

CHAPTER 950

RIGHTS OF VICTIMS AND WITNESSES OF CRIME

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950.01 Legislative intent. In recognition of the civic and moral duty of victims and witnesses of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent, in this chapter, to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy and sensitivity; and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors and judges in a manner no less vigorous than the protections afforded criminal defendants.

History: 1979 c. 219.

950.02 Definitions. In this chapter:

(1) "Child" means a person who is less than 18 years of age.

(1m) "Crime" means an act committed in this state which, if committed by a competent adult, would constitute a crime, as defined in s. 939.12, or which, if committed by a responsible child, would constitute a delinquent act under ch. 48.

(2) "Department" means the department of justice.

(3) "Family member" means spouse, child, sibling, parent or legal guardian.

(4) "Victim" means a person against whom a crime has been committed.

(5) "Witness" means any person who has been or is expected to be summoned to testify for the prosecution, or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet been commenced.

History: 1979 c. 219; 1983 a. 197; 1985 a. 311.

950.03 Eligibility of victims. A victim has the rights and is eligible for the services under this chapter only if the victim reported the crime to law enforcement authorities within 5 days of its occurrence or discovery, unless he or she had a reasonable excuse not to do so.

History: 1979 c. 219.

950.04 Basic bill of rights for victims and witnesses. Victims and witnesses of crimes have the following rights:

(1) To be informed by local law enforcement agencies and the district attorney of the final disposition of the case. If the crime charged is a felony or is specified in ch. 940, the victim shall be notified whenever the defendant or perpetrator is released from custody. The victim shall be notified of a pardon application by the governor under s. 304.09 (3).

(2) To be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled, in order to save the person an unnecessary trip to court.

(2m) To have the court provided with information pertaining to the economic, physical and psychological effect of the

crime upon the victim of a felony and have the information considered by the court.

(3) To receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available.

(4) To be informed of financial assistance and other social services available as a result of being a witness or a victim of a crime, including information on how to apply for the assistance and services.

(5) To be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled.

(6) To be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants.

(7) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis and property the ownership of which is disputed, shall be returned to the person within 10 days of being taken.

(8) To be provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process and the juvenile justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances.

(9) To be entitled to a speedy disposition of the case in which they are involved as a victim or witness in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter.

(10) To have the family members of all homicide victims afforded all of the rights under subs. (1) to (4) and (6) to (9) and analogous services under s. 950.05, whether or not they are witnesses in any criminal proceedings.

History: 1979 c. 219; 1983 a. 102, 364; 1985 a. 311; 1987 a. 332 s. 64; 1989 a. 31.

Requirement in (1) of notice to victim of defendant's release from custody applies to all felonies charged under ch. 948. Notice is to be given to victims of all crimes charged under ch. 940, whether misdemeanors or felonies. Notice requirements of statute apply to individual persons, not business enterprises or corporations. OAG 1-90.

950.045 Victims; application for parole or pardon. Victims of crimes have the right to provide written statements concerning parole applications under s. 304.06 (1) (e) and to provide written statements concerning pardon applications under s. 304.10 (2).

History: 1987 a. 244; 1989 a. 31.

950.05 Services for victims and witnesses. (1) Counties are encouraged to provide victims and witnesses the following services:

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89-90 Wis. Stats. 4722

(a) Court appearance notification services, including cancellation of appearances.

(b) Victim compensation and social services referrals, including witness fee collection, case-by-case referrals and public information.

(c) Escort and other transportation services related to the investigation or prosecution of the case, if necessary or advisable.

(d) Case progress notification services which may be combined with services under par. (a).

(dm) Assistance in providing the court with information pertaining to the economic, physical and psychological effect of the crime upon the victim of a felony.

(e) Employer intercession services.

(f) Expedited return of property services.

(g) Protection services.

(h) Family support services, including child and other dependent care services.

(i) Waiting facilities.

(2) Counties are encouraged to assist victims in enforcing their rights under s. 950.045.

History: 1979 c. 219; 1983 a. 102; 1987 a. 244

950.055 Child victims and witnesses; rights and services.

(1) **LEGISLATIVE INTENT.** The legislature finds that it is necessary to provide child victims and witnesses with additional consideration and different treatment than that usually afforded to adults. The legislature intends, in this section, to provide these children with additional rights and protections during their involvement with the criminal justice or juvenile justice system. The legislature urges the news media to use restraint in revealing the identity of child victims or witnesses, especially in sensitive cases.

(2) **ADDITIONAL SERVICES.** In addition to all rights afforded to victims and witnesses under s. 950.04 and services provided under s. 950.05, counties are encouraged to provide the following additional services on behalf of children who are involved in criminal or delinquency proceedings as victims or witnesses:

(a) Explanations, in language understood by the child, of all legal proceedings in which the child will be involved.

(b) Advice to the judge, when appropriate and as a friend of the court, regarding the child's ability to understand proceedings and questions. The services may include providing assistance in determinations concerning the taking of videotaped depositions under s. 908.08 or 967.04 (7) and (8) and the duty to expedite proceedings under s. 971.105.

(c) Advice to the district attorney concerning the ability of a child witness to cooperate with the prosecution and the potential effects of the proceedings on the child.

(d) Information about and referrals to appropriate social services programs to assist the child and the child's family in coping with the emotional impact of the crime and the subsequent proceedings in which the child is involved.

(3) **PROGRAM RESPONSIBILITY.** In each county, the county board is responsible for the enforcement of rights and the provision of services under this section. A county may seek reimbursement for services provided under this section as part of its program plan submitted to the department under s. 950.06. To the extent possible, counties shall utilize volunteers and existing public resources for the provision of these services.

History: 1983 a. 197; 1985 a. 262 s. 8; 1985 a. 311.

950.06 Responsibility for rights and services. (1) In each county, the county board is responsible for the enforcement of rights under s. 950.04 and the provision of services under s.

950.05. A county board may decide to discontinue enforcing the rights under s. 950.04 and the provision of services under s. 950.05 and the only penalty shall be the loss of reimbursement under sub. (2).

(2) The costs of enforcing rights under s. 950.04 and providing services under s. 950.05 shall be paid for by the county, but the county is eligible to receive reimbursement from the state for the costs incurred in providing services under s. 950.05. For costs incurred on or after January 1, 1982, the county is eligible to receive funding from the state for not more than 90% of the costs incurred in providing services under s. 950.05. The department shall determine the level of services for which a county may be reimbursed. The county board shall file a claim for reimbursement with the department. The department shall reimburse the counties from the appropriations under s. 20.455 (5) (c) and (g) on a semiannual basis for services provided. If a county has a program plan approved after July 2, 1983, the department may reimburse the county only for services provided on or after January 1, 1984.

(2m) Notwithstanding subs. (1) and (2), the county is not responsible for providing or paying for the notification of pardon application described under s. 950.04 (1).

(3) The county board shall provide for the implementation of the county's plan under sub. (4). Two or more counties may submit a joint plan under sub. (4).

(4) If the county seeks reimbursement under sub. (2), the county board shall submit a program plan to the department for its approval. The county is eligible for reimbursement under sub. (2) only if the department has approved the plan. The program plan shall describe the level of services to victims and witnesses that the county intends to provide; the personnel or agencies responsible for related administrative programs and individual services; proposed staffing for the program; proposed education, training and experience requirements for program staff and the staff of agencies providing related administrative programs and individual services; the county's budget for implementing the program and other information the department determines to be necessary for its review. The plan shall provide that the district attorney, local law enforcement agencies and the courts shall make available to the person or agency responsible for administering the program all reports or files, except reports or files which are required by statute to be kept confidential, if the reports or files are required by the person or agency to carry out program responsibilities. In August of each year, the county board shall submit a report to the department on the operation of the plan, including the enforcement of rights under s. 950.04 and the provision of services under s. 950.05.

(5) The department shall review and approve the implementation and operation of programs and the annual reports under this section. The department may suspend or terminate reimbursement under s. 20.455 (5) (c) and (g) if the county fails to comply with its duties under this section. The department shall promulgate rules under ch. 227 for implementing and administering county programs approved under this section.

History: 1979 c. 219; 1981 c. 20; 1983 a. 27, 364; 1987 a. 244

950.07 Intergovernmental cooperation. The county board, district attorney, local law enforcement agencies, local social service agencies and courts shall all cooperate with each other to ensure that victims and witnesses of crimes receive the rights and services to which they are entitled under this chapter.

History: 1979 c. 219.