

NOTE: ○Automatic rights

●Rights triggered only by request from victim



State of Alaska Office of Victims' Rights
1007 West 3rd Avenue, Suite 205
Anchorage, Alaska 99501-1936
Phone: 907-272-2620
Fax: 907-272-2640
Toll Free in Alaska: 1-866-274-2620
<http://officeofvictimsrights.legis.state.ak.us>
Prepared August 2002
(updated November 2007)

General constitutional protections provided in Article I, section 24 of the Alaska constitution to all crime victims:

- Be treated with dignity, respect and fairness;
- Protection from accused through the imposition of appropriate bail or conditions of release by the court (including release on appeal) (see also AS 12.30.025(a); 12.30.027(a); 12.30.029(a); 12.30.040(a));
- Confer with the prosecution;
- Timely disposition of the case;
- Obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present;
- Be heard, upon request, at sentencing, before or after conviction and at any proceeding where the accused's release from custody is considered;
- Restitution from the accused;
- Be informed, upon request, of the accused's escape or release from custody before or after conviction or juvenile adjudication.

Rights of crime victims upon initial police contact:

- Right to obtain access to immediate medical assistance AS 18.65.515(a)(3); AS 12.61.010(a)(7);

NOTE: ○Automatic rights

●Rights triggered only by request from victim

- Transportation to safe house or shelter where the crime involves domestic violence AS 18.65.515(a)(1);
- Provide domestic violence victims with information about how to obtain a 72-hour protective order AS 18.65.520; AS 18.66.110; AS 18.66.100(c)(1) - (5),(8) - (12),(16);
- The right to be notified of the name, address, and telephone number of the Office of Victims' Rights upon initial contact with the police and prosecuting attorney. AS 12.61.010(15);
- The right of domestic violence victims to be notified by law enforcement of the rights and services available to them AS 18.65.520;
- Provide all victims with information about Violent Crimes Compensation Board assistance and make application forms available AS 18.67.175(b);
- Ability to participate, upon request, at the defendant's initial appearance before a magistrate when bail conditions are set, AS 12.30.010; AS 12.61.010(a);

Sexual assaults and domestic violence – medical concerns:

- Council on Domestic Violence and Sexual Assault is established within the Department of Public Safety. The council is to provide for planning and coordination of services, crisis intervention and prevention programs to victims of domestic violence, sexual assault or to their families AS 18.66.010;
- Sexual assault victims may not be charged for sexual assault exams AS 18.68.040;
- In a crime involving sexual assault where penetration is an element of an offense, a victim may petition the court to order that the defendant submit to a blood test for presence of HIV and other STDs. AS 18.15.300 – 18.15.310 The defendant need not be convicted, the court may order the testing as soon as the defendant is charged by complaint, indictment, presentment, or information filed with a magistrate or court, that alleges a sexual assault involving penetration. The court may not order such testing until seven days have passed since arrest nor after a disposition favorable to the defendant AS 18.15.300;

NOTE: ○Automatic rights

●Rights triggered only by request from victim

- If the results of a blood test conducted under AS 18.15.300 indicate exposure to or infection by HIV or other sexually transmitted diseases, the victim is entitled to free counseling, testing and referral to appropriate health care facilities and support services at the request of the victim AS 18.15.310(h);

Protective orders for crime victims:

- A victim of a crime involving domestic violence may file a petition for a protective order against a household member. A parent, guardian, or other representative may file a petition for a protective order on behalf of a minor AS 18.66.100;
- A certified copy of an unexpired protective order issued in another jurisdiction and filed with the clerk of court in any judicial district in this state, has the same effect and must be enforced in the same manner as a protective order issued by a court of this state AS 18.66.140;

Privacy rights of crime victims:

- Confidential communications between a sexual assault or domestic violence victim and the victim's counselor are privileged. AS 12.45.049; AS 18.66.200 – AS 18.66.250;
- In a crime involving kidnapping, sexual assault, sexual assault of a minor, or indecent exposure, the name of a victim is not public record and may not be used in court document; instead, the victim's initial will be used AS 12.61.140;
- The residence and business addresses and telephone numbers of a victim of a crime or witness to a crime are confidential AS 12.61.110; AS 12.61.120(a); AS 12.61.130(a);
- Victims are not required to speak with defense counsel and may request the presence of a prosecuting attorney or other person present during an interview AS 12.61.120(c) (victims of sexual assault and domestic violence; other victims have these rights but may not know they are being interviewed or electronically recorded);

NOTE: ○Automatic rights

●Rights triggered only by request from victim

- If a victim of sexual assault or domestic violence must first give oral permission to be interviewed by the defense;
- The interview may be electronically recorded (at the discretion of the defense investigator) and the defense will furnish a copy of any electronic recordings to the victim upon request. If the victim is a minor, the parent or guardian must provide written consent prior to the interview whether or not the interview is recorded. AS 12.61.120; AS 12.61.125;
- Applications to the Violent Crimes Compensation Board are confidential AS 18.67.030(c);

Bail review rights of crime victims:

- Notice of hearings where the accused's release is considered, the right to be present and to be heard Article I, sec 24; AS 12.61.010(a)(2);
- Court must consider the victim's comments in making the decision to release a defendant in domestic violence cases AS 12.30.027; in sexual assault cases AS 12.30.029(c)(2);
- Victim's safety should be specifically considered before releasing the accused in a stalking non-DV, AS 12.30.025; in domestic violence, AS 12.30.027(a); in sexual assault AS 12.30.029(a) This includes an order prohibiting the defendant from having contact with the victim;
- Notice of cancellation of a hearing or court proceeding at which the victim has been subpoenaed to testify AS 12.61.010(a)(3);
- Receive a copy of the conditions of release when a prisoner charged with a domestic violence offense is released from custody (from correctional facility AS 12.30.027(d)(1); by other arresting authority AS 12.30.027(d)(2));
- Victims should receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts and be provided with information regarding the protection available AS 12.61.010(a)(4);
- An automated phone service (VINE) is established to provide crime victims with notice when there is a change in the status of their offender, especially offender's

NOTE: ○Automatic rights

●Rights triggered only by request from victim

- release or escape. Go to www.vinelink.com or call (800) 247-9763. The system also allows a caller to inquire about the latest status report for an offender AS 12.61.050;

Crime victims' rights at trial:

- Victims shall be notified of the date and time of trial and have a right to be present at all hearings and court proceedings where the defendant has a right to be present AS 12.61.010;
- If a victim of a felony or domestic violence crime requests, the prosecutor should confer with the victim regarding trial testimony AS 12.61.015;
- The prosecuting attorney may introduce the victim to the jury during jury selection or as part of an opening statement at trial. (Not a victim legal right, but victim may request of prosecuting attorney.)
- A victim cannot be compelled to submit to a psychiatric evaluation unless the victim's psychiatric or psychological condition is an element of the offense charged; or the victim suffers from a continuing psychological or psychiatric condition that resulted from the offense charged. AS 12.45.042;
- Evidence of past sexual conduct inadmissible absent a specific finding of relevance by the court AS 12.45.045(a);
- An employer may not penalize or threaten to penalize a victim because the victim is subpoenaed or requested by the prosecuting attorney to attend a court proceeding for the purpose of giving testimony AS 12.61.017;

Proceedings relating to psychiatric commitment of the accused:

- Notice shall be provided if an offender is committed to the custody of the Department of Health and Social Services; notice shall be given of any pending or actual change in status. AS 12.47.095 (1)-(5) *Victim may request notice by providing address information to DHSS* AS 12.47.095(b);

NOTE: ○Automatic rights

●Rights triggered only by request from victim

- Any victim given notice of a proposed change in commitment status of an offender has the right to submit a written statement, or to appear personally before the court. AS 12.47.095(e);
- Notice regarding a finding of not guilty by reason of insanity AS 12.61.010(a)(11);
- Notice upon request, of hearings relating to special medical parole AS 12.61.010(a)(12); AS 33.16.087 *Victim may request notice by providing address information to Parole Board.*

Sentencing:

- The court may not mitigate or reduce the punishment of the defendant based on the failure of the crime victim to appear or testify AS 12.55.151;
- Except for crimes involving domestic violence, a crime victim and offender may present the court with a negotiated/agreed upon sentence for the court's review. This agreed upon sentence may be imposed if both the victim and offender consent, the court determines that the victim has not been intimidated or coerced to make the agreement, and the sentence complies with the sentencing statutes (AS 12.55) and will accomplish the goals of restoration of the victim and community and rehabilitation of the offender. This procedure is commonly known as "civil compromise." This procedure may **not** be used if the offender is being sentenced for a crime involving domestic violence AS 12.55.011;
- The court must consider the safety and protection of the victim and any member of the victim's family before granting probation to an offender convicted of a crime involving domestic violence AS 12.55.101;
- In crimes of domestic violence, the prosecutor shall, upon request of the victim, confer with the victim about proposed plea agreements prior to acceptance AS 12.61.015(a)(4);
- As part of the pre-sentence report prepared for felony offenders, and as part of the predisposition report prepared for juvenile delinquency matters, the probation officer shall prepare a victim impact statement reporting any financial, emotional,

NOTE: ○Automatic rights

- Rights triggered only by request from victim

- and medical effects of the offense on the victim; the need of the victim for restitution; and any other information required by the court AS 12.55.022; AS 47.12.130(a);
- For felony offenses, the prosecutor shall, upon request, provide the victim with the address and phone number of the office preparing the pre-sentence report AS 12.61.015(a)(2)(C);
 - For felony offenses, prior to sentencing, the prosecutor shall, upon request, provide the victim with portions of the pre-sentence report outlining the summary of the offense prepared by DOC; the defendant's version of the offense; summaries of the victim's statements; and the sentence recommendation of the DOC AS 12.55.023(a)(1)-(4);
 - In a felony sentencing, the victims may make a written or oral statement for use in preparation of the pre-sentence report AS 12.61.010(a)(8);
 - A victim may appear personally at the defendant's sentencing hearing to present a written statement and to give sworn testimony or an unsworn oral presentation AS 12.61.010(9);
 - If the victim declines to make a statement at sentencing, the victims' advocate may submit a written statement or oral presentation at the sentencing hearing on behalf of the victim AS 12.55.023(b);
 - In a conviction for a felony offense, the court shall specifically make a finding regarding financial, emotional, and medical effects of the offense on the victim; the need of the victim for restitution AS 12.55.025(a)(5)(A)-(B);
 - Victims may address the three-judge sentencing panel if the panel chooses to supplement the record AS 12.55.175(b)

Restitution rights of crime victims:

- When determining restitution, the judge must consider public policy that favors requiring criminals to compensate their victims for injuries and damages sustained AS 12.55.045(a)(1);

NOTE: ○ Automatic rights

- Rights triggered only by request from victim

- When issuing an order of restitution, *the judge may not consider the defendant's ability to pay* AS 12.55.045(g);
- A restitution judgment is a civil judgment that remains enforceable and is not discharged when a conviction is set aside under AS 12.55.085 (SIS), AS 12.55.045(l);
- Restitution does not limit civil remedies AS 12.55.045(b);
- Restoration of the victim shall be specifically considered as part of the sentencing criteria AS 12.55.005(7);
- Information regarding violent crimes compensation and the procedure for applying for such aid under AS 18.67 should be given to the victim AS 12.61.010(a)(5); AS 18.67.175.

Post sentencing crime victims' rights:

- Prosecuting entity, if requested, shall notify the victim of a felony or domestic violence crime, in writing of the final disposition of the case within 30 days after final disposition of the case AS 12.61.015(a)(3);
- Prosecuting attorney or other appropriate law enforcement agency shall notify the crime victim if an appeal is filed AS 12.61.010(a)(2);
- Notification if the offender escapes from custody or is released to the community on a furlough, on an early release program, or for any other reason AS 12.61.010(a)(14); AS 33.30.013 *Automatic in domestic violence crimes; upon request in other crimes* AS 33.30.013(b) *Requires victim to keep address on file with DOC;*
- After conviction, the victim is entitled to be informed by the prosecutor about the defendant's complete conviction history AS 12.61.010(a)(10);
- Every person contracting with an offender with respect to the reenactment of the offender's crime by way of a movie, book, magazine article, radio or television presentation, live entertainment of any kind, or from the expression of the offender's thoughts, feelings, opinions, or emotions regarding the crime, shall pay the victim's restitution claims first, the remainder of the monies go to the state AS 12.61.020;

NOTE: ○Automatic rights

- Rights triggered only by request from victim

Post sentencing – modifications:

- Victims are entitled to address the court presiding over a prisoner’s motion to modify or reduce their sentence AS 12.55.088(d) *Victim may request notice by providing address information to DOC* AS 12.55.088(h);
- Department of Corrections shall send the victim a copy of any motions to modify or reduce sentence and inform the person of that person's rights under this section, the deadline for receipt of written comments, the hearing date, and the court's address. AS 12.55.088(e) *Victims must maintain updated address information with DOC* AS 12.55.088(h);
- Notification of hearings to consider or review discretionary parole of the defendant AS 12.61.010(a)(13); AS 33.16.120 *Victim must maintain address information with DOC and Parole Board;*
- Before granting probation to a person convicted of a crime involving domestic violence, the court shall consider the safety and protection of the victim and any member of the victim's family AS 12.55.101(a) The court may also impose any other condition necessary to protect the victim and any members of the victim's family or to rehabilitate the defendant AS 12.55.101(a)(3);

Public Records-exception for crime victims:

Alaska statute 40.25.120(a), Alaska’s public records law, provides in pertinent part:

“Every person has a right to inspect a public record in the state, including public records in recorders’ offices, except

* * *

(6) records or information compiled for law enforcement purposes, but only to the extent that the production of the law enforcement records or information

(C) could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness;”