

MAIL THIS FORM TO THE DISTRICT ATTORNEY AND THE INVESTIGATING OFFICER.

Until your case has been turned over to the prosecuting attorney, you will need to call the investigating officer or clerk's office for an update.

In addition to this information, the law enforcement agency assigned to your case should provide you with:

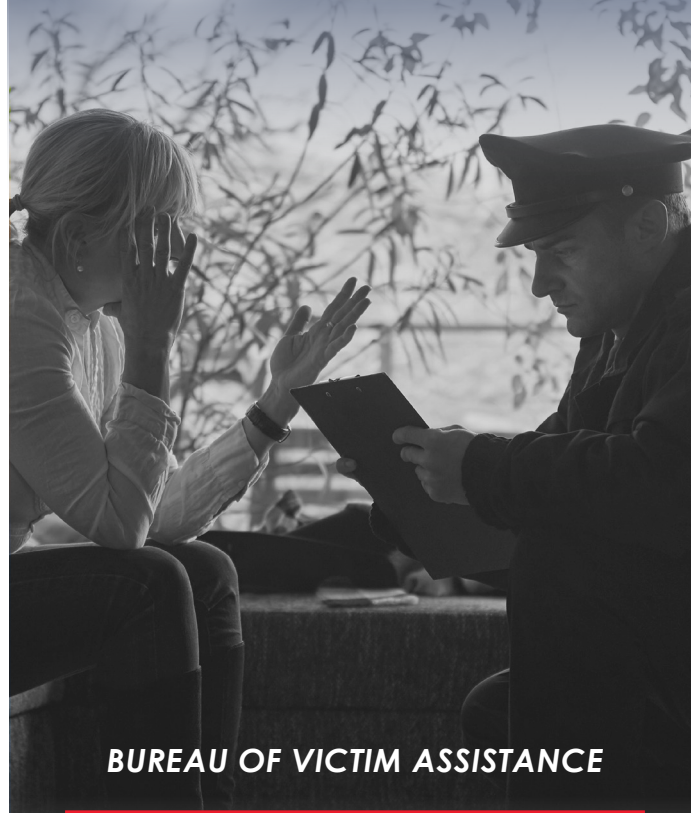
- the availability of emergency and crisis services in your area,
- the name and contact information for the officer assigned to your case,
- the recommended procedure if you are subjected to threat or intimidation, and
- the name and telephone number of the prosecuting attorney to contact for future information.

A county-by-county victim services resources guide is available at AttorneyGeneralLynnFitch.com on the Bureau of Victim Assistance division page.

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Lynn Fitch
ATTORNEY GENERAL



BUREAU OF VICTIM ASSISTANCE

**MISSISSIPPI CRIME VICTIMS'
BILL OF RIGHTS**

Sexual Assault

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Mississippi Crime Victims' Bill of Rights

Section 26(a) in Article 3 of the Mississippi Constitution establishes the following rights to victims of violent crime:

"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, to be present and to be heard, when authorized by law, during public hearings."

To implement the Constitutional amendment, the Mississippi Legislature passed the Crime Victims' Bill of Rights (Miss. Code Ann. § 99-43-1 et seq), which provides certain rights to victims of felonies which involve physical injury or the threat of physical injury, any sexual offense, any offense involving spousal abuse or domestic violence, including sexual assault.

Those rights are laid out in this brochure. You may assert your rights by signing the accompanying form and sending it to the prosecuting attorney. If the victim of the crime is physically or emotionally unable to exercise these rights, they may designate in writing a person to be their 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 victim's representative or the court may appoint a representative for the child. The victim who is represented by another person may decide to personally exercise their rights as soon as they are physically, mentally, emotionally or legally competent to do so.

These are your 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 the initial appearance, as soon as practicable, and of any changes that may occur.
- To talk with the prosecutor prior to the beginning of the trial.
- To talk with the prosecutor prior to the final disposition of your case, including giving your views on any not pros (dismissal), reduction of charge, sentence recommendation and pretrial diversion programs.
- To receive a transcript of the trial, at your own cost.
- To have the trial held without unreasonable delay. The trial judge, in determining whether to grant a continuance, should make every reasonable effort to consider what effect granting the continuance would have on the victim.
- 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 the judge.
- To be provided a waiting area separate from the defendant, their relatives and their witnesses. If a separate waiting room is not available or its use is impractical, the judge is to do what is possible to minimize contact of the victim with the defendant, their relatives or defense witnesses.
- To have the prosecutor petition the court that you or any other witness not be compelled to testify at any pretrial 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 the defendant.
- To be present at any proceeding where the defendant is going to enter a guilty plea and be sentenced. (The judge cannot accept a guilty plea unless you are present or the prosecutor can assure the judge that every reasonable effort has been made to contact you and notify you of your right to be present. At the hearing, the victim has the right to present to the judge an impact statement or any information about the criminal offense or the sentence).
- 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. In making their report, the probation officer will consider the economic, physical and psychological impact of the crime on the victim and the victim's family.
- 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, by 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 told when the defendant is released, if he or she is allowed to post bond after conviction, pending an appeal.



MISSISSIPPI CRIME VICTIMS' BILL OF RIGHTS

(continued)

- 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. If the property is necessary evidence, the prosecuting attorney may ask to be allowed to substitute photographs where 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 of the 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 or prior to release of the prisoner.
- To be notified and allowed to submit a written or recorded statement when any parole or pardon is to be considered.
- 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.

In 2023, the Legislature added the following rights specifically for victims of sexual assault:

- To be informed by the law enforcement agency handling the case whether a DNA profile of the assailant was obtained from the testing of the sexual assault evidence kit or other crime scene evidence from their case.
- To be informed whether the DNA profile of the assailant developed from the sexual assault evidence kit or other crime scene evidence has been entered into the Mississippi Forensics Laboratory's DNA identification system or CODIS.
- To be informed whether there is a match between the DNA profile of the assailant developed from the rape kit evidence or other crime scene evidence and a DNA identification system, provided that disclosure would not impede or compromise an ongoing investigation.

These rights do not include the right to direct the prosecution. The Attorney General's Office, 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 your needs. Additionally, the exercise of these rights is at your discretion. The absence of the victim at a proceeding will not prevent the court from going forward. The duty of the prosecutor is to make reasonable attempts to inform you. You must do your part, too, by keeping the prosecutor informed of any changes in your name, address or phone number.

PROCEDURAL STEPS IN CRIMINAL PROSECUTION STATE OF MISSISSIPPI

The term "victim" in this document means "a person against whom the criminal offense has been committed, or if the person is deceased or incapacitated, the lawful representative." Miss. Code Ann. §99-43-3(t)

ARREST: The victim has a right to be notified when a person is arrested for the crime.

INITIAL APPEARANCE: The defendant is taken before a magistrate who advises them of their rights and sets or denies bond, as soon as possible after their arrest. This is done in a short period of time, and there is no requirement that the victim be notified.

PRELIMINARY HEARING: A preliminary hearing is not always held. The purpose is for the judge to decide if there is probable cause to bind the defendant over to a grand jury. The victim has the right to be notified.

GRAND JURY: A case is presented to a grand jury and they can either "no bill," which is finding that there is not sufficient evidence for prosecution, or they can return an indictment. The victim does not have a right to be present.

ARRAIGNMENT: The defendant will be arraigned and enter a plea of guilty or not guilty. A trial date will be set if the defendant pleads not guilty and the judge will decide whether to set or deny bond. The victim has a right to be present.

PLEA NEGOTIATIONS: The prosecutor and defense attorney may enter into negotiations to see if the defendant will enter a guilty plea in return for a charging or sentencing recommendation by the prosecutor. The victim has a right to confer with the prosecutor and give their views, but not to be present at the negotiations.

PLEA TAKING: If a plea is agreed on, a judge will decide whether or not to accept the plea and sentence recommendation. The victim has a right to give an impact statement.

PRETRIAL HEARING: If the defendant goes to trial, the judge may set pretrial conferences at which the attorneys argue points of law. The victim has the right to be present.

TRIAL: When a trial is set, the victim has the right to be notified of the date and any changes made to the trial date.

SENTENCING: At this hearing, the victim has the right to give an impact statement. If the victim is not present, they have the right to be notified as soon as possible of the sentence given the defendant.

RESTITUTION TO VICTIMS OF CRIME

Miss. Code Ann. §99-37-1 et seq.

When a person is convicted of a crime, the judge may order restitution to be paid to the victim for any loss suffered. The judge may order that restitution be paid in full or in part. The victim should make sure the prosecutor has full information on the extent of the loss so that they may recommend restitution to the judge.

MISSISSIPPI CRIME VICTIMS' COMPENSATION ACT

Miss. Code Ann. §99-41-1 et seq.

If you or your family have been a victim of a violent crime and have financial losses resulting from the injuries that are not covered in full by insurance or any other source, the Crime Victim Compensation Program may be of some assistance to you. A single violent crime can have a profound impact on a person's life, resulting in serious physical injury, psychological trauma, absence from work and other financial strains. While no amount of financial aid can erase the trauma of crime, it is the goal of this program to ease the aftermath of crime for the victim whenever possible.

GENERAL ELIGIBILITY REQUIREMENTS

- The victim must report the crime to law enforcement within 72 hours after the crime or show good cause for not reporting.
- Application must be submitted within 36 months after the date of the crime.
- The victim or claimant must not have been involved in a criminal act at the time the victim was injured.
- The victim or claimant, after the injury for which the application is made, must not have been convicted of any felony.
- The victim or claimant must cooperate fully with the law enforcement investigation and prosecution.
- The victim or claimant must not have contributed, provoked or in any way caused the injury or death.
- All other available sources of payment, such as insurance, Medicaid, Medicare, disability benefits and Worker's Compensation must pay first.
- The victim or claimant cannot be under the supervision of any department of correction for a felony conviction within 5 years prior to the victim's injury or death.
- The cost of any sexual assault evidence kit will be paid by the State. The victim will never be billed.

REQUEST TO EXERCISE VICTIMS' RIGHTS

FOR VICTIM:

I, _____, victim of the
(victim's name)
crime of _____, committed on
(crime committed)
_____, in _____,
(date) *(city, county)*

request that I be given all rights provided in the Crime Victims' Bill of Rights, Miss. Code Ann. §99-43-1 et seq. I understand that it is my responsibility to provide the prosecutor with any change in my name, address or telephone number in order to continue to exercise these rights.

FOR VICTIM REPRESENTATIVE:

I, _____, representative
(victim representative)
of _____, who was the
(victim)
victim of the crime of _____
(crime committed)
committed on _____,
(date)
in _____, request that
(city, county)
on behalf of _____,
(victim)

I be given all the rights provided in the Crime Victims' Bill of Rights, Miss. Code Ann. §99-43-1 et seq. I understand that it is my responsibility to provide the prosecutor with any change in my name, address or telephone number in order to continue to exercise these rights.

(Signature) *(Date)*

(Address)

(City) *(State)*

(Telephone Numbers)

(Email Address)

For more information or to obtain a Crime Victim Compensation application, visit the Bureau of Victim Assistance Division at AttorneyGeneralLynnFitch.com