Major provisions include:

- Speedy disposition of the case.
- Reasonable attempt to notify victims and provide them the opportunity to attend court proceedings.
- Opportunity to consult with prosecution and law enforcement authorities.
- A waiting area separate from defendant and defendant’s family and witnesses, if practical.
- Restitution and compensation.
- Opportunity to offer facts to the court regarding the economic, physical and psychological effects of the crime on the victim.
- Intercession services to encourage employers to minimize an employee’s loss of pay and benefits from court appearances.
- Expedient return of any personal property when it is no longer needed by authorities as evidence.
- Opportunity to request an order for, and be given the result of, testing the accused for a sexually transmitted disease or the virus that may cause AIDS.

- Opportunity for direct input into the parole and pardon processes in certain cases.
- Information upon request about the outcome of the case and changes in the resulting confinement or release of the convicted defendant or the prisoner's escape from a maximum security prison.

Within 24 hours after initial contact with a crime victim, law enforcement agencies must make a reasonable attempt to provide the person a listing of victim rights and information regarding the exercise and enforcement of those rights. The police or sheriff's department must also make the victims aware of possible compensation and tell them how to seek protection if they are subject to threats or intimidation arising out of cooperation with law enforcement or prosecution efforts. District attorneys are required to provide a list of rights and other information to victims no later than 10 days after the initial court appearance or at least 24 hours before a preliminary examination, whichever is earlier.

RIGHTS OF WITNESSES

Witnesses of crimes are entitled to rights similar to those guaranteed to victims, including speedy disposition of the case, employer intercession services, a separate waiting area, return of property, information about protection in case of intimidation, and case disposition information upon request. In addition, witnesses must receive notification that a court proceeding to which they have been subpoenaed will not occur as scheduled, in order to save the person an unnecessary trip to court. Witnesses must also be informed of available financial assistance, witness fees and social services.

COMPLAINT PROCEDURE AND PENALTIES

If a crime victim has a complaint regarding treatment by public officials or agencies, he or she must first take the complaint to the Department of Justice for possible mediation. If not satisfied, the aggrieved victim may submit the complaint for review by the Crime Victims Rights Board, which is created by Act 181. If a board investigation finds that a right was violated, it may issue private and public reprimands, seek a court order to enforce victim rights, or bring civil action for forfeiture in circuit court. A public official or agency who intentionally violates victim rights may be subject to a forfeiture of up to \$1,000.

FOR MORE INFORMATION

For copies of 1997 Wisconsin Act 181 contact the Legislative Reference Bureau at (608) 266-0342. For further information about victim and witness rights, contact the Department of Justice, Office of Crime Victim Services, at (608) 264-9497 in Madison, (800) 446-6564 outstate, or the appropriate county district attorney or local law enforcement agency.