

Overview of
Victim Rights
in Vermont –
Vermont Center for
Crime Victim Services





The Vermont Center for Crime Victim Services

- Who are we and what do we do?
- Mission
 - The Center for Crime Victim Services offers support, advocacy and services for those impacted by crime, and works to hold those who have caused harm responsible.
- Statutory Mandate 13 V.S.A. §5361
- Specific responsibilities

Overview

Victims' Bill of Rights in State Constitutions

- 39 states have amended their constitution; Vermont is not one of them.

In Vermont, victim's rights are based in statute

- Primarily Title 13 and Title 33
- Focused on four general areas.
Right to:
 - Services
 - Information
 - Notification
 - Be Heard



Right to Services

- Victim Advocates
 - State based
 - All along continuum
 - Law enforcement, SIU, prosecution and corrections based
 - Community based
 - Network, CACs, Disability Rights, Pride Center, AALV, Legal Aid, Restorative Justice etc.
 - Support if system involved AND address needs outside of CJS
 - RFAs, Housing, Employment, Legal , MH and substance abuse referrals, etc.
 - Provide services and support to victims who do not report

Right to Information

Information from law enforcement:

- Information about victim's rights
- Information about available assistance, including protection available and Victim's Compensation
- Notice of the defendant's arraignment
- Right to not speak unless subpoenaed
- Contact information about the case and the investigating officer, prosecutor and victim advocate

Information from victim advocate:

- Protection available
- Restitution
- Compensation
- Referrals
- Notification
- Right to appear and submit VIS
- Right to information if the defendant is convicted

Right to Notification

Pre conviction:

- Bail or conditions of release
- Identity by prosecution and defense
- Date and location of all court hearings and any cancellations
- Notification in advance of any sentencing hearings and change of plea hearings
- The final outcome of the case

Post-conviction:

- If the offender is released, escapes, recaptured, dies or receives a pardon or commutation
- Availability of VANS system
- Parole process

Right to Be Heard

- NCVLI nationwide study
- Notification in advance of any sentencing hearings and change of plea hearings
- Right to appear at sentencing and express their views concerning the crime, the offender and need for restitution
- Right to be consulted throughout plea negotiation process
- At sentencing, the court is required to ask the victim is present and if they wish to be heard, or if a Victim Impact Statement has been filed; the court is required to take the victim's views into consideration
- In sexual assault cases where the offender serves a term of incarceration, victims are entitled to participate in release-planning
- Victims have the right to offer a statement through the prosecution if sealing, expungement or other post-conviction relief remedies are sought.





Victims Compensation

- Established in 13 V.S.A. Chapter 167 as a program of the Center, the Victims Compensation Program provides limited financial assistance to victims of crime.
- The financial loss must be the direct result of the crime, and not reimbursable through other sources, such as insurance.

How can Victim's Compensation help?

Finding of probable cause only

Certain expenses are eligible

10K cap

File at any time and claim remains open until it is "capped out"

No requirement that victim "cooperate"

Very short turn around

Eligibility

The crime was committed after July 1, 1987

The crime occurred in Vermont

Physical injury or emotional harm to victim

Crime was reported to law enforcement and probable cause found

A surviving immediate family member of a homicide victim, including a spouse, domestic partner, parent, sibling, child, grandparent.

Other survivors who may have suffered severe emotional harm due to the victim's death, as determined by the Board

Eligible Crime Examples

- Arson
- Burglary
- Assault
- Child Physical Abuse/Neglect
- Child Sexual Exploitation
- Child Sexual Abuse
- Domestic Violence
- DUI
- Homicide
- Human Trafficking
- Kidnapping
- Other vehicular crimes (NO and GNO)
- Robbery
- Sexual Assault
- Stalking
- Terrorism

Compensable Losses

- Child Care
- Counseling
- Crime Scene Clean-up
- Dental Durable Medical Equipment
- Funeral Costs
- Loss of Support
- Lost Wages
- Medical
- Mileage/Gas
- Limited pet bills
- Limited pet boarding
- Rent/Relocation
- Safety/security
- Temp Living Expenses
- Travel Expenses
- Other

Sexual Assault Program

- The Sexual Assault Program is under the umbrella of the Compensation Program.
- Victims of sexual assault do not have to report the crime to police to be eligible.
- The Program offers resources to pay for:
 - the initial sexual assault medical exam, to include collection of evidence;
 - STI and HIV screening, prophylaxis;
 - pregnancy testing;
 - treatment of related injuries;
 - medical follow-up; and,
 - up to 20 sessions of mental health counseling.



Restitution

- The **Vermont Restitution Unit**, a program of the Center, is responsible for collecting and dispersing court ordered restitution in cases where a defendant has been adjudicated.





Restitution

- Vermont remains the only state in the country that has capitalized a fund that allows the state to advance payment of restitution to victims of crime.
- The RU fund is capitalized by a 15% surcharge on court fines and fees and traffic tickets, as well as money that Restitution staff collect from offenders.

Eligibility

Dependent upon conviction and/or issuance of a Restitution Judgment Order

A flowchart with three horizontal bars of decreasing width and increasing depth from top to bottom. The top bar is orange, the middle is reddish-brown, and the bottom is grey. Downward-pointing arrows connect the right side of each bar to the left side of the bar below it.

Crime related losses expenses are eligible

Eligibility for advance from fund or dependent upon collection from offender?



Challenges



“There is No Right Without a Remedy”

39 other states have included a Victim’s Bill of Rights in their constitution – not Vermont

In VT, statutorily constructed hurdles and barriers exist

- “Reasonable/practicable”
- “Not a party”
- “Failure to.....”
- Standing denied

“Three-legged stool” concept of CJS

Underscores importance of advocates



Funding

- Primarily FF and SF – only a very small percentage of GF
 - Non-GFs are unpredictable and declining
 - Recent events further underscore problems with overreliance on federal funds for core services
 - Level funding of programs for over a decade
- Complexity of cases
 - VAs and victim services doing more with less
- Impact of reforms

Questions?

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