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Victims' Rights State Legislation in 2004

by Sarah Hammond, Senior Policy Specialist, Criminal Justice

State legislatures in 2004 expanded and strengthened rights and services for victims of crime with measures that address victim notice, participation, restitution and compensation. A growing area of law in the states provides specific protections for and assistance to sexual assault victims, with a number of actions in that area, as well.

Among measures to improve services to victims of sexual assault, Georgia legislation requires each judicial circuit to establish sexual assault protocol for dealing with sexual assault victims and for investigating and prosecuting the offenders. In other states, legislation creates specific accounts or funds to assist sexual assault victims. A Connecticut law establishes a non-lapsing "Sexual Assault Victim Account" for sexual assault crisis services. An Illinois enactment creates the "Sexual Assault Services Fund" to make grants to community-based organizations that provide services to victims. Kentucky lawmakers established a separate fund for sexual assault victim assistance, to be administered by the Crime Victims' Compensation Board.

Other states put in place new policies to protect victims of sexual assault. A Wisconsin measure prohibits district attorneys and law enforcement personnel from requiring or suggesting that a victim of sexual assault submit to a lie detector test, regardless of whether the victim gives prior and informed consent to do so. Colorado now allows victims in unlawful sexual behavior cases to have pseudonyms and will issue protective orders to protect their identities. A measure in Alaska addresses minors who are victims of or witnesses to sexual assault, requiring that the parent or guardian give authorization before the young person makes a recorded statement. The victim or witness also must be notified that there is no legal requirement that he or she talk to defense staff in the case. Legislation enacted in Washington allows victims of sexual assault to terminate a tenancy and prohibits landlords from discriminating against them.

Various state laws in 2004 sought to improve notice rights provided to victims at various stages in criminal proceedings. Alabama legislation requires that notices of hearings of the Board of Pardons and Paroles be sent not only to victims and immediate family members of deceased victims, but also to prosecutors, judges and chiefs of police. An Alaska act requires that general information that law enforcement officers provide to victims include how to get in touch with the Office of Victims' Rights, including address, telephone number and Internet address. In West Virginia, a new law requires that victims of crime be notified by telephone when the defendant is released from custody. In Arizona, an enactment requires that Superior Court judges read a statement at the beginning of all criminal dockets, advising victims of their rights under the state constitution. States also are expanding notification to include victims of crimes in which the offender is being

handled in the mental health system rather than in the criminal justice system. In California, a measure requires a prosecutor to notify the victim or next of kin before an offender who was found to be not guilty by reason of insanity, is released from the state hospital.

Victim rights to participate in the criminal justice system also were expanded in 2004, especially in the area of victim impact statements. An Illinois enactment requires that any written statement submitted to the state's attorney be considered by the court during its consideration of aggravating and mitigating circumstances. It also adds the grandparent of a victim of violent crime to those who are allowed to present a statement to the court. Legislation in Mississippi ensures victims the right to make both oral and written statements to the sentencing judge. A Virginia act requires that victim impact testimony be heard by the trier of fact when the defendant is found guilty or upon a guilty plea. A Louisiana measure allows a victim impact statement to include testimony concerning the overall effect of the crime upon the victim and family. Idaho lawmakers addressed victim impact in capital cases, with an enactment to ensure that evidence concerning the victim and the effect of the victims' death is relevant and admissible in capital sentencing.

Other states in 2004 continued work to broaden the scope of restitution and improve its enforceability. An act in Alaska makes it mandatory for the court to order offenders to pay restitution. California law now requires a defendant with an unpaid balance on a restitution order to prepare and file a signed financial disclosure statement prior to release from probation. Legislation in Utah allows a prosecutor to ask the court to take action to preserve property that might be necessary to later satisfy a restitution order. In North Carolina, an offender now is required to pay any outstanding restitution orders before the expungement of his or her criminal record.

Legislatures also continue to explore enforcement measures in other areas of victims' law. Maryland lawmakers passed a law calling for mandatory minimum standards applicable to victim notification and restitution. The measure requires the Secretary of Public Safety and Corrections to adopt such regulations.

Other states legislatures took action to improve and expand victim compensation, including who may apply for compensation and for what categories of harm. A Kansas measure extends the Crime Victims Compensation Act to include victims of violent crimes who are residents of Kansas living outside the United States. Another measure in that state increases the percentage of fines, penalties and forfeitures credited to the Crime Victim Compensation and Crime Victim Assistance Funds. Maryland legislation increases to \$2,000 the amount payable as an emergency award for criminal injuries compensation. In Tennessee, an enactment allows criminal injury compensation fund payments of up to \$3,500 to family members of victims or unreimbursed mental health counseling or treatment.

Links to legislation referred to in this report may be accessed via state legislative Web sites at <http://www.ncsl.org/public/reglinks.cfm>. Bill citations, by topic, appear below.

Enforcement

Maryland S 883.

Restitution

Alaska H 357; California S 631; North Carolina H 1518; Utah S 167.

Sexual Assault Victims

Alaska H 397; Connecticut H 5296; Colorado S 46; Georgia S 457; Illinois H 4288; Kentucky S 138; Washington S 1645; Wisconsin A 652.

Victim Compensation

Kansas S 256 and S 552; Maryland S 44; Tennessee H 3453.

Victim Notification

Alabama H 539; Alaska H 348; Arizona S 1222; California A 1504; West Virginia S 406.

Victim Participation

Idaho H 609; Illinois H 4777; Louisiana H 877; Mississippi S 2466; Virginia H 1083.

This report highlights selected state legislation. Sarah Hammond handles victim rights and services issues for NCSL's Criminal Justice Program in the Denver office. For more information, contact her at (303) 364-7700; or cj-info@ncsl.org. To receive regular criminal justice information updates from NCSL, go to the [Criminal Justice menu page](#) and sign up for NCSL e-news.

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