

**STATE OF MISSISSIPPI
CRIME VICTIMS' BILL OF RIGHTS
REQUEST TO EXERCISE VICTIMS' RIGHTS**

FOR VICTIM TO SIGN:

I, _____, victim of the crime of _____,
(victim) (crime committed)

committed on _____, by _____ in _____,
(date) (name of offender, if known) (city, county)

request that I be given all rights provided in the Victims' Bill of Rights, Mississippi Code Annotated, Section 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'S REPRESENTATIVE TO SIGN:

I, _____, representative of _____, who
(victim representative) (victim)

was the victim of the crime of _____ committed on _____, by
(crime committed) (date)
_____ in _____ request that, on behalf of
(Name of offender, if known) (city, county)

_____, I be given all the rights provided in the Victims' Bill of Rights, Mississippi Code
(victim)

Annotated, Section 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.

NAME (print)

ADDRESS (Street/P.O. Box) (City) (State) (Zip)

(_____) _____
TELEPHONE NUMBER(S)

PRIOR TO PROSECUTOR INVOLVEMENT:

- (1) return this form to the investigating officer, and
- (2) contact the investigating officer for case updates.

AFTER PROSECUTOR INVOLVEMENT:

Felonies - return this form to the District Attorney's Office and contact that office for case/court updates;

Misdemeanors occurring in the city limits - return this form to the City Prosecutor and contact that office for case/court updates.

Misdemeanors occurring in the county - return this form to the County Prosecutor and contact that office for case/court updates.

Mississippi Crime Victims' Bill of Rights

Section 26A in Article 3 of the Mississippi Constitution of 1890 gives 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 victims' bill of rights, which provides certain rights to victims of the following offenses:

- Crimes which involve physical injury or the threat of physical injury;
- Any sexual offense;
- Any offense involving spousal abuse or domestic violence;

If the crime that has been committed against you fits into one of those categories, 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, 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 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 his/her rights as soon as he/she is physically, mentally, emotionally or legally competent to do so.

As a way of informing you of your rights and guiding you through the judicial process, this packet contains information about the criminal justice system and the availability of support services within your area. This packet also gives you the name, address and telephone number of the appropriate prosecuting attorney. By signing and mailing the accompanying form, and by continuing to provide the prosecuting attorney with any changes to your address or telephone number, you are asserting the following rights as prescribed in Chapter 43 Miss. Code Ann. (1972):

- To be notified of all charges filed against any person for the crime committed against you.
- To be notified of any criminal proceeding, other than the initial appearance, as soon as practicable, and of 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 pretrial 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. (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 at trial separate from the defendant, his relatives and his 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, his relatives or defense witnesses.)
- 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.
- 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 his 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 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. (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 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 your needs. Additionally, the exercise of these rights is at your discretion (a Request to Exercise Victims' Rights is included in this packet). 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 must do your part by keeping the prosecutor informed of any changes in your name, address or telephone number.

STATE OF MISSISSIPPI

PROCEDURAL STEPS IN A CRIMINAL PROSECUTION

The term "victim" as used 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." §99-43-3(t), Miss. Code Ann. (1998)

To be entitled to receive notice of the following criminal procedures, the victim must provide the prosecuting attorney with a written request, which includes the telephone number and address of the victim. The "Request to Exercise Victims' Rights" form given to you by the investigating officer will be sufficient. The request for notice shall be considered withdrawn and void in the event the victim fails to update this information as necessary.

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

INITIAL APPEARANCE: The defendant is taken before a magistrate as soon as possible after his arrest for the purpose of ascertaining the defendant's true name and address, advising him of his rights and setting or denying bond. This has to be done within a very short time period, hours instead of days, and there is no requirement that the victim be notified.

PRELIMINARY HEARING: A preliminary hearing is not held in every case; however, if one is held, the purpose is for a judge to decide if there is probable cause to bind over the defendant to the grand jury. The victim has the right to be notified of the date and time of the hearing, of any changes to the date and time, and to be present.

GRAND JURY: When the case is presented to the grand jury, they can either "no bill," which is a finding that there is not sufficient evidence for a prosecution or they can return an indictment. The grand jury proceedings are secret. The victim has the right to be notified of the time and date of the grand jury meeting, any changes to the date and time, but does not have the right to attend. In the discretion of the prosecuting attorney or the grand jury, a victim may be called as a witness before the grand jury.

ARRAIGNMENT: After an indictment, the defendant will be arraigned and enter a plea of guilty or not guilty. If the defendant pleads not guilty, a trial date will be set and the judge will continue or deny bond. The victim has the right of notification and the right to be present.

PLEA BARGAIN NEGOTIATIONS: After arraignment, the prosecutor and the 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 the right to confer with the prosecutor and to give the prosecutor his/her views on a nol pros (dismissal of the charge), a reduction of the charge, a sentence recommendation and pre-trial diversion programs.

PLEA TAKING: If the prosecutor and the defendant agree on a plea and recommendation, a judge will determine whether or not to accept the plea and sentence recommended by the prosecutor. The victim has the right to be present at this hearing and the judge cannot accept a plea unless the victim is present or unless the judge is advised by the prosecutor that reasonable efforts were made to notify the victim of the date and time of the hearing, including any changes, and to confer with the victim about the plea agreement. The victim has the right to give the judge and impact statement or any information that concerns the criminal offense or the sentence.

PRE-TRIAL HEARINGS: If a plea agreement is not reached and the defendant goes to trial, the judge may set a pre-trial conference. At this conference, points of law are argued by the attorneys. The issues may include the right to a speedy trial, the suppression of evidence, a change of venue or other matters. The victim has the right to be notified of any pre-trial matters to be heard by the judge and to be notified of and be present at any pre-trial hearing.

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

SENTENCING HEARING: If the defendant is found guilty, prior to sentencing, the victim has the right to give a written or oral impact statement to the probation officer preparing a pre-sentence report. The victim has the right to be notified of the date and time of the sentencing hearing. At the sentencing hearing, the victim has the right to present an impact statement or information concerning the criminal offense or sentence to the judge. If the victim is not present, he/she has the right to be notified by the prosecutor as soon as practicable of the sentence given to the defendant. The victim is also given at this time the names and address to be used in request for notice of any appellate decisions, parole hearings or of the date of release of the prisoner.

HEARING ON MOTION FOR NEW TRIAL: If the defendant files a motion for a new trial and a hearing is set by the judge, the victim has the right to be notified of the date and time, and any changes, and to be present.

APPELLATE PROCEDURE: If the defendant appeals his/her conviction to the Mississippi Supreme Court, the state will be represented by the Attorney General. If the case is to be argued to the Supreme Court, the victim has the right to be notified of the date, time and place set for the argument. When the appeal is decided by the court, the Attorney General's Office will notify the victim within five (5) business days after the decision is issued that the conviction and sentence have been affirmed, or that the case has been reversed and will be returned to the trial court for a new trial.

PAROLE HEARING: The victim has the right to submit a written statement or an audio or video recording to be entered into the prisoner's Department of Corrections records and considered during any review of community status of the prisoner or prior to release. The victim has the right to be notified of the date and time of any hearing on parole or pardon and to submit a written or recorded statement for consideration.

ESCAPE, RELEASE OR DEATH OF PRISONER: If notice is requested, the victim has the right to be notified of any escape and subsequent recapture of the prisoner. The agency having custody of the prisoner shall also notify the victim within fifteen (15) days prior to the end of the sentence of the release of the prisoner. If the prisoner has died, the victim will be notified within fifteen (15) days of the death.

PROCEDURAL STEPS IN DELINQUENCY CASES

Jurisdiction in delinquency cases: The Youth Court shall have exclusive original jurisdiction in all proceedings concerning a delinquent child or child in need of supervision **except** when a child commits an act or attempts to commit an act which if committed by an adult would be punishable under state or federal law by life imprisonment or death, or commits or attempts to commit an act involving the use of a deadly weapon.

“Delinquent child” means a child who has reached his tenth birthday and who has committed a delinquent act.

“Delinquent act” is any act, which if committed by an adult, is designated as a crime under state or federal law, or municipal or county ordinance other than offenses punishable by life imprisonment or death.

Operation of Court: Delinquency cases are entirely of a civil nature rather than criminal: and are conducted as follows:

- without a jury;
- the general public is excluded;
- persons with a direct interest in the cause shall have the right to appear and be represented by counsel;
- all parties to a youth court cause shall have the right at any hearing in which an investigation, record or report is admitted in evidence: to subpoena, confront and examine the person who prepared or furnished data for the report; and to introduce evidence controverting the contents of the report.

I. **Intake/Reporting requirements:** Youth matters are commenced by a report being made to the intake unit of the Youth Court. Upon receiving a report, the Youth Court intake unit must promptly make a preliminary inquiry to determine whether the interest of the child or the public requires the Youth Court to take further action. If it appears from the preliminary investigation that the child is within the jurisdiction of the Youth Court, the intake unit shall recommend to the Youth Court: **no action be taken; that an informal adjustment be made; Department of Human Services monitor the case; informal counseling or a warning; or that a petition be filed.**

After reviewing the recommendation, the youth court shall without a hearing enter an order.

Informal Adjustment: The informal adjustment process is an informal process in which the child and his parents, guardian, or custodian agree to abide by certain conditions recommended by the informal adjustment counselor. Upon successful completion of the informal adjustment process the matter is concluded. If the informal adjustment is unsuccessful, the matter is referred back to the Youth Court intake unit for further recommendations.

Petition Filed/Commencement of Formal Proceedings: Delinquency proceedings are initiated by the proper filing of a petition by the youth court prosecutor or other designated person. The petition shall be filed:

- within five (5) days from the date of the detention hearing continuing custody; or
- in non-custody cases, unless another period of time is authorized by the youth court or its designee, within ten (10) days of the court order authorizing the filing of the petition.

The court may dismiss the petition for failure to comply with this time schedule.

Persons Summoned

- When a petition has been filed and the date of the hearing has been set, the judge or the judge's designee shall order the clerk of the youth court to issue a summons to:
- the child named in the petition;
- the person or persons who have custody or control of the child;
- the parent or guardian of the child if such parent or guardian does not have custody of the child; and
- any other person whom the court deems necessary.

II. Detention Hearings: A child who has been ordered or taken into custody for delinquency may be held in custody for longer than temporary custody if:

- a written complaint or petition is filed;
- a detention hearing is conducted; and
- the court enters an order for continued custody.

At the detention hearing:

- the parties may present evidence and cross-examine witnesses;
- the court may receive hearsay and opinion testimony without regard to formal rules of evidence; and
- testimony, though required to be under oath, may be given in narrative form.

At the conclusion of the detention hearing, the court shall enter an order releasing the child to the custody of the child's parent, guardian or custodian, unless it finds and its detention order recites that there is probable cause that the youth court has jurisdiction, and "custody is necessary" as defined in Subsection 43-21-301(3)(b).

III. Adjudication Hearings

- If the child is not in detention, the hearing is held within ninety (90) days after the filing of the petition unless continued for good cause or the person who is a subject to the cause has admitted the allegations. Otherwise, the case is dismissed with prejudice.
- If the child is in detention, the hearing is held as soon as possible but not later than twenty-one (21) days after the child is first detained by the youth court unless postponed on the motion of the child, postponed because process cannot be completed, or postponed because a material witness is not presently available. Otherwise, the court may release the child from detention.

Acceptance of Admissions

At any time after the petition has been filed, all parties to the cause may appear before the judge and admit the allegations of the petition. The judge may accept this admission as proof of the allegations.

Plea bargaining is not permitted.

If the child does not have counsel, the youth court shall appoint an attorney to represent the child and continue the hearing for a reasonable time to allow the child to consult with the same.

After conducting these preliminary matters, and provided there is not a continuance, the youth court may then inquire whether the parties admit or deny the allegations:

- If the parties to the cause admit the allegations in the petition, and such meets the requirements for the acceptance of admissions as set forth in Section 43-21-553, then the judge may accept the same as proof of the allegations.
- If the party to the cause denies the allegations in the petition, then an adjudicatory hearing is held.

Standard of Proof

The standard of proof in delinquency cases is proof of each and every element in the charge beyond a reasonable doubt.

An adjudication of delinquency does not:

- constitute a criminal conviction; or
- operate to impose any of the civil disabilities ordinarily imposed on an adult because of a criminal conviction.

Further, a person who has been prosecuted in the youth court may deny, without any penalty, the existence of the proceedings and any adjudication made.

IV. Dispositional Hearings: If the child is adjudicated delinquent, the youth court shall immediately set a time and place for a disposition hearing. This hearing is separate and distinct from the adjudicatory hearing. If the child has been taken into custody, a disposition hearing shall be held within fourteen (14) days after the adjudicatory hearing unless good cause is shown for postponement.

Disposition Alternatives

The disposition order may include any of the following alternatives or combination of the following alternatives:

- release the child without further action;
- place the child in the custody of the parents, a relative or other persons subject to any conditions and limitations, including restitution, as the youth court may prescribe;
- place the child on probation subject to any reasonable and appropriate conditions and limitations, including restitution, as the youth court may prescribe;
- order terms of treatment calculated to assist the child and the child's parent or guardian which are within the ability of the parent or guardian to perform;
- order terms of supervision which may include participation in a constructive program of service or education or civil fines not in excess of \$500.00, or restitution not in excess of actual damages caused by the child to be paid out of the child's own assets or by performance of services acceptable to the victims and approved by the youth court and reasonably capable of performance within one (1) year;
- give legal custody of the child to any of the following:

1. DHS for appropriate placement;
2. any public or private organization, preferably community based, able to assume the education, and maintenance of the child; or
3. DHS for placement in a wilderness training program or a state-supported training school;
4. recommend to the child and the child's parents or guardian that the child participate in the Youth Challenge Program;
5. order the child to the Statewide Juvenile Work Program if the program is established in the court's jurisdiction;
6. order the child to participate in a youth court work program as provided in Section 43-21-627;
7. order the child into a juvenile detention center for a period not to exceed ninety (90) days; or
8. referral to A-team provided system of care services.

ALSO-

The court may order drug testing as provided in Section 43-21-605(6).

*The judge does not sentence the child to the state training school for any length of time; however, the state training school may retain custody of the committed child until the child's twentieth birthday but for no longer. The superintendent of a state training school decides when parole of a child is deemed to be in the best interest and welfare of the child. Twenty (20) days prior to such parole, the training school must notify the committing court of the pending release. The youth court may then arrange subsequent placement after a reconvened disposition hearing except that **it may not recommit the child to the training school** or any other secure facility without an adjudication of a new offense or probation or parole violation.

The court shall not commit a child under ten (10) years of age to a state training school.

MISSISSIPPI CRIME VICTIMS' COMPENSATION ACT

Miss. Code Ann. §99-41-1 et. seq.

If you or a family member 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 officials within 72 hours after the crime or show good cause for not reporting.
- Application must be filed within 24 months after the date of the crime if the crime occurred before July 1, 2007. Application must be filed within 36 months after the date of the crime if the crime occurred on or after July 1, 2007.
- In cases of child sexual abuse, the application must be filed within 24 months after the crime was reported if the crime occurred before July 1, 2007. The application must be filed within 36 months after the crime was reported if the crime occurred on or after July 1, 2007.
- The victim or claimant must not have been involved in a criminal act at the time victim was injured.
- The victim or claimant, after the injury for which the application is made, must not have been convicted of any felony involving the Controlled Substance Act, the use or possession of a weapon, personal injury or attempted personal injury if the crime occurred before July 1, 2007. If the crime occurred on or after July 1, 2007, the victim or claimant, after the injury for which the application is made, must not have been convicted of any felony.
- For crimes occurring on or after July 1, 2007, the victim or claimant must not have two previous felony convictions.
- The victim or claimant must fully cooperate with law enforcement investigation and prosecution.
- The victim or claimant must not have contributed, provoked or in any way caused the injury or death; in such cases, benefits may be denied or reduced.
- All other available sources of payment, such as insurance, Medicaid, Medicare, disability benefits and Workers' Compensation must pay first.

To obtain an application or receive additional information, contact:

**Crime Victim Compensation Division
Post Office Box 220
Jackson, MS 39205
1-800-829-6766
601-359-6766**

RESTITUTION TO VICTIMS OF CRIME

Miss. Code Ann. §99-37-1 et. seq.

When a person is convicted of a crime, in addition to any other sentence, the judge may order that restitution be made to the victim for any loss suffered. The judge may order that the restitution be paid in full or in part, in a lump sum or in installments. The victim should make sure that the prosecutor has full information on the extent of the loss so that he or she may recommend restitution to the judge. The losses of the victim should also be a part of the impact statement given to the judge prior to sentencing.