

OREGON CRIME VICTIMS' RIGHTS LIST

For Practitioners

(With Case Law)

April 16, 2007

Introductory Remarks

This list of crime victims' rights is a synthesis of rights given to crime victims in the Oregon Constitution, Oregon statutes and other sources of law. Whether or not a right applies may depend on the definition of victim that applies to the right, whether or not a victim requested a right that required such a request, and whether or not the offense was committed by a juvenile or an adult. This list is a work in progress, subject to change, and is intended to inform Oregon practitioners. For more information about this list, crime victims' rights compliance, or victims' services, please contact the Crime Victims' Assistance Section of the Oregon Department of Justice at (503) 378-5348. Many thanks are due the National Crime Victim Law Institute for providing the case law for this version of the list.

Foundational Rights

1. A crime victim has a right to justice, a right to a meaningful role in the criminal and juvenile justice systems, a right to due dignity and respect, and a right to fair and impartial treatment. A crime victim's rights shall be protected at each stage of the criminal justice system. Or Const Art 1 § 42(1). ORS 147.410.

Initial Notice of Rights

2. A crime victim shall be given notice about victims' rights in Oregon's constitution as soon as practicable. If exercise of any of the rights depends upon a victim making a request, the notice shall include the time period in which a victim is required to make the request. Or Const Art 1 § 42(1)(g). ORS 147.417. Applies to Juvenile System via ORS 419C.270.

Rights at Various Stages of the Criminal System

3. The victim of a person crime who was at least 15 years old when the crime is committed, may select a personal representative to accompany the victim to phases of the investigation and prosecution of the crime except for grand jury proceedings and certain child abuse assessments. ORS 147.425.
4. A crime victim may be eligible for compensation for a crime. Furthermore, victims of sexual assault, suspected child sexual abuse or child physical abuse may have the costs of certain medical assessments paid by the Oregon Department of Justice. Sec. 2, Chapter 789, Oregon Laws 2003. ORS 147.015. ORS 147.390. ORS 147.015. (Compensable losses are listed in ORS 147.035. Emergency awards are described in ORS 147.055.)
5. A crime victim may have, upon request and prior to trial, a court order prohibiting distribution of evidence in a proceeding involving a sexual offense, an offense involving the visual or audio recording of sexual conduct by a child, or invasion of person privacy. ORS 135.873. Applies to Juvenile System via ORS 419C.270.
6. A crime victim has, upon specific request, the right to be informed in advance of any critical stage of the proceedings held in open court when the defendant or alleged youth offender will be present. A crime victim has the right to be present at any such stage of

- the proceedings. Or Const Art 1 § 42(1)(a). See also ORS 40.385: Exclusion of witnesses rule does not authorize exclusion of the victim in a criminal case.
7. A crime victim may have a copy of a transcript, audiotape or videotape of any court proceeding in open court, if one is otherwise prepared. Or Const Art 1 § 42. ORS 147.419. Further application to Juvenile System via ORS 419C.270.
 8. A public body shall provide to the victim any of the following information of which it is the custodian and that is about the defendant, alleged youth offender, convicted criminal, or youth offender: (a) the conviction and sentence; (b) criminal history; (c) imprisonment; and (d) future release from physical custody. Or Const Art 1 § 42. ORS 147.421. Further applies to Juvenile System via ORS 419C.270.
 9. A crime victim has the right to be reasonably protected from the criminal defendant, convicted criminal, the alleged youth offender, or youth offender throughout the criminal justice process or juvenile delinquency proceeding. Or Const Art 1 § 43(1)(a).
 10. A crime victim has the right to have an address and phone number withheld from the defendant upon request unless good cause is otherwise shown. ORS 135.970(1). Applies to Juvenile System via ORS 419C.270. A victim of domestic violence, sexual assault or stalking may have a substitute address designated when disclosure of the address may threaten the safety of the victim or the victim's child. ORS 192.820 – ORS 192.868.
 11. When a criminal act involves the transmission of body fluids, a crime victim may request HIV testing of the person charged or convicted of the offense, which, under certain circumstances, the court must order. If any such HIV test is positive, a victim shall be provided with counseling and referral for appropriate health care, testing and support services. The costs of this testing and counseling shall be paid through the crime victims' compensation program. ORS 135.139.

Pre-Trial Rights

12. A crime victim has the right to be notified by the district attorney of the release hearing upon timely request. A crime victim has the right to appear personally at the release hearing and to reasonably express any views relevant to the issues before the magistrate. Or Const Art 1 § 42. ORS 135.245(5)(B).
13. A crime victim has the right to have decisions by the court regarding the pretrial release of a criminal defendant based, in part, on the principle of reasonable protection of the victim. Or Const Art 1 § 43.
14. Any pretrial release order must prohibit any contact with the victim, unless specifically authorized by the court. If the defendant threatens or intimidates the victim, the district attorney shall notify the court and the defense attorney. If the defendant is not in custody and the court finds there is probable cause to believe the victim has been threatened or intimidated by the defendant, the court shall immediately issue an order to show cause why defendant's release status should not be revoked. ORS 135.250. ORS 135.970.

15. If contacted by the defense, a victim must be clearly informed by the defendant or alleged youth offender's attorney of the identity and capacity of the person contacting the victim, that the victim does not have to talk to the defendant or alleged youth offender's attorney, or provide other discovery (except subpoenas and examinations allowed defense counsel) unless the victim wishes, and that the victim may have a district attorney present during any interview. Or Const Art 1 § 42. ORS 135.970. Applies in the Juvenile System through ORS 419C.270(7).

The Oregon Supreme Court has determined a subpoena *duces tecum* is improper where it requests pretrial production from a non-party victim. In *State v. Cartwright*, 85 P.3d 305 (Or. 2004), on appeal from his conviction for harassment and criminal trespass, defendant argued that the trial court erred in quashing the subpoenas *duces tecum* commanding production of audiotaped prior statements of witnesses. The court held that while defendant had the right to audiotapes at trial, he had no right to them prior to trial. In reaching this conclusion, the court explained that a subpoena *duces tecum* directed to a non-party cannot be used as a discovery device to command the pretrial production of evidence to be used at trial.

Oregon appellate courts have also concluded that an *in camera* examination of certain records and files held by the state is appropriate to determine whether those files or records contain exculpatory information to which the defendant is entitled. See *State ex rel. Dugan v. Titkin*, 837 P.2d 959 (Or. 1992) (issuing a writ of mandate and ordering the trial court to engage in an *in camera* review of confidential records concerning the child-victim to determine whether any portion of those records should be released to defendant); *State v. Leslie*, 850 P.2d 1134 (Or. Ct. App. 1993) (holding that the trial court's *in camera* examination of victim's personnel files, police officers involved in the altercation underlying the criminal charges against defendant, "was the appropriate procedure" to determine whether the files contained exculpatory material to which defendant would be entitled).

In *State v. Gallup*, 816 P.2d 669 (Or. 1991), defendant appealed her conviction for sexual abuse, arguing, *inter alia*, that genitalia of the two child-victims were tangible objects in the prosecutor's possession that were subject to discovery. The court explained that even if a child-victim's genitalia was a tangible object within the meaning of the discovery statute, the district attorney has no custodial relationship to a victim that would provide the authority to compel an examination.

The right to refuse a pretrial discovery request is broad. In *State ex rel. Beach v. Norblad*, 781 P.2d 349 (Or. 1989), the widow of a deceased victim brought an original proceeding in mandamus to direct the trial court judge to vacate his order requiring her to permit defendant access to her home where a murder occurred. The supreme court explained that the trial court lacked the authority to issue the order to a non-party, and it issued an alternative writ of mandamus directing the trial court to either vacate the order or show cause why it had not done so.

16. In any prosecution arising from an automobile collision in which the defendant is alleged to have been DUII, the prosecuting attorney shall make available to a victim, upon request, reports and information disclosed to the defendant. ORS 135.857. Applies to Juvenile System via ORS 419C.270. If a DUII offense involves damage to property of a person other than the defendant, the victim of the property damage has a right to be present and to be heard at any hearing on a petition for a diversion agreement. ORS 813.222(1).

17. If a victim of a violent felony makes a timely request, the district attorney shall consult the victim regarding plea discussions before making a final plea agreement. If a victim asks to be consulted, the judge shall ask the district attorney if the victim agrees or disagrees with the plea discussions and agreement and the victim's reasons for agreement or disagreement. Or Const Art 1 § 42. ORS 135.406.

Following the victim's exercise of his or her right to confer with the prosecutor, the prosecutor may not constitutionally allow a victim to prevent a plea agreement that would otherwise be offered, but the prosecutor may offer a plea agreement based on the victim's wishes where such an offer would not otherwise have been made. *See State v. Acker*, 27 P.3d 1071 (Or. Ct. App. 2001).

18. In determining whether diversion of a defendant is in the interests of justice and of benefit to the defendant and the community, the district attorney shall consider, among other things, recommendations, if any, of the victim. ORS 135.886(2)(h).

Trial and Sentencing

19. When resetting any trial date or setting any court hearing requiring the presence of the victim, the court shall take the victim into consideration by asking the district attorney if the victim has been informed of the prospective date and if that date is convenient for the victim. ORS 136.145. Furthermore, an eligible employee may notify the prosecuting attorney if taking leave to attend a criminal proceeding would cause undue hardship to the covered employer. The prosecuting attorney shall then notify the court or hearing body. The court or hearing body must take the schedule of the employee into consideration when scheduling a criminal proceeding. Criminal proceeding is used as defined by ORS 131.005(7). ORS 659A.192(4). See also ORS 136.295(4) re: an extension of custody when a court fails to comply with this provision; and UTCR 4.040(2).

20. In a prosecution for rape, sodomy, unlawful sexual penetration, or sexual abuse, or in a prosecution for an attempt to commit one of these crimes, the following evidence is not admissible: Reputation or opinion evidence of the past sexual behavior of an alleged victim; or reputation or opinion evidence presented for the purpose of showing that the manner of dress of an alleged victim incited the crime or indicated consent. In a prosecution for these crimes or attempt to commit one of these crimes, evidence of a victim's past sexual behavior other than reputation or opinion evidence is also inadmissible unless admitted in accordance with the Oregon Evidence Code and is evidence that relates to the motive or bias of the alleged victim, is necessary to rebut or explain scientific, medical or testimonial evidence offered by the state, is necessary to establish the identity of the victim or is otherwise constitutionally required to be admitted. ORS 40.210. Oregon Evidence Code, Rule 412.

In *State v. Iverson*, 57 P.3d 953 (Or. Ct. App. 2002), the trial court prevented defendant from inquiring about whether an examining physician had asked whether the victim had been sexually assaulted, thereby providing an opportunity for her to report the abuse, which she did not do. The court concluded that this evidence was not protected by the Rape Shield law.

Evidence of a victim's venereal disease meets the definition of "past sexual behavior," and as such, the Rape Shield law prohibits the admission of such evidence. *State v. Cunningham*, 995 P.2d 561 (Or. Ct. App. 2000).

Exclusion of evidence prohibited by the Rape Shield law does not violate defendant's constitutional rights, *id.* at 1206, including a defendant's right to compulsory process. *See State v. Beeler*, 999 P.2d 497, 502 (Or. Ct. App. 1999) (stating, "the constitutional issues reduces to a weighing of the state's interest in excluding defendant's evidence against the value of that evidence to the defense." In *Anderson*, the court explained that a "[d]efendant's right to present a defense does not include a constitutional right to present irrelevant, prejudicial evidence." *Id.* at 1208.

In *State v. Beeler*, 999 P.2d 497 (Or. Ct. App. 1999), the court concluded that Rule 412 prohibited the admission of evidence that the victim had engaged in consensual sex with her boyfriend less than 24 hours following the sexual assault by defendant. *See also State v. Niles*, 817 P.2d 293 (Or. Ct. App. 1991) (holding that the trial court properly excluded evidence that the victim had consensual sex with two other men). *But see State v. Morgan*, 675 P.2d 513 (Or. Ct. App. 1984) (concluding that evidence of prior consensual sexual intercourse between defendant and the victim was probative as to her motive to make a false accusation of rape and therefore, was admissible under the Rape Shield law).

Under Rule 412, evidence of prior sexual abuse is admissible if it is relevant to the motive or bias of the victim. *State v. Bender*, 986 P.2d 94 (Or. Ct. App. 1999). In *Bender*, the court upheld the trial court's decision to admit evidence of similar sexual abuse by child-victim's father, and the victim's report to CARES workers about that abuse, that she had a premonition that the abuse would occur, and that she called out her father's name upon waking up on the night of the assault by defendant. The court explained that evidence of the prior sexual abuse was relevant to defendant's theory that the child had not been sexually abused by defendant but rather had been having a nightmare about her father's prior abuse.

Evidence of prior treatment for a sexually transmitted disease is not admissible under the Rape Shield law. *State v. Gilliland*, 902 P.2d 616 (Or. Ct. App. 1995).

Evidence that a victim previously exchanged sex for drugs with other men in the past was prohibited by the Rape Shield law. *State v. Thompson*, 884 P.2d 574 (Or. Ct. App. 1995). The court explained: "There is no logical connection between the complainant's supposed history of having offered to trade sex for drugs and any motive to accuse the defendant in this case."

In *State v. Frankel*, 823 P.2d 394 (Or. 1991), under a version of the Rape Shield law that has since been amended, the court concluded that while a trial court must hold a hearing in chambers to determine the admissibility of evidence under the Rape Shield law, that hearing need not be closed to the public. The court's discussion of victim's privacy concerns remains relevant.

In *State v. Weeks*, 782 P.2d 430 (Or. Ct. App. 1989), the court concluded that evidence of the child-victim's sexual contact with other persons was not relevant to show a motive to falsely accuse defendant of sexual misconduct and, therefore, was inadmissible under the Rape Shield law.

In *State v. Wattenbarger*, 776 P.2d 1292 (Or. Ct. App. 1989), the court held that acts of sexual abuse perpetrated against the victim by five other individuals should be excluded under the Rape Shield law. The court also found that evidence of the victim's hostility towards defendant and evidence that another child who was in the same foster home as the victim had also made a report of sexual abuse were not protected under the Rape Shield law.

In *State v. Bender*, 755 P.2d 151 (Or. Ct. App. 1988), the court held that defendant was prohibited from introducing evidence of the victim's alleged sexual affairs because that evidence was not relevant to show bias or motive to falsely accuse and would constitute improper impeachment evidence.

In *State v. Morgan*, 675 P.2d 513 (Or. Ct. App. 1984), the court concluded that evidence of prior consensual sexual intercourse between defendant and the victim was probative as to her motive to make a false accusation of rape and therefore, was admissible under the Rape Shield law.

Rule 412, the Rape Shield law, was "intended to balance the interest of the victim of a sexual crime in protecting her private life from unwarranted public exposure and the defendant's interest in being able to present an adequate defense by offering relevant and probative evidence." *State v. Bass*, 683 P.2d 1040, 1041 (Or. Ct. App. 1984). The Rape Shield law is also applicable where defendant raises an affirmative defense. *State v. Anderson*, 902 P.2d 1206 (Or. Ct. App. 1984).

In *State v. Reiter*, 672 P.2d 56 (Or. Ct. App. 1983), the court concluded that the Rape Shield law was inapplicable where defendant sought to impeach the victim as to a statement she made on direct examination.

21. At a victim's request, there shall be no public access coverage of sex offense proceedings in court. UTCR 3.180(2)(d).
22. The preparer of a pre-sentence investigation report shall make a reasonable effort to contact the victim and obtain a statement describing the effect of the defendant's offense on the victim. The preparer of the report shall include the statement of the victim in the pre-sentence report. ORS 137.530(2).

In *In the Conduct of Collins*, 775 P.2d 312, 315-16 (Or. 1989), the State Bar instituted a disciplinary proceeding against a district attorney based upon his disclosure of a presentence report (PSR) to a volunteer crime victim's advocate working in his office, who in turn disclosed some of the information contained therein to the victim. The court

noted that ORS 137.077 provides that the presentence report is not a public record and, contrary to the Bar's trial panel finding, the court concluded that the statute contained no express prohibition against disclosure of the report's information to non-party victims. The court explicitly left open the issue of whether the Bar's trial panel finding that the prosecutor was prohibited from disclosing information in the PSR to anyone not designated in the statute would violate the legislative policy set forth in the Crime Victims' Bill of Rights – to permit meaningful participation by crime victims in the criminal justice decision making process. *Id.* at 316 n. 12.

23. At the time of sentencing, the victim has the right to appear personally or by counsel, and has the right to reasonably express any views concerning the crime, the person responsible, the impact of the crime on the victim, and the need for restitution and compensatory fine. Or Const Art 1 § 42. ORS 137.013.

Admission of victim impact evidence pursuant to the 1999 amendment to the Oregon Constitution granting victims the right to be heard at sentencing does not violate the *ex post facto* clauses of the federal and state constitutions. *State v. Guzek*, 86 P.3d 1106 (Or. 2004), *vacated on other grounds*, 126 S.Ct. 1226 (2006).

In *State v. Deck*, 735 P.2d 637 (Or. Ct. App. 1987), defendant argued, *inter alia*, that the trial court erred in allowing the victim to testify as a witness in aggravation, over his objection, about defendant's daughter's statements that she too had been abused by defendant. The court concluded that the rules of evidence regarding hearsay are applicable to the testimony of witnesses in a sentencing hearing where that testimony is to be used to aggravate punishment. Therefore, the court vacated the sentence and remanded for resentencing. The issue of whether the rules of evidence regarding hearsay are admissible when a victim is exercising the right of allocution rather than testifying as a witness in support of aggravation was not raised by the parties or addressed by the court.

Post-Conviction Rights

24. When a defendant is found guilty except for insanity, or is already under the jurisdiction of the Psychiatric Security Review Board, and a victim desires notification, the Board shall make a reasonable effort to notify the victim of Board hearings, conditional release, discharge or escape. ORS 161.326.
25. The State Police shall establish a toll-free telephone number to give victims of sex offenses updates on prison status, release information, parole status and any other information authorized for release about the person who committed the crime against the victim. ORS 181.601.
26. If a person is on post-prison supervision following conviction of a sex crime, the board or supervisory authority shall include a prohibition against any contact with the victim, directly or indirectly, unless approved by the victim, the person's treatment provider and the board, supervisory authority or supervising officer. ORS 144.102(3)(b).
27. If a person is on post-prison supervision following conviction of a sex crime or an assault and the victim was under 18 years of age, the board or supervisory authority, if requested by the victim, shall include as a special condition of the person's post-prison supervision that the person not reside within three miles of the victim unless certain exceptions apply. ORS 144.102(3)(c)(A). A victim may request imposition of this special condition of

post-prison supervision at the time of sentencing in person or through the prosecuting attorney. A victim's request may be included in the judgment document. ORS 144.102(3)(c)(B).

28. If the Parole Board, the Department of Corrections or community corrections agency determines that a person under its supervision is a predatory sex offender, the agency supervising the person shall consider notifying any prior victim of the offender that the person is a predatory sex offender. ORS 181.586.
29. A victim has the right to receive prompt restitution from the convicted criminal who caused the victim's loss or injury. Or Const Art 1 § 42. When a person is convicted of a crime that resulted in pecuniary damages, the district attorney shall investigate and present to the court, prior to the time of sentencing, evidence of the nature and amount of such damages. If the court finds that a victim suffered pecuniary damages, the court shall: (a) Include in the judgment a requirement that the defendant pay the victim restitution in a specific amount that equals the full amount of the victim's pecuniary damages; or (b) Include in the judgment a requirement that the defendant pay the victim restitution, and that the specific amount of restitution will be established by a supplemental judgment. In the supplemental judgment, the court shall establish a specific amount of restitution that equals the full amount of the victim's pecuniary damages as determined by the court. ORS 137.106(1). See also ORS 419C.236(2) re: restitution in juvenile formal accountability agreements.

In *State v. Carrillo*, 865 P.2d 379 (Or. Ct. App. 1993), defendant was convicted of rape and sodomy of a child under 12 years of age. The trial court ordered that defendant pay restitution to the minor-victim's mother for counseling expenses. On appeal, the court concluded that the victim's mother qualified as a "victim" for purposes of restitution, notwithstanding that she did not receive a "direct physical injury" as a result of defendant's conduct. The court explained, however, that the victim's mother was only entitled to restitution for "pecuniary damages" – damages that could be recovered in a civil action arising out of the facts or events of defendant's criminal activities – and the victim's mother would not be entitled to recover damages in a civil proceeding; therefore, it was error for the trial court to order restitution for the victim's mother's counseling. See Note in *State v. Barkley* regarding amendment of the definition of "pecuniary."

In *State v. Hart*, 699 P.2d 1113 (Or. 1985), defendant was convicted of second degree assault and ordered to pay restitution to Children Services Division for the treatment of the child-victim's injuries caused by the assault. The supreme court affirmed the award, concluding that the defendant was not entitled to a jury trial on the issue of restitution, the state's restitution statutes do not violate due process, and the amount of restitution was not excessive.

30. Whenever the court imposes a fine for the commission of a crime for which the person injured has a civil remedy, the court may order that the defendant pay any portion of the fine. This section shall be liberally construed in favor of victims. Compensatory fines may be awarded in addition to restitution. ORS 137.101.

In *State v. Donahue*, 995 P.2d 1202 (Or. Ct. App. 2000), defendant appealed his conviction and sentence, arguing, *inter alia*, that the trial court erred in imposing a compensatory fine to cover the victim's scheduled counseling appointment. The court noted that while a pecuniary loss can include counseling costs, and it can also include

predictable and easily measurable future treatment, the court concluded it was error to order the compensatory fine solely on a future scheduled appointment because the mere fact that the victim was scheduled for an appointment did not establish that she had or would incur the pecuniary cost.

In *State v. Barkley*, 46 P.2d 390 (Or. 1993), defendant was convicted of rape and sodomy, and pursuant to ORS 137.101, the court imposed a compensatory fine payable to the child-victim's mother to compensate her for wages lost while she accompanied the child-victim to court. The court first explained that a compensatory fine on behalf of the mother was not statutorily prohibited under ORS 137.103, notwithstanding that the child-victim's mother did not suffer direct physical injury. Further, the court explained, lost wages were the type of pecuniary loss that was permissible pursuant to ORS 137.101(1). The court, however, held that because there was no theory of civil liability under which the child-victim's mother could recover her lost wages from defendant, as required by ORS 137.101(1), the compensatory fine was improper. Note: Since the decision in this case, the definition of "victim" in ORS 137.106 has been amended; the term "pecuniary" has been changed to "economic" damages. See 2005 Oregon Laws ch. 564 (H.B. 2230) (amending ORS 137.106, and changing "pecuniary" to "economic" damages).

31. When a youth offender has been found to be within the jurisdiction of the juvenile court for defacing property by creating graffiti, the court may order the youth offender to perform personal service consisting of removing graffiti or if the victim does not agree to the personal service, community service consisting of removing graffiti at some other location. ORS 419C.461.
32. The court shall notify the parties to a juvenile court action and any other interested parties of a dispositional review hearing. The notice shall state the time and place of the hearing. ORS 419C.653(2).
33. At the hearing at the half-sentence point of a person who was under 18 years old at the time of the commission of the offense for which the person was sentenced to a term of imprisonment of at least 24 months, the person must prove by clear and convincing evidence that if conditionally released, the person would not be a threat to the safety of the victim or the victim's family. ORS 420A.203(3)(k), ORS 420A.203(4)(a)(B)(ii), 420A.203(4)(b)(I).
34. When a prosecuting attorney is served with a copy of a motion to set aside a conviction, the prosecuting attorney shall provide a copy of the motion and notice of the hearing date to the victim by mailing a copy of them to the victim's last-known address. The court shall allow the victim to make a statement at the hearing. ORS 137.225.
35. The State Board of Parole and Post-Prison Supervision must attempt to notify a victim, if the victim requests to be notified and furnishes the board a current address, at least 30 days before all hearings by sending written notice to the victim's current address. Victims have the right to appear at any hearing or, in their discretion, to submit a written statement adequately and reasonably expressing any views concerning the crime and the person responsible. The victim shall be given access to the information that the board or division will rely upon and shall be given adequate time to rebut the information. The victim may present information or evidence at any hearing, subject to such reasonable rules as may be imposed by the offices conducting the hearing. ORS 144.120.

This statutory provision will not support a defendant's request to admit victim's statements. See *Meriweather v. Board of Parole*, 775 P.2d 340 (Or. Ct. App. 1989) (rejecting defendant's argument that the Parole Board erred in refusing to consider a tape of a conversation between the victim and a private investigator where defendant's basis for such admission was ORS 144.120(7)).

36. A victim has the right, upon timely request, to be notified by the State Board of Parole and Post-Prison Supervision of any hearing before the Board that may result in the revocation of the parolee's parole, or in a revocation sanction for a post-prison supervision violation; to appear personally at the hearing; and, if present, to reasonably express any views relevant to the issues before the Board. ORS 144.108(5)(a). ORS 144.343(9)(a). If a victim so requests, the Board or the Department of Corrections, as the case may be, shall notify the victim of release of a convicted person from a Department of Corrections institution on parole or post-prison supervision. ORS 144.260(3)
37. A victim has the right, upon timely request, to be notified by the district attorney of any hearing before the court that may result in the revocation of the defendant's probation; to appear personally at the hearing; and if present, to reasonably express any views relevant to the issues before the court. ORS 137.545(11)(a).
38. Upon agreement of a youth offender, the youth offender's parent or guardian and the victim of the youth offender's conduct, the court may order a youth offender to perform personal service for the victim as a condition of probation. Personal service performed pursuant to the order shall constitute full or partial satisfaction of any restitution ordered, as provided by agreement prior to the making of the order. ORS 419C.465.
39. An early disposition program for first-time offenders who have committed a nonperson offense and for persons charged with probation violations must provide victim notification and appearance. ORS 135.943.

Civil Legal Rights for Victims of Crime

40. Whenever any peace officer has reason to believe that a family or household member has been abused, or that an elderly person or a person with disabilities has been abused, that officer shall use all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community and giving each person immediate notice of the legal rights and remedies available. ORS 133.055(3).
41. A family abuse victim has the right to receive an instruction brochure, a petition, order and related forms from the clerk of the circuit court explaining the rights set forth in Oregon Family Abuse Prevention Act provisions. These rights include certain mandatory relief for up to one year and allowing a petitioner to provide a mailing or contact address instead of a residential address. ORS 107.718.

Prior to issuing a restraining order under the Family Abuse Prevention Act, the court must find: "that the petitioner 'has been the victim of abuse committed by the respondent within 180 days preceding the filing of the petition' [;] and that 'there is an immediate and present danger of further abuse to the petitioner.'" *In the Matter of the Marriage of Strother*, 883 P.2d 249, 252 (Or. Ct. App. 1995). Once a restraining order is issued following a hearing provided for in ORS 107.718(6), it is an appealable order. *Id.*

42. When any court enters a decree, order or modification of a decree or order under certain family and assistance payment law, the court shall allow any party to the decree or order to include in the decree or order a waiver of personal service in a subsequent contempt proceeding in order to maintain the confidentiality of a residential address. ORS 107.835.
43. A victim of domestic violence, sexual assault or stalking may not be disqualified from receiving unemployment benefits if the individual has no reasonable available alternatives to leaving work to protect the individual or minor child from further domestic violence, sexual assault or stalking at a workplace or elsewhere. ORS 657.176(12).
44. A covered employer shall allow an eligible employee to take leave from employment to attend a criminal proceeding. ORS 659A.192.
45. A victim of domestic violence, sexual assault, or stalking, may terminate a rental agreement with a 14 day notice within 90 days of the crime, and has the right to have locks changed by the owner of rental property. ORS 90.453. ORS 90.459.
46. The Violence Against Women and Justice Department Reauthorization Act of 2005 protects qualified public housing and Section 8 tenants and family members of tenants who are victims of domestic violence, dating violence, or stalking from being evicted or terminated from housing assistance based on acts of such violence against them. 42 USC § 1437d (2005); 42 USC § 1437f (2006).
47. A victim of domestic violence may have a right, in some Oregon Housing Authorities, to a housing preference.
48. A person at risk for family, elder or disabled people abuse, has the right to go on a payment plan rather than have basic phone service disconnected for unpaid bills. ORS 759.690 – Note Following; Chapter 204, Oregon Laws 2005.
49. Any protection order issued by the court of one state or Indian tribe, after reasonable notice was given to the person against whom the order was made sufficient to protect due process rights, shall be accorded full faith and credit by the court of another state or tribe and enforced as if it were the order of the enforcing state or tribe. 18 USC § 2265.
50. The Department of Homeland Security may not release information about certain victims of domestic violence and their children without the victim’s consent. VAWA, 18 USC § 384.
51. Oregon residents who are victims of domestic violence or are at risk of becoming victims may be eligible for Temporary Assistance to Domestic Violence Survivors (TA/DV) emergency monetary grants through the Oregon Department of Human Services. Applicants must have children or be pregnant to qualify. Emergency monetary relief order under the Family Abuse Prevention Act does not affect eligibility for a TA/DVS grant. *See* OAR 461-135-1210 et seq.
52. Qualified victims of crime who are immigrants or certain family members of immigrants who are crime victims, may petition U.S. Citizenship and Immigration Services for: lawful permanent residency, readjustment of status, cancellation of a deportation order, a U visa, or a T visa. 8 USC Sec. 1110 et seq.; 8 CFR 1240.65;(d)(1); INA 101(a)(15)(U); INA 101(a)(15)(T). *See* also 8 USCA Sec. 1367(a)(1).

53. The Department of Homeland Security may not make unfavorable immigration decisions based solely upon information provided by a spouse, parent, or other family member who resides in the same household as the immigrant, who is abusive toward the immigrant or the immigrant's child. 8 USCA Sec. 1367(a)(1).

54. Victims of crime who are immigrants may access emergency medical care and police assistance, may have the perpetrators of the crimes against them prosecuted, and may obtain community based services necessary to protect life and safety. H.R. REP. NO. 104-725 (1996); 61 Fed. Reg. 45,985 (Aug. 30, 1996); 63 Fed. Reg. 41,662 (Aug. 4, 1998); 62 Fed. Reg. 61,344, 61,346 (Nov. 17, 1997); 8 USC Sec. 1642(d).