

## H. 95 Jurisdiction over delinquency proceedings

Title 33 – Victim’s Rights in delinquency proceedings

### **Proposal**

In Title 33, sections 5226 and 5233 address victim’s rights of both listed and non-listed crimes and then section 5234 provides for additional rights for victims of listed crimes. It would make more sense to separate out the different rights of victims by listed and non-listed crimes. I’m recommending that we repeal §5233 and §5226 and add a new section on victim rights of non-listed crimes. All of these rights currently exist in statute in sections 5233 and 5226.

The victim in a delinquency proceeding based on an act that is not a listed crime shall have the following rights:

- (1) To be notified by the court of his or her rights as provided by law and his or her responsibilities regarding the confidential nature of juvenile proceedings.
- (2) To be notified promptly by the court when conditions of release are initially ordered or modified by the court and shall be notified promptly of the identity of the child when the conditions of release relate to the victim or a member of the victim’s family or current household. Victims are entitled only to information contained in the conditions of release that pertain to the victim or a member of the victim’s family or current household.
- (3) To file with the court in a disposition proceeding a written or recorded statement of the impact of the delinquent act on the victim and the need for restitution.
- (4) To be present at the disposition hearing for the sole purpose of presenting to the court the impact of the delinquent act on the victim and the need for restitution if the court finds the victim’s presence at the disposition hearing is in the best interests of the child and the victim.
- (5) The court shall take a victim’s views into consideration in the court’s disposition order.
- (6) A victim shall not be allowed to be personally present at any portion of the disposition hearing except to present the impact statement unless authorized by the court.
- (7) To be informed by the court after an adjudication of delinquency has been made involving an act that is not a listed crime the disposition of the case. Upon request of the victim, the court may release to the victim the identity of the child if the court finds that release of the child’s identity to the victim is in the best interests of both the child and the victim. For the purpose of this section, disposition in the case shall include whether the child was placed on probation and information regarding conditions of probation relevant to the victim.

I would then recommend amended §5234 as follows:

### **§ 5234. Rights of victims in delinquency proceedings involving a listed crime**

The victim in a delinquency proceeding involving a listed crime shall have the following rights:

- (1) Upon the filing of a delinquency petition, the prosecutor’s office shall notify a victim of his or her rights as provided by law, information on how a case proceeds through

delinquency proceedings, the confidential nature of these proceedings and that it is unlawful for the victim to disclose confidential information to other persons.

(2) To be notified by the prosecutor's office in a timely manner when a delinquency petition has been filed including the identity of the juvenile and any conditions of release that are materially-related to the victim, or intended to protect the safety of the victim.

~~(1)~~ (3) To be notified by the prosecutor's office in a timely manner when a pre-dispositional or dispositional court proceeding is scheduled to take place and when a court proceeding of which he or she has been notified will not take place as scheduled.

~~(2)~~ (4) To be notified by the prosecutor's office as to whether delinquency has been found and disposition has occurred, including any conditions of release that are materially-related to the victim, or intended to protect the safety of the victim ~~or and restitution when ordered relevant to the victim.~~

~~(3)~~(5) To be present at the disposition hearing and to present a victim's impact statement and the need for restitution at the disposition hearing in accordance with subsection 5233(b) of this title and to be notified as to the disposition pursuant to subsection 5233(d) of this title. The court shall take a victim's views into consideration in the court's disposition order.

(6) The prosecutor's office shall keep the victim informed and consult with the victim throughout the delinquency proceedings.

(4) (7) Upon request, to be notified by the agency having custody of the delinquent child before he or she is discharged from a secure or staff-secured residential facility. The name of the facility shall not be disclosed. An agency's inability to give notification shall not preclude the release. However, in such an event, the agency shall take reasonable steps to give notification of the release as soon thereafter as practicable. Notification efforts shall be deemed reasonable if the agency attempts to contact the victim at the address or telephone number provided to the agency in the request for notification.

~~(5) To obtain the name of the child in accordance with sections 5226 and 5233 of this title.~~

~~(6) To be notified by the Court of the victim's rights under this section.~~ (Added 2007, No. 185 (Adj. Sess.), § 2, eff. Jan. 1, 2009.)