Crime Victims' Rights

Understanding the criminal justice system

Introduction

Victims of crime are guaranteed certain notification rights and participation in the criminal justice system under an amendment to the Missouri Constitution and laws that took effect in 1993.

The rights discussed in this publication automatically apply to victims of dangerous felony crimes (which may include arson, assault, kidnapping, manslaughter, murder, rape, robbery, sodomy or an attempt to commit one of these crimes).

I hope this booklet helps you to better understand the court process during these difficult times for crime victims and families of deceased victims.

Sincerely,

Joshua D. Hawley
Attorney General

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Your Rights

VICTIMS' NOTIFICATION RIGHTS

The following agencies and individuals are required automatically to inform dangerous felony crime victims of certain rights and information. Victims of other crimes and witnesses to crimes may take advantage of these rights by written request to the appropriate agency. Here is a list of agencies and information they can provide:

LAW ENFORCEMENT AGENCIES, JUVENILE AUTHORITIES

- Case status, availability of victims' compensation services, emergency crisis intervention services, assistance in obtaining loss documentation, releases on bond or for any other reason, and any escape (within 24 hours) or recapture.

PROSECUTORS

- Case status (including submitted cases before a charging decision has been made, charged cases, and any final decision not to file charges), filing of charges, preliminary hearing dates, trial dates, continuances, and final disposition (within five days).
- Bail hearings, guilty pleas, pleas of not guilty by reason of insanity, hearings, sentencing and probation revocation hearings.
- Availability of victim services (including compensation, financial assistance, and emergency crisis intervention).
- Right to restitution and the availability of, and application process for, any witness fee to which a victim is entitled.

CUSTODIAL AUTHORITIES

- Upon written request to the appropriate custodial authority, including municipal or county detention or jail facilities, juvenile detention facilities, correctional facilities operated by the Department of Corrections, mental health facilities, and the Division of Youth Services.
- A defendant's projected release date and actual release date — on bond, work release, trial release or for any other reason, or escape (within 24 hours).
- Parole or release hearings, rescheduling of any hearings (no hearing shall be conducted without giving the victim a 30-day advance notice), and decision by a parole board, juvenile releasing authority, or circuit court presiding over releases for persons found not guilty by reason of insanity
- Decision by the governor to commute a sentence or grant a pardon, or death of a defendant (must be notified within 30 days).
- Upon request, to receive a photograph taken of the defendant prior to release from incarceration.

BOARD OF PROBATION AND PAROLE

- Probation and revocation hearings initiated by the board, and parole hearings.
- Final decisions to release the defendant made by the board.

ATTORNEY GENERAL

Upon a written request, case status information will be provided throughout the appellate process. A form is included on page 28 (Appendix A) and can be sent directly or copied. Alternatively, you may visit our forms page to submit your request online. http://ago.mo.gov/other-resources/forms

VICTIMS' GENERAL RIGHTS

Here are crime victims' general rights in Missouri:

- To be present at all criminal proceedings where the defendant has that right, even if the victim is called to testify or may be called to testify as a witness in the case.
- To confer with the prosecutor regarding bail hearings, guilty pleas, pleadings of insanity, hearings, sentencing and probation revocation hearings.
- To be present at any hearing in which the defendant is present before a probation and parole hearing officer and to full participation in all phases of parole hearings or probation revocation hearings.
- To be heard at juvenile probation revocation hearings, probation revocation and parole hearings initiated by the board of probation and parole, and release proceedings for persons found not guilty by reason of insanity. Victims may offer a written statement, video or audio tape in lieu of a personal appearance.
- To protection from harmful threats from a defendant, or persons acting on behalf of defendant, for activities arising out of cooperation with law enforcement officials, and the right to a secure waiting area during a court proceeding.
- To speedy disposition of cases and speedy appellate review, allowing for the defendant to prepare a defense.
- To fair employment rights (including the right of a victim, witness or member of a victim's family not to be discharged or disciplined by an employer for honoring a subpoena or for participating in the preparation of a criminal proceeding).
- To regain property from a prosecutor or law enforcement officer once it is no longer needed for evidence or retention during an appeal (within five working days upon request) unless it is contraband or subject to forfeiture proceedings.
- To creditor intercession services by the prosecuting attorney if the victim is unable, as a result of the crime, to temporarily meet financial obligations.
- To limited compensation for out-of-pocket loss and for qualified medical care necessary as a result of the crime.

SEEKING INFORMATION

The laws granting rights to crime victims are in the Missouri Constitution, Article 1, Section 32, and in the Missouri Revised Statutes, Chapter 595. A copy of these laws should be available at your local library.

Article 1, Section 32 of the Constitution can be found at
www.moga.mo.gov/MoStatutes/ConstHTML/A010321.html

Section 595.209, RSMo, can be found at:
www.moga.mo.gov/mostatutes/stathtml/59500002091.html

Crime victims who want more information regarding their rights may contact their local prosecutors or write to:
Missouri Attorney General's Office
Victims' Rights, Public Safety Division
P.O. Box 899
Jefferson City, MO 65102

MISSOURI VICTIM ASSISTANCE NETWORK
Crime victims can obtain other information from the Missouri Victim Assistance Network (MoVA), a nonprofit organization:
Phone: 800-698-9199
Web: http://movanet.org

MISSOURI DEPARTMENT OF PUBLIC SAFETY - CRIME VICTIM SERVICES UNIT
The Crime Victim Services Unit assists crime victims in the event of possible victims' rights violations:
Toll-free phone: 866-334-6682
Web: http://dps.mo.gov/dir/programs/cvsu/

Compensation Fund

The state of Missouri has a fund to reimburse some crime victims for certain financial losses. You may be eligible for benefits if:

- You are a victim of violent crime and suffered personal bodily injury;
- You are a relative who requires counseling to better assist a sexual assault victim with recovery;
- You are a spouse, child or other dependent of a victim who has died as a direct result of a crime, or you assumed financial obligations incurred as a result of the victim's death; or
- You are a Missouri resident who suffered personal injury in a state that does not have a crime victims' compensation program and the injury would be covered if the crime had occurred in Missouri.

ELIGIBILITY

To be eligible, you must have:

- Reported the incident within 48 hours to the proper law enforcement agency or had a good reason for delay;
- Filed the compensation claim within two years of the crime or discovery of the crime; and
- Incurred medical expenses and lost time from work, or incurred no medical bills but lost at least two weeks' wages. The rate of compensation is $40 a day or $200 a week.

COMPENSATION

Depending on the case, victims' compensation may be available for medical care, psychiatric treatment or other counseling, funeral expenses and wage loss reimbursement for the victim. Total recovery may not exceed $25,000.

Confidential Address

KEEPING NEW ADDRESS CONFIDENTIAL

Victims of domestic violence, rape, sexual assault and stalking who move can conceal their new address by applying with the Missouri Secretary of State's Safe at Home program. This allows you to establish a post office box in Jefferson City. The Secretary of State will receive all mail sent to you, then forward it to your actual address.

Contact the Secretary of State at www.MoSafeAtHome.com or toll-free 866-509-1409.

Court Process

A crime committed against a person violates state law and thus is a crime against the state. The prosecuting attorney for the county in which the crime occurred usually handles the case.

In a criminal case, the state has the burden of proving beyond a reasonable doubt that the defendant committed the alleged crime. Defendants are presumed innocent and never have the burden of proving their innocence.

INVESTIGATION

Law enforcement personnel investigate reports of criminal activity, gather evidence, make arrests, and present the evidence to the prosecuting attorney. Based on the investigation, police or the sheriff may decide that:

- No criminal conduct has occurred as defined under Missouri law,
- There is insufficient evidence to pursue the complaint, or
- One or more persons may be arrested and the matter referred to the prosecutor.

Any person arrested must be released within 24 hours unless a warrant is issued for an arrest.

COMPLAINT AND ARREST

If police determine the evidence constitutes an offense and identifies a suspect, the matter is taken to the prosecuting attorney. As the legal representative for the state, the prosecuting or circuit attorney must then determine whether and what formal charges to file. The State is responsible for bringing criminal charges and not the victim of a crime.

Once a charge has been filed, usually in the form of a complaint, the prosecutor can go to a judge to obtain an arrest warrant. The court issues the warrant if there are sufficient facts to show probable cause that a felony has been committed by the defendant. This warrant will allow local law enforcement officials to make an arrest.

PRELIMINARY HEARING *(Not held for misdemeanor cases)*

Felony cases begin with a preliminary hearing — a proceeding in which testimony is taken under oath. The defendant may waive a preliminary hearing, and the case usually will be sent directly to circuit court for trial.

If the defendant chooses to proceed with a preliminary hearing, the judge, defendant, defendant's attorney, prosecutor, and any victims or witnesses subpoenaed will attend.

The prosecutor presents evidence to show the judge that there is probable cause to believe a crime was committed and that it was committed by the defendant.

The defense attorney can cross-examine the state's witnesses and produce evidence. The prosecuting attorney may then re-direct, or re-question the witnesses. If probable cause is established, the judge will order the defendant to be bound over for trial.

If the judge decides that probable cause has not been established, the court dismisses the case and the defendant is released. This also may occur if witnesses fail to appear to testify. In some cases the prosecutor can later file another complaint against the defendant, based on the same crime.

At any time, the prosecutor may decide to voluntarily dismiss the charges, called *nolle prosequi*.

GRAND JURY

A grand jury sometimes replaces the preliminary hearing as a method by which criminal charges can be filed. A grand jury is composed of a panel of private citizens, chosen similarly to trial juries, whose job is to look into allegations of criminal activity. Not every county has a grand jury.

The prosecutor presents evidence to the grand jurors who decide whether a crime was committed and if the defendant could have committed it. Proceedings are closed to the public, and the accused does not have the right to be present unless subpoenaed, and may not present evidence on his own behalf. The jury has the power to issue subpoenas to compel witnesses to testify or to produce documents and other evidence. As with a preliminary hearing, the case is bound over to the circuit court or the defendant is freed.

BAIL

A person charged with a bailable offense may be released pending trial on personal recognizance if the judge is assured the person will show up for court.

If a preliminary hearing is held and the defendant is bound over for trial, bail is discussed at that time. For grand jury indictments, bail is addressed at the defendant's arraignment.

The judge may release the person on bail by imposing any number of conditions as specified under state law. Release on bail is not available for "capital offenses" where the accused is subject to punishment by death.

ARRAIGNMENT

This is the first formal presentation of charges to the defendant, who must enter a plea. Also, the judge can raise or lower the defendant's bond. The arraignment is open to the public.

After arraignment, an assistant prosecuting or circuit attorney is assigned to the case (for larger prosecutor offices). In some cases, the same prosecutor will be assigned from the onset and the case is added to a judge's docket.

The court sets a trial date and hearing dates on pretrial motions. The trial date may change because of requests for continuances or because of other cases on the trial docket for that day.

PRETRIAL MATTERS

1. **Discovery**
   Discovery is the process in which the state and defense can obtain information before trial. The discovery rules provide the defendant with sufficient information to make an informed plea, to encourage thorough trial preparation, to avoid surprises at trial, to conserve resources, and to expedite case processing.

   Under the U.S. Constitution, the state must disclose evidence if there is a reasonable probability that the trial outcome would have been different if the evidence had been disclosed.

   State law also requires disclosure of certain information. A defendant may obtain the deposition of any person. The defendant is not present at a deposition unless it is agreed upon by the parties or if a court grants an order stating the defendant may be present. A defendant must show there is good cause in order to be physically present. Also, the trial court may issue special protective orders.

2. **Plea Bargaining**
   Plea bargaining is the process in which the prosecution makes charging and sentencing concessions in exchange for a guilty plea. Among reasons the prosecution may avoid going to trial:

- To avoid further trauma to victims, such as a child who was sexually assaulted.
- The victim, though prepared to testify, would prefer to end the case.
- Evidence will support a conviction but other factors favor entering into a plea.
- The defendant agrees to cooperate with the state in the prosecution of a co-defendant.

Under Missouri law, the prosecutor may agree to:

- Dismiss other charges.
- Recommend or agree not to oppose the defendant's request for a particular sentence.
- Agree that the particular sentence is appropriate.
- Recommend or agree on another case disposition.

The trial court is not required to accept a plea agreement, but if the court rejects the agreement, the defendant may withdraw his guilty plea. To be valid, the guilty plea must be entered "knowingly, intelligently, and voluntarily."

3. **Continuance**
   A criminal proceeding may be continued (or pushed to a later date) for what is referred to as "good cause shown."

TRIAL

1. **Noncapital cases**
   In all criminal cases, a trial may be held before a jury or, if the defendant does not want a jury trial, before a judge. Typically, jury-tried cases include a jury selection procedure (general voir dire), a guilt phase, and a sentencing phase. If the defendant has no prior convictions and does not waive jury sentencing, then the jury may recommend a sentence. The judge sentences the defendant.

2. **Capital cases**
   The state can seek the death penalty only in first-degree murder cases, which requires that the defendant acted with deliberation. Jury selection occurs in two phases. During the death qualification phase, the state and the defense may question prospective jurors about their views on capital punishment and whether they can consider the full range of punishment — life imprisonment without the possibility of probation or parole, or death. Prospective jurors can be struck for cause if their views would substantially affect their ability to perform. In the general phase, the parties may question jurors about their background, which aids in using peremptory challenges (removing for any reason).

The guilt phase then begins. As in all criminal cases, before presenting evidence, the prosecutor must make an opening statement, summarizing the evidence. The defense then may make an opening statement or may wait and make it before presenting its own evidence.

If the jury returns a guilty verdict, the penalty phase begins. Again, the prosecutor makes an opening statement; the defense may follow with one or present it at the beginning of its case. The state then presents evidence to establish beyond a reasonable doubt at least one aggravating circumstance to qualify for the death penalty. The defense can produce evidence in mitigation.

3. **Presentence investigation**
   Before sentencing, the state Board of Probation and Parole may investigate to determine if the defendant is eligible for probation and may make a recommendation to the judge. The defendant may waive the presentence investigation.

   Victims are asked to make victim impact statements, describing how the crime has impacted their lives. They are included in the presentence investigation report.

4. **Motion for new trial**
   A new trial may be granted upon "good cause shown" by the defendant. The motion for new trial must be filed within 15 days from the date of conviction. The trial court can grant a one-time extension of 10 days.

5. **Sentencing**
   For each crime, the statute creating the offense specifies a range of punishment, such as five to 15 years' imprisonment.

   If the jury recommends a sentence for the defendant, the judge cannot increase the punishment but can reduce it. In some cases where the defendant has prior criminal convictions, only the judge considers punishment. The victim or family of a deceased victim has the right to be present and to make a statement at the sentencing hearing.

   Offenders sentenced to one year or more are sent to prison. A lesser sentence generally is served in a county jail.

   If a defendant is sentenced to imprisonment, that sentence will be stated in days or years, such as "fifteen years imprisonment." However, the judge may suspend execution of the sentence and place the defendant on probation subject to conditions. Or the judge may decide not to sentence the defendant

but to suspend imposition of sentence and place the offender on probation. The defendant also may be ordered to make restitution, to pay court courts, and to pay a fine.

SENTENCING AND RELEASE

State law sets prison terms and fines. Multiple sentences run concurrently (at the same time) unless the court specifies them to run consecutively (one after the other). But for multiple offenses including rape in the first degree, forcible rape, sodomy, forcible sodomy, or an attempt to commit any of those felonies, the sentence on the sexual offenses must run consecutive to the non sexual offenses.

A defendant will receive credit for time served in jail or prison awaiting trial if the incarceration was not for time served on a different, unrelated offense.

The law also sets a conditional release term when a felon can be considered for release, unless he has committed a dangerous felony or previously has been sentenced to the state prisons. A dangerous felony includes arson in the first degree, assault in the first degree, attempted rape in the first degree if physical injury results, attempted forcible rape if physical injury results, attempted sodomy in the first degree if physical injury results, attempted forcible sodomy if physical injury results, rape in the first degree, forcible rape, sodomy in the first degree, forcible sodomy, kidnapping, murder in the second degree, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, statutory rape in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, and, abuse of a child if the child dies as a result of injuries sustained from conduct chargeable under section 568.060, child kidnapping, and parental kidnapping committed by detaining or concealing the whereabouts of the child for not less than one hundred twenty days under section 565.153 or the attempt of any of these.

A felon's length of sentence determines how soon the state Board of Probation and Parole considers a conditional release. (See chart on page 19.)

CHALLENGES TO A CONVICTION, SENTENCE

1. **Direct appeal**
   The state cannot appeal an acquittal of the defendant. If the defendant is found guilty, the defendant must appeal the decision within 10 days after the court officially pronounces the sentence. Appeals are heard by the Missouri Court of Appeals, unless a death sentence is imposed. Then the appeal goes directly to the Missouri Supreme Court.

   The attorney general represents the state in all felony appeals. Any victim wanting to be informed of the appellate procedure and case status must make the request in writing to the Missouri Attorney General's Office. A form is included in Appendix A and can be sent directly or copied.

   If the conviction and sentence are affirmed, the defendant can present to the U.S. Supreme Court federal constitutional claims in a petition for writ of certiorari, but such review is discretionary.

   If a misdemeanor conviction is appealed, the prosecuting attorney for the county from which the conviction arose will represent the state.

2. **Postconviction motions**
   Separate from the appeal, the defendant also has the right to seek postconviction relief. Missouri Supreme Court Rule 24.035 and Rule 29.15 provide the only remedy for seeking postconviction relief from a judgment of conviction and sentence, alleging:
   - The violation of the constitution and laws of Missouri or the U.S. Constitution,
   - The sentence exceeds the statutory maximum, or
   - The court imposing sentence did not have jurisdiction.

   Rule 24.035 applies to guilty pleas, Rule 29.15 applies to guilty verdicts.

   If a direct appeal is brought, the postconviction motion must be filed within 90 days after the appellate court issued its mandate; otherwise the motion must be filed within 90 days after the defendant entered the prison system.

   An appeal from the denial of a postconviction motion may also be brought before the state Supreme Court or the Court of Appeals, and must be filed within 10 days of the final judgment (40 days from denial of the motion).

A petition for writ of certiorari also may be filed in the U.S. Supreme Court following affirmation of the denial of the postconviction motion. Again, review is discretionary.

3. **Federal habeas corpus proceedings**
Under federal law, a state offender may seek relief by filing a federal *writ of habeas corpus* in the U.S. District Court. A federal habeas petition must raise the ground that the petitioner's imprisonment violates the U.S. Constitution or U.S. laws or treaties. The Missouri attorney general defends the state against habeas challenges.

A habeas petitioner generally is not entitled to an evidentiary hearing on claims for relief. If a hearing is granted, it focuses on allegations that the conviction and/or sentence are in violation of the Constitution.

If the district court *grants the writ*, the inmate is not automatically released from prison. Generally the court issues an order directing that the state either begin trial proceedings against the inmate within 60 days, or release him. When a writ is granted, the state can request the district court to reconsider its opinion. If that request is denied, the state can ask that the writ be stayed, suspending the court order. An appeal challenging the district court's decision is then taken to the 8th U.S. Circuit Court of Appeals for a review by a three-judge panel.

If the 8th Circuit affirms the decision of the district court, the state may request that the panel rehear the appeal or that the entire court hear it. If these requests are denied, the state may ask the U.S. Supreme Court to hear the case by filing a writ of certiorari. The Supreme Court has the discretion on whether to hear a case.

If the district court denies the writ, the inmate must obtain the permission of the district court or federal appeals court to proceed. If permission is granted, the habeas petition then would proceed through the same steps as above.

PAROLE

1. **Minimum prison terms**
Offenders previously convicted of one or more felonies must serve a percentage of the new sentence. The number of prior convictions determines the percentage of time served before the inmate is eligible for parole.

Defendants convicted of committing a dangerous offense, as defined by statute, must serve a minimum 85 percent of the sentence. If the minimum eligibility date exceeds the conditional release date, the offender is not entitled to conditional release.

2. **Parole hearings**
The Board of Probation and Parole decides when prisoners are eligible for release on parole. A victim or family of a deceased victim may attend parole hearings or provide information to the board about the crime and request that parole be denied. Once released, the offender remains in the legal custody of the Department of Corrections and is subject to the board's orders.

Inmates sentenced to two or more years of incarceration must serve a set amount of months before they are scheduled for a parole hearing. Here are the length of sentences and required months to be served before a parole hearing can be held:

Years of sentence	Months served before hearing
2	2
3	3
4	4
5	5
6	6
7	7
8	24
9	30
10	36
11-15	42
16-20	60
21-25	78
26-30	96
31-35	114
36-40	132
41-44	144
45+	156

Fines

Chapter 560, RSMo, allows for persons convicted of crimes to be sentenced these fines:

Class C or D felony: Up to $5,000, or up to twice the amount of the offender's gain from the crime, not to exceed $20,000.

Class A misdemeanor: Up to $1,000.

Class B misdemeanor: Up to $500.

Class C misdemeanor: Up to $300.

Infraction: Up to $200.

These penalties do not apply in cases where the statutes outline fines for a specific offense.

In lieu of the fines listed above, a person convicted of a misdemeanor or infraction may be fined up to twice the amount of the offender's gain from the offense, not to exceed $20,000.

Prison Terms

Class A felony: Death or life imprisonment without the possibility of probation or parole. For offenders younger than 16 at the time of the offense, the penalty is life without the possibility of probation or parole.
Example: First-degree murder pursuant to Section 565.020, RSMo.

Class A felony: 10-30 years or life imprisonment.
Examples: Second-degree murder; first-degree robbery.

Class B felony: 5-15 years.
Examples: Voluntary manslaughter; second-degree robbery; first-degree burglary.

Class C felony: Up to seven years.
Examples: Involuntary manslaughter; second-degree assault; deviate sexual assault; second-degree statutory rape; stealing a car; third stealing offense; forgery.

Class D felony: Up to four years.
Examples: Passing bad check with no account; second-degree odometer fraud; parental kidnapping.

Class A misdemeanor: Up to one year.
Examples: Fraudulent use of a credit device, value of property or services is less than $500; false advertising; reckless burning; passing bad checks worth less than $500.

Class B misdemeanor: Up to six months.
Examples: First DWI offense; first-degree trespass; removing plants from highways and roadways.

Class C misdemeanor: Up to 15 days.
Examples: Driving with excessive blood alcohol content, first offense; library theft of less than $500.

Court Terms

Acquittal: Legal judgment, based on the decision of either a jury or a judge, that an accused is not guilty of the crime for which he or she has been charged and tried.

Adjudication: Judicial decision that ends a criminal proceeding by a judgment of acquittal, conviction, or dismissal of the case.

Appeal: Following a conviction, the offender may appeal the judgment to a state appellate court. The Missouri Supreme Court automatically hears death sentence cases; otherwise, the appeal is heard by the Missouri Court of Appeals.

Arraignment: Court appearance where formal charges are read to the defendant and where the defendant is asked to enter a plea.

Arrest warrant: An order made on behalf of the state, based on a complaint and signed by a judge, authorizing police to arrest a person thought to have committed a crime. A person arrested on a warrant stays in jail until bail is posted or until released by order of the court.

Associate Circuit Court: An accused is arraigned in the Associate Circuit Court before being bound over to the Circuit Court for further proceedings.

Bail: Money or property promised or given to the court as security when a defendant is released before and during trial with the agreement he will return to court when ordered. The court sets the bail amount or value depending on several factors, including seriousness of charges and the likelihood that the defendant will attempt to flee prior to the required court appearances. Bail is forfeited to the court if the defendant fails to return to court.

Beyond a reasonable doubt: Degree of proof needed for a judge or jury to convict an accused person of a crime.

Burden of proof: In criminal cases, the state carries the burden of establishing beyond a reasonable doubt that the accused committed the offense.

Capital offense: Commission of first-degree murder. Killing someone with deliberation is punishable by a sentence of death or life imprisonment without the possibility of probation or parole.

Charge: Formal accusation filed by the prosecutor's office that a person has committed a specific crime. Also referred to as "pressing charges." The State "presses charges", not the victim.

Circuit Court: Court that has jurisdiction in criminal matters over all felonies.

Complaint: Preliminary charge made by the state that a person has committed a specified offense.

Concurrent sentences: Sentences run, or are served, at the same time.

Consecutive sentences: Sentences run one after the other.

Continuance: Delay or postponement of a court hearing. A case can be continued for good cause, such as illness or witness unavailability, or by agreement of the parties.

Conviction: Court judgment based on the decision of a jury or judge that the defendant is guilty of the crime for which he was tried.

Crime: Violation of the law.

Defendant: Person formally charged with committing a specific crime.

Defense attorney: Lawyer who represents the defendant.

Deposition: Sworn testimony of a witness taken outside of court in the presence of the attorneys for the defense and prosecution. A deposition can be used at trial to impeach or discredit a witness's testimony or can be read to a jury if the witness is unavailable.

Dismissal: Decision by a judicial officer to end a case for legal or other reasons.

Disposition: Final decision that ends a criminal proceeding by judgment of acquittal or dismissal, or sets the sentence if the defendant has been convicted.

Felony: Serious crime punishable by more than one year in prison.

Grand jury: Body of persons, selected and convened upon order of a judge, to inquire into and return indictments for crimes. The grand jury has the power to request that the circuit clerk issue subpoenas to bring people to testify before it.

Habeas corpus — federal: Proceeding where a prisoner challenges the lawfulness of his imprisonment. A writ of habeas corpus action does not determine the prisoner's guilt or innocence, but reviews the constitutionality of the imprisonment.

Hearing: Legal proceeding in which a judicial officer or administrative body hears arguments, witnesses and evidence.

Hearsay: Testimony based not on a witness's own knowledge, but on matters told to him by another person.

Implied consent: If a person is granted the privilege to hold a driver's license, he has automatically given "implied consent" to submit to alcohol or drug testing. Refusing to consent results in license revocation for one year. The revocation is handled administratively through the Missouri Department of Revenue, not through a criminal court.

Indictment: Formal charging document presented by the prosecuting attorney to a grand jury. The grand jury may then issue the indictment if it believes that the accusation, if proved, would lead to a conviction.

Information: Formal charging document issued by a prosecuting attorney (with no grand jury involvement).

Infraction: Violation of a statute in which the only punishment authorized is a fine and which is expressly designated as an infraction.

Jail: Local facility where persons in lawful custody are held. Defendants awaiting trial and defendants convicted of minor crimes usually are held in jail, not prison. Any person who receives a prison term of one year or less will serve it in the county jail. Those with longer terms will go to prison.

Judicial officer or judge: Officer of the court who determines causes between parties or renders decisions in a judicial capacity. The judge generally decides questions of law.

Misdemeanor: Crime less serious than a felony that is usually punishable by a maximum one-year jail term, a fine, or both.

Nolle prosequi: Voluntary dismissal of criminal charges by the state.

Parole: Release of a prisoner from imprisonment, but not from legal custody.

Personal recognizance: Promise of an accused person to the court that he will return to court when ordered to do so. The promise is given in exchange for release before and/or during his trial.

Plea: Defendant's formal answer in court to the charge he is accused of committing. The four types of pleas are:

- Guilty: Admission of commission of the crime as charged.
- Not guilty: Complete denial of guilty. A trial will follow.
- Not guilty by reason of insanity: Denial of guilt because of mental disease or defect excluding responsibility. A trial will follow in which the defendant's mental fitness will be an issue. A defendant simultaneously may plead not guilty and not guilty by reason of insanity.
- Alford: Not an admission of guilt but that there is sufficient evidence establishing guilt.

Plea agreement: Agreement between the state and defendant in which the defendant agrees to plead guilty under certain terms and conditions. Since both the state and defendant risk losing at trial, plea agreements allow a reasonable disposition to be reached without going to trial. The victim has the right to be informed of the plea agreement and to comment on the offer. The judge must approve all plea agreements.

Post conviction proceedings: Review procedures following conviction and direct appellate review. Typically the grounds for relief are limited and different from those on appeal from a conviction.

Preliminary hearing: Hearing for a person charged with a felony before an associate circuit judge. The state must establish there is probable cause to believe the accused committed the specific crime charged. Witnesses may be required to testify.

Presentence investigation: Investigation usually conducted by a probation officer after a guilty plea or verdict. The judge can learn more about the defendant's criminal history and personal background before imposing a sentence. Victims of the crime also will be asked how they have been impacted.

Prison: State facilities where persons convicted of felony offenses are held. Prisons are operated by the Department of Corrections.

Pro se: To defend oneself. The defendant is not represented by a lawyer, has waived the right to counsel in a criminal proceeding, or is otherwise not represented in a civil proceeding.

Probation: Conditional freedom granted by the court to a convicted person, who usually is supervised by a probation officer. If a defendant violates the conditions of probation, probation may be revoked following a probation revocation hearing, and he will be taken into custody.

Prosecutor: Lawyer employed by the government to represent the public's interests in court proceedings against people accused of committing crimes.

Public defender: Lawyer employed by a government agency to represent defendants who cannot afford private lawyers.

Restitution: Payment made by a defendant to the victim as reimbursement for monetary losses incurred as a result of the crime. Restitution may be ordered by the court as part of a sentence.

Subpoena: Court order requiring a person to appear in court on a specified day and time to give testimony or to produce documents or records. Failure to appear constitutes contempt of court.

Summons: Court order used to bring a person accused of a minor crime to court.

Suspended execution of sentence: Defendant is placed on probation without having to serve a sentence of incarceration if conditions of probation are met.

Suspended imposition of sentence: Defendant is placed on probation without a sentence being imposed. If the conditions of probation are not met, he later may be sentenced and incarcerated.

Truth in sentencing: Requires someone convicted of a dangerous felony to serve a minimum 85 percent of the sentence. Missouri law defines dangerous felonies as:

- Arson, first degree
- Assault, first degree
- Assault of law enforcement officer, first degree
- Attempted rape if physical injury results, first degree

- Attempted forcible rape if physical injury results
- Attempted sodomy if physical injury results, first degree
- Attempted forcible sodomy if physical injury results
- Rape, first degree
- Forcible rape
- Sodomy, first degree
- Forcible sodomy
- Kidnapping
- Murder, second degree
- Domestic assault, first degree
- Elder abuse, first degree
- Robbery, first degree
- Statutory rape, first degree (when victim is younger than 12)
- Statutory sodomy, first degree (when victim is younger than 12)
- Certain child abuse cases
- Child Kidnapping
- Parental Kidnapping

Victim impact statement: Statement given by a victim at bond, plea, and sentencing hearings that explains how a crime has affected him. This statement is the only way for the victim to address the judge, who decides the fate of of the accused. The statement is given to the prosecuting attorney, who forwards it to the judge after a verdict is reached and prior to sentencing.

Voir dire examination (or voir dire): Procedure in which the prosecuting and defense attorneys question prospective jurors to pick a jury.

Publications

The Missouri Attorney General's Office publishes information on a variety of topics. These brochures may be accessed at www.ago.mo.gov.

Appendix A

Request for Notification of Criminal Appellate Proceedings

Missouri Attorney General
Josh Hawley

ago.mo.gov
800-392-8222

This information must be provided to ensure you are notified about relevant appellate proceedings.
Please complete and mail this form to: Missouri Attorney General Josh Hawley
Victims' Rights, Public Safety Division • P.O. Box 899 • Jefferson City, MO 65102

Notification Information

VICTIM'S NAME _____ First _____ Last _____ Mi

CONTACT PERSON _____ RELATION TO VICTIM _____

ADDRESS _____ Street _____ City _____ State _____ Zip _____ County

E-MAIL _____

PRIMARY PHONE NO. (☐☐☐) ☐☐☐ - ☐☐☐☐

SECONDARY PHONE NO. (☐☐☐) ☐☐☐ - ☐☐☐☐

Conviction Information

CIRCUIT COURT CASE NO. _____ COUNTY OF CONVICTION _____

DEFENDANT'S NAME _____ First _____ Last _____ Mi

OFFENSE(S) _____

_____

_____

DATE OF CONVICTION _____

NOTICE OF APPEAL FILING DATE _____

Your Verification

By my signature, as the victim of crime in the referenced case number below, I request to be kept apprised of the criminal appellate proceedings in relation to the following conviction pursuant to Section 595.209.1(16), RSMo.:

YOUR SIGNATURE _____ DATE ☐☐ / ☐☐ / 2 0 ☐☐
MM / DD/ YYYY

Modified January 2017

OFFICE OF ATTORNEY GENERAL
JOSH HAWLEY
P.O. Box 899
Jefferson City, MO 65102
573-751-3321
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