

CHAPTER 75

VICTIMS' RIGHTS

§2101. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Crime. "Crime" means a criminal offense in which, as defined, there is a victim. [PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Victim. "Victim" means:

A. A person who is the victim of a crime; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The immediate family of a victim of a crime if:

(1) The underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or

(2) Due to death, age, physical or mental disease, disorder or defect, the victim is unable to participate as allowed under this chapter.

As used in this paragraph, "immediate family" means the spouse, domestic partner, parent, child, sibling, stepchild or stepparent of the victim. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2102. Victims to be notified

1. Information provided to victim. The attorney for the State shall make a good faith effort to inform each victim of the following:

A. The details of a plea agreement, including a deferred disposition, before it is submitted to the court; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The right to comment on a plea agreement, including a deferred disposition, pursuant to section 2103; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The proposed dismissal or filing of an indictment, information or complaint pursuant to the Maine Rules of Unified Criminal Procedure, Rule 48, before that action is taken; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The time and place of the trial; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. The time and place of sentencing; [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. The right to participate at sentencing pursuant to section 2104; [PL 2021, c. 174, §6 (AMD); PL 2021, c. 330, §5 (AMD).]

F-1. The termination of probation pursuant to section 1804, subsection 6; [RR 2021, c. 1, Pt. A, §13 (COR).]

REVISOR'S NOTE: Paragraph F-1 as enacted by PL 2021, c. 330, §6 is REALLOCATED TO TITLE 17-A, SECTION 2102, SUBSECTION 1, PARAGRAPH F-2)

F-2. **(REALLOCATED FROM T. 17-A, §2102, sub-§1, ¶F-1)** The final disposition of the charges against the defendant, including the amount of deductions to time served that a defendant

has accumulated as of the date of sentencing. On or before the date of sentencing, the attorney for the State shall obtain information about the deductions to time served from each correctional facility at which a defendant was detained prior to sentencing on the relevant charges; and [PL 2021, c. 330, §6 (NEW); RR 2021, c. 1, Pt. A, §14 (RAL).]

G. The right to comment on the proposed early termination of probation, early termination of administrative release or conversion of probation to administrative release, pursuant to section 2105. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2021, c. 330, §5 (AMD); RR 2021, c. 1, Pt. A, §§13, 14 (COR).]

2. Pamphlets. When providing notice under subsection 1, the attorney for the State shall offer to provide the victim with a pamphlet containing this chapter, Title 5, chapter 316-A and Title 15, sections 812 and 6101. In addition, the attorney for the State, as part of any victim and witness support program that attorney administers under Title 30-A, section 460, shall provide the victim with a pamphlet outlining in everyday language the provisions set out in this chapter, Title 5, chapter 316-A and Title 15, sections 812 and 6101. The attorney for the State may use the pamphlet printed and distributed by the Department of Corrections or another pamphlet that meets the criteria in this section. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2021, c. 174, §6 (AMD). PL 2021, c. 330, §§5, 6 (AMD). RR 2021, c. 1, Pt. A, §§13, 14 (COR).

§2103. Plea agreement procedure

When a plea agreement is submitted to the court pursuant to the Maine Rules of Unified Criminal Procedure, Rule 11A(b), the attorney for the State shall disclose to the court any and all attempts made to notify each victim of the plea agreement and any objection to the plea agreement by a victim. A victim who is present in court at the submission of the plea may address the court at that time. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2104. Sentencing procedure

1. Participation by victim. The victim must be provided the opportunity to participate at sentencing by:

- A. Making an oral statement in open court; or [PL 2019, c. 113, Pt. A, §2 (NEW).]
- B. Submitting a written statement to the court either directly or through the attorney for the State. A written statement must be made part of the record. [PL 2019, c. 113, Pt. A, §2 (NEW).]

An attorney for the victim may submit a written statement or make an oral statement on the victim's behalf.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Consideration of victim's statements. The court shall consider any statement made under subsection 1, along with all other appropriate factors, in determining the sentence.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Participation by interested person. An interested person, including, but not limited to, a member of the victim's family who is not immediate family of the victim, a close friend of the victim, a community member and other interested person, does not have a right to participate at sentencing. Participation by such interested persons is a matter for the court's discretion in determining what information to consider when sentencing.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2105. Termination or conversion procedure

When the attorney for the State receives notice of a motion seeking early termination of probation or early termination of administrative release or seeking to convert probation to administrative release, the attorney for the State shall disclose to the court any attempts made to notify each victim of the motion to terminate or convert and any objection to the motion by a victim. If a hearing is held on the motion by the court and the victim is present in court, the victim may address the court at that time. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2106. Notification of defendant's release or escape

Upon complying with subsection 1, a victim of a crime of murder or of a Class A, Class B or Class C crime or of a Class D crime under chapters 9, 11 and 12 for which the defendant is committed to the Department of Corrections or to a county jail or is committed to the custody of the Commissioner of Health and Human Services either under Title 15, section 103 after having been found not criminally responsible by reason of insanity or under Title 15, section 101-D after having been found incompetent to stand trial must receive notification of the defendant's unconditional release and discharge from institutional confinement upon the expiration of the sentence or upon release from commitment under Title 15, section 101-D or upon discharge under Title 15, section 104-A; must receive notification of any conditional release of the defendant from institutional confinement, including probation, supervised release for sex offenders, parole, furlough, work release, funeral or deathbed visit, supervised community confinement, home release monitoring or similar program, administrative release or release under Title 15, section 104-A; and must receive notification of the defendant's escape from the Department of Corrections, the custody of the Commissioner of Health and Human Services or the county jail to which the defendant is committed. For purposes of this section, "victim" also includes a person who has obtained under Title 19-A, section 4007 an active protection order or approved consent agreement against the defendant. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Request for notification. A victim who wishes to receive notification must file a written request for that notification of the defendant's release or escape under this section with the office of the attorney for the State. The attorney for the State shall forward this request form to the Department of Corrections or to the state mental health institute or to the county jail to which that defendant is committed. Notwithstanding this subsection, a victim who wishes to receive notification regarding a defendant who is committed to the Department of Corrections may file a request for notification of the defendant's release directly with the Department of Corrections. [PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Notification of victim. The Department of Corrections or the state mental health institute or the county jail to which the defendant is committed shall keep the victim's written request for a notification under subsection 1 in the file of the defendant and shall notify the victim by mail of any impending release as soon as the release date is set or, if the defendant has escaped, by the quickest means reasonably practicable. This notification must be mailed to the address provided in the request or any subsequent address provided by the victim. [PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Contents of notification upon release. If the defendant is being released, the notification required by this section must contain:

- A. The name of the defendant; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The nature of the release authorized, whether it is a conditional release, including probation, supervised release for sex offenders, parole, furlough, work release, funeral or deathbed visit, supervised community confinement, home release monitoring or a similar program, administrative release or release under Title 15, section 104-A, or an unconditional release and discharge upon release from commitment under Title 15, section 101-D or upon the expiration of a sentence or upon discharge under Title 15, section 104-A; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The anticipated date of the defendant's release from institutional confinement and any date on which the defendant must return to institutional confinement, if applicable; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The geographic area to which the defendant's release is limited, if any; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. The address at which the defendant will reside; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. The address at which the defendant will work, if applicable. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Contents of notification upon escape. If the defendant has escaped, the notice required by this section must contain the name of the defendant, the manner of escape, the place from which the defendant escaped and the date of the escape.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Termination of notification requirement. The notification requirement under this section ends when:

A. Notification has been provided of an unconditional release or discharge upon the expiration of the sentence or upon release under Title 15, section 101-D or upon discharge under Title 15, section 104-A; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The victim has filed a written request for a notification under subsection 1 with the Department of Corrections or the state mental health institute or the county jail to which the defendant is committed asking that no further notification be given. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Liability. Neither the failure to perform the requirements of this chapter nor compliance with this chapter subjects the attorney for the State, the Commissioner of Corrections, the Department of Corrections, the Commissioner of Health and Human Services, the institution for the care and treatment for persons with mental illness to which the defendant is committed by the Commissioner of Health and Human Services or the residential program that provides care and treatment for persons who have intellectual disabilities or autism to which the defendant is committed by the Commissioner of Health and Human Services or the county jail or the employees or officers of the attorney for the State, the Commissioner of Corrections, the Department of Corrections, the Commissioner of Health and Human Services, the state mental health institution for the care and treatment for persons with mental illness to which the defendant is committed by the Commissioner of Health and Human Services or the residential program that provides care and treatment for persons who have intellectual disabilities or autism to which the defendant is committed by the Commissioner of Health and Human Services or the county jail to liability in a civil action.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2107. Notification of defendant's release on preconviction bail

1. Contact information for victim of certain crimes. In the case of an alleged crime involving domestic violence, sexual assault under chapter 11 or stalking, the arresting law enforcement officer shall obtain the victim's contact information and provide that information to the jail to which the defendant is delivered.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Notification of victim of certain crimes by jail or law enforcement agency. In a case of an alleged crime involving domestic violence, sexual assault under chapter 11 or stalking, the jail to which the defendant is delivered shall notify the victim of the defendant's release on preconviction bail under Title 15, chapter 105-A as soon as possible but no later than one hour after the defendant's release. If the defendant is released on preconviction bail before being delivered to a jail, the arresting law enforcement agency shall notify the victim as provided in this section.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Method of notification. Notification under subsection 2 must be made by a telephone call either directly to the victim or as provided in subsection 5. In the event that the jail has not succeeded in contacting the victim after the jail has exercised due diligence in attempting to contact the victim, notification of the defendant's release must be made to the law enforcement agency that investigated the report of domestic violence, sexual assault under chapter 11 or stalking. That law enforcement agency shall make a reasonable attempt to notify the victim of the defendant's release on preconviction bail.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Request by victim to not be notified. Notwithstanding subsection 2, a victim of an alleged crime described in subsection 1 may request in writing that the jail or arresting law enforcement agency not notify the victim of the defendant's release on preconviction bail.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Notification based on age of victim. Notification under this section to an adult victim must be made to the victim. Notification to a minor victim must be made to an adult who is the victim's parent or legal guardian or, if a parent or legal guardian is not available, to another immediate family member of the victim unless the jail or arresting law enforcement agency reasonably believes that it is in the best interest of the minor victim to be notified directly.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Liability. Neither the failure to perform the requirements of this section nor compliance with this section subjects the State, the arresting law enforcement agency, the jail to which the defendant was delivered, the Department of Corrections or officers or employees of the law enforcement agency, jail or Department of Corrections to liability in a civil action.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

For purposes of this section, "crime involving domestic violence" has the same meaning as in Title 15, section 1003, subsection 3-A and includes those crimes under section 152, subsection 1, paragraph A, section 208 and section 208-B when the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2108. Confidentiality of victim records

1. General rule of confidentiality. Records that pertain to a victim's current address or location or that contain information from which a victim's current address or location could be determined must be kept confidential, subject to disclosure only as authorized in this section.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Disclosure to law enforcement or victims' service agency. Records that pertain to a victim's current address or location or that contain information from which a victim's current address or location could be determined may be disclosed only to:

A. A state agency if necessary to carry out the statutory duties of that agency; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. A criminal justice agency if necessary to carry out the administration of criminal justice or the administration of juvenile justice; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. A victims' service agency with a written agreement with a criminal justice agency to provide services as a victim advocate; [PL 2021, c. 174, §7 (AMD).]

D. A person or agency upon request of the victim; [PL 2021, c. 174, §7 (AMD).]

E. A certified domestic violence intervention program in which the defendant in a criminal proceeding involving the victim has enrolled or will enroll; or [PL 2021, c. 174, §7 (NEW).]

F. The domestic violence center serving the same county as the certified domestic violence intervention program in which the defendant in a criminal proceeding involving the victim has enrolled or will enroll. [PL 2021, c. 174, §7 (NEW).]

[PL 2021, c. 174, §7 (AMD).]

3. Limited disclosure as part of bail condition or court order. A bail commissioner, judge, justice, court clerk, law enforcement officer or attorney for the State may disclose a victim's current address or location to the defendant or accused person, or the attorney or authorized agent of the defendant or accused person, as part of a bail condition or court order restricting contact with the victim only when it is clear that the defendant already knows the victim's current address or location or when the victim requests that such bail condition or court order be issued and the victim requests that the current address or location be specified.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Limited disclosure pursuant to discovery. An attorney for the State may withhold the current address or location of a victim from the defendant, or the attorney or authorized agent of the defendant, if the attorney for the State has a good faith belief that such disclosure may compromise the safety of the victim.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Disclosure of victim's request for notice prohibited. In no case may a victim's request for notification of the defendant's release under section 2106 be disclosed except to those employees of the agency to which the defendant is committed and the office of the attorney for the State with which the request was filed in order for those persons to perform their official duties under this chapter.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2021, c. 174, §7 (AMD).

§2109. Certain communications by victims confidential

The following communications are privileged from disclosure. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. To sexual assault counselor. Communications by a victim, as described in Title 16, section 53-A, subsection 2, to a sexual assault counselor, as defined in Title 16, section 53-A, subsection 1, paragraph B, are privileged from disclosure as provided in Title 16, section 53-A, subsection 2.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. To advocate. Communications by a victim, as defined in Title 16, section 53-B, subsection 1, paragraph B, to an advocate, as defined in Title 16, section 53-B, subsection 1, paragraph A, are

privileged from disclosure as provided in Title 16, section 53-B, subsection 2, subject to exceptions in Title 16, section 53-B, subsection 3.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. To victim witness advocate or victim witness coordinator. Communications by a victim, as defined in Title 16, section 53-C, subsection 1, paragraph B, to a victim witness advocate or a victim witness coordinator, as defined in Title 16, section 53-C, subsection 1, paragraph C, are privileged from disclosure as provided in Title 16, section 53-C, subsection 2, subject to exceptions in Title 16, section 53-C, subsection 3.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

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