



MLSA

Montana Legal Services Association

An Overview of Victims Rights in Montana State Court

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RIGHTS IN SYSTEMS ENFORCED

RISE is a national project made possible with funding from the Office for Victims of Crime, U.S. Department of Justice. RISE aims to provide crime victims with access to no cost legal services to aid enforcement of their rights. For more information about this national rights enforcement initiative, visit the RISE Project website at <https://tinyurl.com/ncvli-RISE>.

Montana Legal Services Association (MLSA)



MLSA is a private, nonprofit law firm providing free civil legal aid to low-income Montanans in all counties and tribal reservations. MLSA has attorneys based in Missoula, Billings, and Helena.

The Montana Legal Services Association's mission is to protect and enhance the civil legal rights of, and promote systemic change for, Montanans living in poverty.



What are Victims'
Rights in Montana?

disposition
hearing
victim
crime

jurisdiction
proceedings
type

Know Your Rights

Find basic information about Montana crime victims' rights. Not all rights apply in every case and some additional rights may apply to your case. Your rights vary depending on your situation.

Montana Crime Victims' Rights

[Notice & Information](#)

[Confidentiality](#)

[Fair Treatment](#)

[Right To Be Present](#)

[Confer / Consult With The Prosecutor](#)

[Be Heard](#)

[Restitution & Crime Victim Compensation](#)

[Protection](#)

[Learn More](#)



Guiding Principles



“Laws for the punishment of crime shall be founded on the principles of prevention, reformation, public safety, and restitution for victims.”

Mont. Const. art. II, § 28(1).

The Montana Legislature created laws to:

- **Protect** the role of crime victims and witnesses in the criminal justice process;
- **Assure** that victims and witnesses of crime receive **fair** and **proper** treatment from law enforcement agencies and prosecutors; and
- Provide a standard of conduct governing the treatment of victims and witnesses in criminal cases.

Mont. Code Ann. §46-24-101(1)-(3).

The #1 Rule



“The dignity of the human being is inviolable.”
Mont. Const. art. II, § 4.



Criminal Event



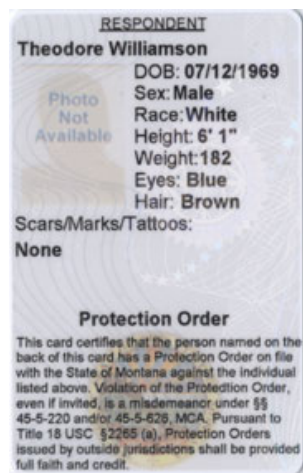
Right to Privacy

“The right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest.”
Mont. Const. art. II, § 10.

Right to Protection

Orders of Protection
§ § 10-15-102; 40-24-202 Mont. Code Ann.

Hope Card



The Hope Card allows someone who has been granted an Order of Protection in one jurisdiction to easily prove it in another jurisdiction. Hope Cards are wallet-sized and compact and are intended as a more convenient way for people who have permanent Orders of Protection to keep relevant information about their orders with them at all times.

<https://dojmt.gov/victims/hope-cards/>

A top-down view of a desk with a silver laptop, a pair of black-rimmed glasses, a black pencil, and a small green succulent plant.

Address Confidentiality Program

The Address Confidentiality Program (ACP) is administered by the Montana Attorney General's Office and provides an important service to residents of Montana who are victims of domestic violence, sexual assault or stalking.

“”

The program has two basic parts. First, ACP provides a designated address for victims who have moved to a new Montana location unknown to their abuser. Second, ACP provides participants with a free first-class confidential mail forwarding service.

<https://dojmt.gov/victims/address-confidentiality-program/>



Sexual Assault Forensic Examination



Who pays for the exam?

Not the victim: “a victim may not be billed for the cost of administering the sexual assault medical forensic examination or collecting evidence for the sexual assault evidence kit.” 46-15-406(2).

What happens to the sexual assault evidence kit?

Written consent must be on a form included in the kit and must indicate whether the patient consents to the release of information about the sexual assault to law enforcement. 46-15-404(1).

Written consent → health care facility to release to LE within 24 hours of collection. 46-15-404(2).

No written consent → health care facility shall inform victim that kit is being forwarded to office of victim services of the department of justice as an anonymous kit. 46-15-404(3)

Retained for a minimum of 1 year before being destroyed. 46-15-404(3)(b).

Victim may change mind and request testing. *Ibid.*



Reporting to Law Enforcement



Right to Safety

Right to Privacy

Right to Notice and Information

Right to Know Contact Information

Right to Weapons Seizure

Information **All Victims**



Law enforcement personnel shall ensure that a **victim of a crime** receives **emergency social and medical services** as soon as possible and that the victim is given **written notice**, in the form supplied by the attorney general, of the following:

1. the availability of **crime victim compensation**; [Mont. Code Ann. § 53-9-101]
2. access by the victim and the defendant to information about the case, including the **right to receive documents** under 46-24-106 [AT NO COST];
3. the **role of the victim in the criminal justice process**, including what the victim can expect from the system, as well as what the system expects from the victim, and including the right to be accompanied during interviews as provided in 46-24-106; and
4. stages in the criminal justice process of significance to a crime victim and the manner in which information about the stages may be obtained.

Safety/Privacy

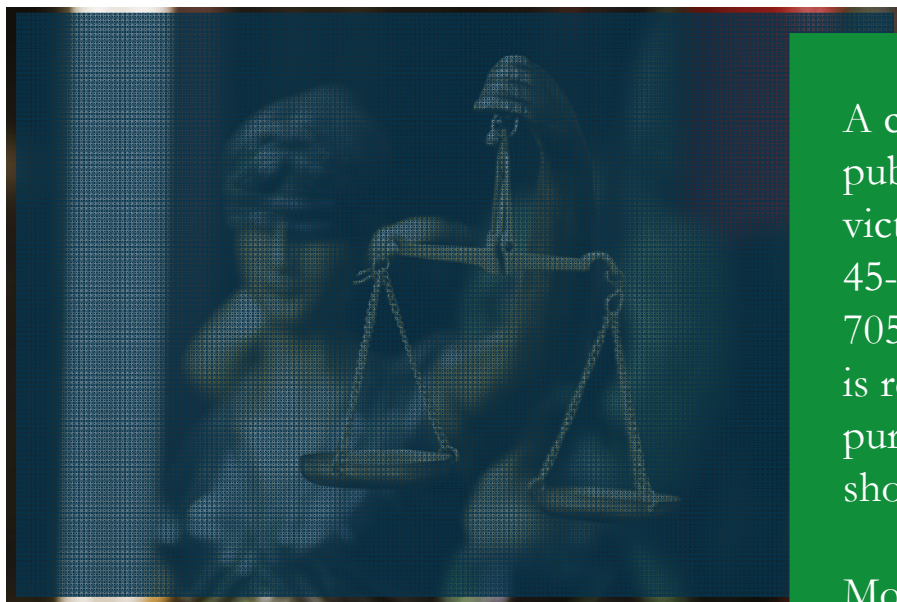


Initials or pseudonyms in reports, charging documents, court documents

If a victim of an offense requests confidentiality, a criminal justice agency may not disseminate, except to another criminal justice agency, the address, telephone number, or place of employment of the victim or a member of the victim's family unless disclosure is of the location of the crime scene, is required by law, is necessary for law enforcement purposes, or is authorized by a district court upon a showing of good cause.

Mont. Code Ann. § 44-5-311

Safety/Privacy



A criminal justice agency **may not** disseminate to the public any information directly or indirectly identifying the victim of an offense committed under 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-702, 45-5-703, 45-5-704, or 45-5-705 unless disclosure is of the location of the crime scene, is required by law, is necessary for law enforcement purposes, or is authorized by a district court upon a showing of good cause.

Mont. Code Ann. § 44-5-311(3)

Safety/ Participation



A victim of a criminal offense has the right...to have a victim advocate present when the victim is interviewed about the offense. Mont. Code Ann. § 46-24-106(7).

PFMA - Seizure Of Weapon



- (1) A peace officer who responds to a call relating to partner or family member assault shall seize the weapon used or threatened to be used in the alleged assault.
- (2) The responding officer may, as appropriate:
 - (a) take reasonable action necessary to provide for the safety of a victim and any other member of the household;
 - (b) transport or arrange for the transportation of the victim and any other member of the household to a safe location; and
 - (c) assist a victim and any other member of the household to remove necessary personal items.
- (3) A weapon seized under this section may not be returned to the offender until acquittal or until the return is ordered by the court.

Mont. Code Ann. § 46-06-603

Ongoing Investigation (pre-charge)

Right to Public Information

Limited Right to CCJI Information

Right to Consult Prosecution





Right to Know



“No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.” Mont. Const. art. II, § 9

Ongoing Investigation (post-charge)



Right to a Criminal No Contact Order

Right to Imposed Conditions

Right to Notification of Employer or Creditors

Right to Consult/Confer with Prosecutor

Notice and Information

Privacy/Safety

Consultation/Confer



Victims of **felony offence** or **misdemeanor involving actual, threatened, or potential bodily injury** are entitled to consultation with the prosecuting attorney regarding:

1. Dismissal of the case;
2. Release of accused;
3. Plea negotiations; and
4. Pretrial diversion.

Mont. Code Ann. § 46-24-104(1)-(4).

Generally, victim of a criminal offense has the right to be present “during any trial or hearing conducted by a court that pertains to the offense...” Mont. Code Ann. § 46-24-106(1).

A victim of a criminal offense is entitled to a copy of all public documents filed in the case **AT NO COST**.
Mont. Code Ann. § 46-24-106(6)(a).

Participation... or lack thereof



A defendant may not interview a child under the age of 16 who alleges to be the victim of sexual abuse...or an immediate family member of the child who is also under the age of 16, except by an order of the court.

Mont. Code Ann. § 46-15-320(1).

No statutory or constitutional right for defendants to routinely depose State's witnesses, even if they have refused defense interview.

Daenzer v. Mun. Court, 2020 MT 140, ¶ 8, 400 Mont. 179, 184, 464 P.3d 996, 999.

Investigation Conclusion



Right to Information – Expanded Access to CCJI
Right to Disposal/Return of Evidence



At Trial

Right to be Present
Accommodations
Privacy





Sentencing



Right to Access Pre-sentence Investigation Report

Right to be Heard Via Victim Impact Statement

Right to Privacy

Right to Restitution

Restitution



The purpose of Montana’s restitution statutes are to make victims whole. *State v. Johnson*, 2018 MT 277, ¶ 28, 393 Mont. 321, 328, 30 P.3d 494, 500.

Mont. Code Ann. § 46-18-201(5) (requiring “payment of full restitution to the victim”)

Mont. Code Ann. § 46-18-241(1) (mandating that “a sentencing court shall, as part of the sentence, require an offender to make full restitution to any victim who has sustained pecuniary loss, including a person suffering an economic loss”)



Restitution



Medical bills

Dental bills

Mental health counseling

Stolen or damaged property

Lost wages

Travel expenses

Relocation costs

Safety requirements

Funeral costs

Future expenses

Potential day care

Do you have an another expense you think should be covered? We'd love to chat about it!



Restitution Workbook

Medical expenses

Were you hurt or injured during the crime? *

- Yes
- No

Did you seek medical attention or incur any medical expenses? *

- Yes
- No

Did you have any one-time medical expenses? *

- Yes
- No

You will also be asked about first responder expenses, and other future ongoing medical expenses.

Add each of your initial medical expenses below.

Date of purchase or expense *

Amount of expense *



Post-conviction

Right to be Heard by the Parole Board
Right to Notice and Information (VINE)
Right to Safety



Heard



Notice of post-conviction petitions and date, time, place of any hearing, and the decision.

Mont. Code Ann. § 46-24-211

Custody

Discharge or parole eligibility

Actual date of discharge

Notice of parole hearing

Community in which offender lives after parole

Mont. Code Ann. § 46-24-212

MLSA's Crime Victim Practice Group

- Providing *coordinated*, *comprehensive*, and *holistic* wrap-around services to crime victims across the state by offering legal advice and representation, advocacy for victim's rights and safety, and additional support and educational resources.
- Three full-time attorneys and one team navigator.



Innovative Technology



<https://www.mtcrimevictimhelp.org/>

Find Help

Use our online help tool to find the resources you need. *Note that selecting fewer options may give you better search results.

Step One Step Two Step Three Step Four Step Five

How can we help you?

- I'm looking for help for an adult crime victim.
- I'm looking for help for child crime victim.
- I'm looking for help for an elder (55+) crime victim.

START

Interactive Help Tool

Know Your Rights

Find basic information about Montana crime victims' rights. Not all rights apply in every case and some additional rights may apply to your case. Your rights vary depending on your situation.

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Know Your Rights Overview

MT CRIME VICTIM HELP

ABOUT US / RESOURCES / KNOW YOUR RIGHTS / HELP TOOL / FAQ

Find Help for victims of crime in Montana

Montana Crime Victim Help connects you with legal help and supportive services. Find legal information and referrals for safety issues, housing, employment, and more. Choose one of the options below or use our guided interview to find help now.

Self Help Resources

We've put together a library of helpful resources, including forms, tools, legal information, ways to find an advocate, databases, and more.

ESCAPE

Safety, First

KNOW YOUR VICTIM RIGHTS

Know Your Rights

Unlike defendants' rights, which nearly everyone in the country can easily recite, very few people know what rights victims have. We are committed to changing this! Below, you will find Quicktools – a series of short videos about victims' rights and how to protect those rights. From knowing which rights exist to learning how to exercise them, protecting victims' rights starts here with our Quicktools!

The legal information contained below does not constitute legal advice and is for general informational purposes only. For use and distribution of NCVLI's Quicktools, reference the information at the end of this page.

OVERVIEW

SPECIFIC RIGHTS

A large, dark, textured graphic occupies the right side of the page. It features a faint, halftone-style image of a person's face looking down at a desk with a laptop. Overlaid on the right side of this graphic is a large, bright green triangle pointing towards the top right, and a smaller blue triangle at the bottom right corner. The text 'THANK YOU' is centered in white, serif, all-caps font over the dark background.

THANK
YOU



Contact MLSA



Apply for services, <https://www.mtlsa.org/apply-for-services/>
Hotline (866)6864574

Jain Walsh, jwalsh@mtlsa.org

Further resources, <https://www.mtcrimevictimhelp.org/>