

CRIME VICTIMS' RIGHTS

INFORMATION ABOUT RIGHTS

To be informed of these rights as soon as practicable. A law enforcement agency must provide verbal or written notice of the victim's rights under the Oregon Constitution as soon as is reasonably practicable in a criminal action (Or Const Art 1 § 42; ORS 147.417).¹

CRIMINAL PROCEEDINGS (INCLUDING JUVENILE COURT DELINQUENCY PROCEEDINGS)

Upon specific request:

- to be informed in advance of any critical stage of the proceedings, to be held in open court, when the defendant will be present (Or Const Art 1 § 42)
- To be present (Or Const Art 1 § 42)

Pretrial Release Hearings

- ✓ Upon timely² request, to be notified by the district attorney of the release hearing (ORS 135.245);
- ✓ To appear (ORS 135.245);
- ✓ If present, to be heard on relevant issues (Or Const Art 1 § 42; ORS 135.245);
- ✓ To have pretrial release decisions consider reasonable protection of the victim and the public, including that several violent felonies are not subject to release on bail upon proper showing by the district attorney (Or Const Art 1 § 43); and
- ✓ Any pretrial release order must prohibit the criminal defendant from having any contact with the victim. The pretrial release order may be revoked if the defendant threatens or intimidates the victim during release. (ORS 135.970).

Sentencing Hearing

- ✓ To appear and be heard (Or Const Art 1 § 42; ORS 137.013).

¹ Many of the victims' rights summarized in this document are found in statute rather than in the Oregon Constitution. Therefore, a victim should not rely exclusively on the notice required by ORS 147.417 when gathering information about victims' rights.

² In several places this document states that the victim's request must be *timely*. The time limit will be set in the notices to victims that are required by ORS 147.417. Law enforcement agencies – the reporting agency, the investigating agency and/or the district attorney – are required to give the notice of rights.

PLEA NEGOTIATIONS

- Upon *timely* request, to be consulted by the district attorney regarding plea negotiations involving any violent felony (Or Const Art 1 § 42; ORS 135.406)

INFORMATION AND RECORDS

- To obtain information about the conviction, sentence, imprisonment, criminal history and future release from physical custody of the criminal defendant or convicted criminal (or youth offender) from a public body that is the custodian of the records (Or Const Art 1 § 42; ORS 147.421). Victim may be charged actual cost of copies;
- To obtain a copy of a transcript or tape of any criminal proceeding in open court (if one is prepared)(Or Const Art 1 § 42; ORS 147.419);
- If by the nature of the charge against the criminal defendant transmission of bodily fluids may have been involved, victim may ask district attorney to seek defendant's consent or a court order requiring the defendant to submit to a test for HIV or other communicable diseases (ORS 135.139);
- Access to Sex Offender Information. Victim can obtain information about registered sex offender, including prison status, release information, parole status and the area of residence, from Oregon State Police toll-free telephone number (ORS 181.601); and
- Access to Reports and Information in Driving Under the Influence (DUI) Cases. In any criminal prosecution arising from an automobile collision in which the defendant is alleged to have been under the influence of alcohol or drugs, upon the victim's request, the victim can obtain from the district attorney all reports and information provided in discovery to the criminal defendant. (ORS 135.857).

LIMITS ON CONTACTS BY THE DEFENDANT OR DEFENSE

- A victim has the right to be reasonably protected from criminal defendant or the convicted criminal (or youth offender) throughout the criminal justice process (Or Const Art 1 § 43);
- Upon request, to have the court order that the victim's address and phone number not be given to the defendant unless good cause is shown to the court (ORS 135.970);
- If contacted by the defense, to be informed of the identity and capacity of person making contact(ORS 135.970);
- To have a deputy district attorney present during any interview by the defense (ORS 135.970); and
- To refuse an interview, deposition or other discovery request by the defendant or defense (limited by defendant's constitutional right to discovery against the state)(Or Const Art 1 § 42). This does not include trial or pretrial proceedings for purposes

other than discovery or subpoenas for books, papers, records, etc. ordered by the court. (ORS 135.970)

**NOTICE OF PROSPECTIVE RELEASE ON PAROLE
OR POST-PRISON SUPERVISION**

- Upon request, to be notified by the State Board of Parole and Post-Prison Supervision of the impending release of the convicted criminal on parole or post-prison supervision (ORS 144.260).

**POST-CONVICTION PROCEEDINGS REGARDING PAROLE OR RELEASE OF
CONVICTED CRIMINAL OR REVOCATION OF PAROLE OR PROBATION**

- Upon request, to be notified of parole hearings concerning the convicted criminal before the State Board of Parole and Post-Prison Supervision, and to appear and be heard or to submit written statements, information and evidence to the Board concerning the crime or the convicted criminal (ORS 144.120);
- Upon *timely* request, to be notified of a hearing that may result in revocation of probation, revocation of post-prison supervision or revocation of parole and to appear and be heard on the subject (ORS 137.550; ORS 144.108. ORS 144.343); and
- Upon request, to be notified by the Psychiatric Security Review Board of board hearings, conditional release, discharge or escape of a criminal defendant found guilty except for insanity. (ORS 161.325, 161.326).

RIGHTS IN OTHER CRIMINAL PROCEEDINGS

- Hearing on Petition to Set Aside Conviction. The victim has the right to be notified, present and heard at the hearing on the petition. (ORS 137.225)
- Hearing on Petition for a Diversion Agreement. If criminal defendant is charged with driving under the influence, and the victim sustained property damage, the victim has the right to be notified, and to appear and be heard on a petition for a diversion agreement filed by the criminal defendant. (ORS 813.222)

OTHER RIGHTS, REMEDIES AND PROTECTIONS

(NOT AN EXCLUSIVE LIST)

- Prompt restitution from the convicted criminal. (Or Const Art 1 § 42); *see also* ORS 137.106).
- To apply for and receive crime victim compensation if eligible (ORS 147.005 – 147.375).