

## MISSISSIPPI CRIME VICTIMS' BILL OF RIGHTS

The Mississippi Constitution was amended in 1998 to provide for the fair treatment of crime victims within this state. Section 26(a) of the Mississippi Constitution states: "Victims of crime, as defined by law, shall have the right to be treated with fairness, dignity and respect throughout the criminal justice process; and to be informed, present and heard, when authorized by law, during public hearings."

The Mississippi Legislature passed the *Mississippi Crime Victims' Bill of Rights* in order to carry out the constitutional amendment. The Crime Victims' Bill of Rights provides several rights, privileges, and notices to crime victims throughout the criminal justice process. The law requires that law enforcement, prosecutors, the judiciary (court officials), correctional system and executive authority (Governor) must provide these rights, privileges and notices to crime victims.

For purposes of the Crime Victims' Bill of Rights:

- (1) "Victim" means a person against whom the criminal offense has been committed, or if the person is deceased or incapacitated, the lawful representative.
  - ◆ If the victim is physically or emotionally unable to exercise these rights, he/she may designate in writing a person to be his/her representative.
  - ◆ If the victim is deceased, the court will appoint a representative who is not a witness to the crime.
  - ◆ If the victim is a minor, a family member may be designated as the victims' representative or the court may appoint a representative for the child.
  - ◆ The victim who is represented by another person may decide to personally exercise his/her rights as soon as he/she is physically, mentally, emotionally or legally competent to do so.
- (2) The following violent offenses apply:
  - ◆ Felonies which involve physical injury or the threat of physical injury
  - ◆ Any sexual offense
  - ◆ Any offense involving spousal abuse or domestic violence

### **OBTAINING YOUR RIGHTS**

In order to receive this benefit of the Crime Victims' Bill of Rights, a victim must file a written request with the law enforcement agency assigned to your case and the prosecutor. A form titled *Request to Exercise Victims' Rights* has been designed by the Office of the Attorney General and is available at law enforcement agencies, district attorney's offices and the Mississippi Attorney General's Crime Victim Compensation Division. This form will be given to you in a packet of information provided by the investigating officer within seventy-two hours following the crime. (Until your case has been turned over to the prosecuting attorney, you will need to call the investigating officer for an update on the status of your case.)

The victim or the lawful victim representative is required to:

- ◆ Complete and sign the *Request to Exercise Victims' Rights* form
- ◆ Send the form to the investigator and/or prosecutor handling your case
- ◆ Keep the investigator and/or prosecutor informed of any changes in your name, address and/or telephone number(s)

It is the victim's responsibility to provide updated information to the investigator and/or prosecutor. Failure to provide these changes may be considered a withdrawal of your request for victims' rights. The safest route is to always provide any changes or updated information.

Please note that written requests are required to obtain your rights, and often many other offices are involved in handling your case, not just the prosecutor. You are encouraged to read the Bill of Rights so you can determine what different offices may be involved in handling your case. Be sure that all of these offices have a copy of your written request. These offices may include: any agency which has physical custody of the offender (county or city jail); Department of Corrections, Parole Board, Office of the Attorney General and Office of the Governor.

If you have not received the information packet or the *Request to Exercise Victims' Rights* form, you can view this information by selecting the link below or contact the Crime Victim Compensation Division at 1-800-829-6766 or 601-359-6766 for a copy.

#### **SUMMARY OF THE MISSISSIPPI CRIME VICTIMS' BILL OF RIGHTS**

The law enforcement officer assigned to your case will give you a packet of information telling you about the availability of emergency and crisis services; Crime Victim Compensation Division services and benefits; contact information of the law enforcement officer and agency assigned to your case; the steps involved in prosecuting a criminal case; the rights of crime victims authorized by the Mississippi Constitution; and the contact information of the prosecuting attorney. The law enforcement officer will also provide you with a form to invoke your rights (*Request to Exercise Victims' Rights* form). By completing, signing and mailing the form to the appropriate law enforcement agency and/or prosecuting attorney and/or office, you are asserting the following rights:

- ◆ To receive a copy of the initial incident report at no cost
- ◆ To be notified of all charges filed against any person for the crime committed against you
- ◆ To be notified of any criminal proceedings, other than initial appearance, as soon as practical, and to any changes that may occur
- ◆ To talk with the prosecutor prior to the final disposition of your case, including giving your views on any "nol pros" (dismissal), reduction of charge, sentence recommendation, and pre-trial diversion programs
- ◆ To talk with the prosecutor prior to the beginning of the trial
- ◆ To receive a transcript of the trial, at your own cost
- ◆ To have the trial held without unreasonable delay
- ◆ To be present throughout all criminal proceedings, including any hearings, arguments or other matters scheduled by and held before a judge, but not including lineups, grand jury hearings or any other matter not held in the presence of a judge
- ◆ To be provided a waiting area at trial separate from the defendant, his relatives and his witnesses (if an area is available and the use of the area is practical)

- ◆ To have the prosecutor petition the court that you or any other witness not be compelled to testify at any pre-trial proceeding or at trial to any facts concerning your identity, residence or place of employment that could put you in danger if you have been threatened with physical violence or intimidated by the defendant or anyone connected with him/her
- ◆ To be present at any proceeding where the defendant is going to enter a guilty plea and be sentenced
- ◆ To be given the date of a conviction, acquittal or dismissal of the charges
- ◆ To be given, after a conviction, information about the function of a pre-sentence report and the name, address and telephone number of the probation officer preparing this report for the judge and about the right of the defendant to view the pre-sentence report
- ◆ To make an oral or written impact statement to the probation officer preparing the pre-sentence report for the judge
- ◆ To be present at sentencing and to give the judge an impact statement or any information that concerns the criminal offense or the sentence
- ◆ To be informed as soon as practicable of the sentence imposed on the defendant
- ◆ To be given the names, addresses and telephone numbers of the appropriate agencies and departments to whom further requests for notice should be provided
- ◆ To be given the Attorney General's Office or the District Attorney, information about the status of any appellate proceeding and any appellate decisions within five (5) business days after the status is known or the decision issued
- ◆ To be notified upon any post arrest release of the defendant. [Sexual assault or domestic violence victims are to be notified whether or not they have invoked their rights](#)
- ◆ To be notified of any escape and subsequent recapture of the defendant
- ◆ To have any property belonging to you that was taken during the investigation returned as soon as possible
- ◆ To be notified within fifteen (15) days prior to the end of the sentence of the date the prisoner is to be released and to be notified of any medical release or death of the prisoner
- ◆ To be notified that you may submit a written statement, audio or video recording to be placed with the prisoner's records and considered at any review for community status of the prisoner prior to release of the prisoner
- ◆ To be notified and allowed to submit a written or recorded statement when any change in custodial status is considered, whether such action be by executive order or judicial action
- ◆ To testify at a criminal proceeding or participate in the preparation of the trial without any loss of employment, intimidation or threat or fear of the loss of employment

These rights do not include the right to direct the prosecution. The district, city or county attorney has the responsibility to prosecute criminal cases. They will decide how the case will be handled, but they will confer with you and will consider your wishes and needs. Additionally, the exercise of these rights is at your discretion. The absence of the victim at the proceeding will not prevent the court from going forward. The duty of the prosecutor is to make reasonable attempts to keep you informed. You must do your part by keeping the law enforcement agency and prosecutor informed of any change in your name, address or telephone number(s).