

VICTIMS' RIGHTS: DUTIES AND RESPONSIBILITIES

LAW ENFORCEMENT RESPONSIBILITIES

<p>If requested by the victim-witness coordinator, shall disclose to the victim-witness coordinator any information in its records relating to the enforcement of rights under the constitution, this chapter and s. 950.04 or the provision of services under s. 950.06 (1m).</p>	<p>938.396 (1) (c) 6</p>
<p>If requested by a victim, may disclose any information in its records relating to the injury, loss or damage suffered by the victim, including the name and address of the juvenile and parents.</p>	<p>938.396 (1) (c) 5</p>
<p>To return stolen or other personal property expeditiously 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.</p>	<p>950.04 (1v) (s)</p>
<p>No later than 24 hours after initial contact, make a reasonable attempt to provide the victim with the following written information:</p> <ul style="list-style-type: none"> ▪ List of the rights under sec 950.04 (1v) ▪ Information about compensation under Ch. 949 ▪ Address and phone number of intake worker, DA, or corp. counsel, to obtain info about rights, notice of hearings and to request opportunity to confer ▪ Address and phone number of custodial agency for arrest and release information ▪ Procedures to follow if threatened or intimidated ▪ Addresses and phone numbers for victim assistance, including medical services ▪ If victim of officer involved death, information on complaint processes (John Doe, inquest, review by circuit judge). 	<p>950.08 (2g)</p>

INTAKE WORKER RESPONSIBILITIES

Offer opportunity to confer before entering a deferred prosecution agreement.	938.24 (5) 938.245 (1m) 938.346 (1) (em)
Make a reasonable attempt to inform if case is closed.	938.24 (5) 938.24 (5m) 938.346 (1) (d) 1 938.346 (3)
Make a reasonable attempt to inform victims of the following information: <ul style="list-style-type: none"> ▪ Procedure to obtain identity of juvenile and juvenile’s parents ▪ Procedure to obtain police reports ▪ Potential liability of the juvenile’s parents. 	938.346 (1) (a), (b) & (c)
Make a reasonable attempt to inform all victims of their right: <ul style="list-style-type: none"> ▪ To be accompanied by a service representative ▪ To restitution ▪ To crime victim compensation ▪ To a speedy disposition ▪ To have personal property returned ▪ To complain to DOJ. 	938.346 (1) (h)
Make a reasonable attempt to provide information to all victims regarding the deferred prosecution agreement.	938.346 (1) (d) 1 938.346 (1m)

DISTRICT ATTORNEY¹ RESPONSIBILITIES JUVENILE SYSTEM

Make a reasonable attempt to inform if decide not to file a petition.	938.25 (2m) 938.346 (1) (d) 1
As soon as practicable, but before plea hearing, offer those who have requested, an opportunity to confer on amendments of petitions, consent decrees, possible outcomes, potential plea agreements and disposition recommendations.	938.265 938.346 (1) (em) 938.346 (1m)
Make reasonable attempt to contact victim to inform of the right to be notified of any hearing involving the juvenile. Shall attempt to notify of future appearances if victim wishes.	938.27 (4m) 938.273 (2)
Make a reasonable attempt to inform if petition is dismissed or does not result in consent decree or dispositional order.	938.312
Before agreeing to a consent decree, offer opportunity to confer to all victims who have requested it.	938.32 (1) (am)
Before entering into a consent decree, make a reasonable attempt to inform the victim of the right to make a statement to the court.	938.32 (1) (b) 2
After a finding of delinquency or JIPS and before imposing a disposition, make a reasonable attempt to inform the victim of the right to make a statement to the court.	938.335 (3m) (b)

¹ 950.02 (2m) "District attorney" means any of the following: (a) The district attorney or other person authorized to prosecute a criminal case or a delinquency proceeding under ch. 938. (b) A person designated by a person specified in par. (a) to perform the district attorney's duties under this chapter.

Also applies to corporation counsel in Ch. 938 proceedings.

<p>Make a reasonable attempt to provide notice of the:</p> <ul style="list-style-type: none"> ▪ Procedure for requesting HIV, STD or communicable diseases testing of a juvenile ▪ Right to request and receive notice of hearings ▪ Right to a separate waiting area ▪ Right to have his or her interest considered concerning continuances ▪ Right to have victim impact information included in a court report and to have the person preparing the court report attempt to contact the victim ▪ Right to employer intercession services ▪ Right to make a statement to the court ▪ Right to information regarding any consent decree or dispositional order ▪ Right to request an opportunity to confer, if requested, on possible outcomes, amendment of petitions, consent decrees and disposition recommendations and be informed if the district attorney decides not to file a petition or the proceeding is terminated without a consent decree or dispositional order after the filing of a petition. 	<p>938.346 (1) (e) 938.346 (1) (ec) 938.346 (1) (f) 938.346 (1) (fm) 938.346 (1) (g) 938.346 (1m)</p>
<p>Make a reasonable attempt to provide victim with information about the consent decree and dispositional order.</p>	<p>938.346 (1) (d) 1 938.346 (1m)</p>
<p>Shall provide victim with notification registration card created by DOC, to be completed if victim wants notice of juvenile's release from supervision, from a facility and escape.</p>	<p>938.51 (2)</p>

DISTRICT ATTORNEY RESPONSIBILITIES ADULT SYSTEM

<p>As soon as practicable, but no later than 10 days after initial appearance or 24 hours before a preliminary examination, whichever is earlier, shall make a reasonable attempt to provide to each victim the following written information:</p> <ul style="list-style-type: none"> ▪ Statement of the procedure for prosecuting a crime ▪ List of the rights under sec. 950.04 (1v) and how to exercise those rights ▪ Person to notify if victim changes address and wants to continue to receive notices and services ▪ Information about compensation under Ch. 949 ▪ Person to contact for further information about the case. 	<p>950.08 (2r)</p>
<p>In any charged crime, as soon as practicable, offer an opportunity to confer to victim who has requested, concerning the prosecution, possible outcomes including potential plea agreements and sentencing recommendations.</p>	<p>971.095 (2)</p>
<p>At the request of a victim, make reasonable attempt to notify of date, time and place of scheduled court proceedings and any changes in the date, time or place. Does not apply to proceedings held prior to initial appearance to set conditions of release.</p>	<p>971.095 (3)</p>
<p>Make reasonable attempt to inform victim of decision to not charge a person who has been arrested.</p>	<p>971.095 (4)</p>
<p>Make reasonable attempt to inform victim of dismissal of charges.</p>	<p>971.095 (5)</p>
<p>Make reasonable attempt to provide victim information concerning the disposition of a case if requested.</p>	<p>971.095 (6)</p>
<p>Make a reasonable attempt to notify a victim if a court conditionally releases an NGI defendant.</p>	<p>971.17 (4m) (b)</p>
<p>After conviction, make a reasonable attempt to inform victims of convicted offenses and any read-in crimes of right to provide a statement to the court.</p>	<p>972.14 (3) (b)</p>
<p>If inmate seeks sentence adjustment for certain offenses, and District Attorney does not object, shall provide notice to victim of inmate's petition along with information on how to object to the petition.</p>	<p>973.195 (1r) (d)</p>
<p>Shall attempt to obtain from the victim prior to sentencing, amount of loss suffered.</p>	<p>973.20 (13) (b)</p>

After a 980 commitment, provide victim registration card for notice of supervised release and discharge.	980.11 (4)
Post disposition, District Attorney required to provide victim with a card to register to receive notice related to granted home visit when NGI, escape, parole hearings, intensive sanctions, expiration of sentence, prison labor, release on parole, extended supervision or community residential confinement.	51.37 (10) (dx) 301.38 (4) 301.046 (4) (d) 301.048 (4m) (d) 302.105 (4) 303.068 (4m) (d) 304.06 (1) (f) 304.063 (4)

COURT RESPONSIBILITIES JUVENILE SYSTEM

Victims may not be excluded from hearing testimony in a criminal or delinquency proceeding unless finds exclusion is necessary to provide for a fair trial or fact-finding hearing. Mere presence is not sufficient to exclude under this provision.	906.15 (2) (d)
Before accepting a plea, inquire of District Attorney's compliance with consultation and notice of hearing requirements, and whether notice of hearing given to victims who requested it.	938.30 (4m)
Must take into account the interests of the victims in considering a request for a continuance.	938.315 (2)
Before entering a consent decree, determine if victim wants to make a statement. If requested, to allow the statement in court or in writing.	938.32 (1) (b) 1g
Before entering a consent decree, inquire of District Attorney's compliance with consultation, notice of right to make a statement, notice of hearing requirements, and whether notice of hearing given to victims that requested it.	938.32 (1) (b) 1m
Before imposing a disposition, determine if victim wants to make a statement. If requested, to allow the statement in court or in writing.	938.335 (3m) (ag)
Before imposing disposition, inquire of District Attorney's compliance with notice of right to make a statement, notice of hearing requirements and whether notice of hearing given to victims that requested it.	938.335 (3m) (am)

Upon request of the victim-witness coordinator open for inspection by the victim-witness coordinator the records of the court relating to the enforcement of these rights or the provision of these services.	938.396 (2g) (f)
Upon request of a victim's insurer disclose the amount of restitution, if any, the court has ordered a juvenile to make to the victim.	938.396 (2g) (fm)

COURT RESPONSIBILITIES ADULT SYSTEM

Victims may not be excluded from hearing testimony in a criminal or delinquency proceeding unless the court finds exclusion is necessary to provide for a fair trial or fact-finding hearing. Mere presence is not sufficient to exclude under this provision.	906.15 (2) (d)
Consider the victim's interest when determining to exclude persons from preliminary hearing under s. 970.03 (4).	950.04 (1v) (em)
Before accepting a plea of guilty or no contest, shall inquire of District Attorney's compliance with consultation requirements.	971.08 (1) (d)
When determining whether to grant a continuance, shall consider the interests of the victim.	971.10 (3) (b) 3
Before dismissing a criminal charge, shall inquire of District Attorney's compliance with consultation requirements.	971.315
Before pronouncing sentence, shall inquire of District Attorney's compliance with consultation, notice of right to make a statement, notice of hearing requirements and whether notice of hearing given to victims that requested it. (Includes read-ins.)	972.14 (2m)
Before pronouncing sentence, shall determine if victim wants to make a statement. (Includes read-ins.)	972.14 (3) (a)
When a defendant's bond is forfeited, the court shall determine a recompense amount for any victim of the crime for which the bond was entered unless it finds substantial reason not to do so.	969.13 (5) (b)

CLERK OF COURT RESPONSIBILITIES

Provide victims a card to request notice of hearings to consider inmate's request to modify a bifurcated sentence and inmates serving a life sentence who petition for release to extended supervision.	302.113 (9g) (g) 3 302.114 (6) (e)
When court schedules a hearing to modify inmate's bifurcated sentence, at least 10 days before the hearing the clerk of court shall send notice of hearing to the victim who requested notice by completing and returning the notification card.	302.113 (9g) (g) 2
When an inmate petitions for release to extended supervision, the clerk of court shall send a copy of the petition to the victim within 7 days from when the petition was filed and shall send notice of the hearing 10 days prior to the hearing to the victim who requested notice by completing and returning the notification card.	302.114 (6) (d)
When court receives a petition to modify person's period of probation and discharge that person, the clerk of court shall send the registered victim notice of a hearing and describe the manner in which the victim may provide a statement concerning the modification of the term of probation. Notice of the hearing shall be postmarked at least 10 days before the hearing.	973.09 (3m) (b)
Make a reasonable attempt to send the victim a copy of a motion made for post conviction deoxyribonucleic acid testing of certain evidence within 7 days after motion is filed and provide notice 10 prior of any hearing on that motion.	974.07 (4)

COUNTY RESPONSIBILITY (Juvenile and Adult)

If available and practical, provide waiting area for victim and witnesses that is separate from any used by juvenile (or defendant) or their relatives and witnesses. If not, provide means to minimize contact.	938.2965 967.10
If county or licensed child welfare agency is ordered by the court to prepare a court report when a juvenile is adjudicated delinquent (for act that would constitute a felony), the preparer of the report shall determine the economic, physical, and psychological effect of the delinquent act on the victim. If act would not constitute a felony, and victim has suffered bodily harm or act involved theft or damage to property, encouraged to include victim impact information.	938.331
If juvenile offender is under county supervision, notify a registered victim 15 days prior to juvenile's release from supervision, a juvenile correctional facility, secured residential care center, or a nonsecured residential care center (certain crimes).	938.51 (1) 938.51 (1d)
If juvenile offender is under county supervision, notify a registered victim 15 days prior to juvenile who has been found in need of protection or services of his/her release from a inpatient facility.	938.51 (1g)
If juvenile offender is under county supervision, notify a registered victim by phone if juvenile escapes or determined absent from custody.	938.51 (4)

DEPARTMENT OF CORRECTIONS RESPONSIBILITIES (Juvenile and Adult)

Notify the registered victim (of certain offenses) at least 7 days before prisoner begins community residential confinement.	301.046 (4)
Notify a registered victim (of certain offenses) when prisoner enters the intensive sanctions program.	301.048 (4m)
Notify a registered victim if prisoner escapes from Type 1 prison.	301.38

Notify a registered victim when the offender registers as a sex offender as well as when that offender notifies DOC there is a change of information.	301.46 (3)
Notify a registered victim of certain crimes, that the offender is released from prison because sentence has expired.	302.105
Notify a registered victim within 10 days of a parole or extended supervision revocation.	302.107
Notify a registered victim (of certain offenses) if leave from confinement is granted to a qualified inmate.	303.068 (4m)
Notify a registered victim (of certain offenses) if inmate is released on parole or extended supervision.	304.063 (2)
If DOC is the agency supervising the juvenile ordered to pay restitution, and juvenile and/or parent has failed to pay restitution, DOC may petition the court requesting a civil judgment be entered in favor of the victim.	895.035 (2m)
If juvenile offender is under DOC supervision, notify a registered victim 15 days prior to juvenile's release from supervision, release from a juvenile correctional facility, secured residential care center and nonsecured residential care center (certain crimes).	938.51 (1) 938.51 (1d)
If juvenile offender is under DOC supervision, notify a registered victim by phone if juvenile escapes or determined absent from custody.	938.51 (4)
If DOC is ordered by the court to prepare a court report when a juvenile is adjudicated delinquent (for act that would constitute a felony), the preparer of the report shall determine the economic, physical, and psychological effect of the delinquent act on the victim. If act would not constitute a felony, and victim has suffered bodily harm or act involved theft or damage to property, encouraged to include victim impact information.	938.331
The person preparing the presentence investigation report shall contact the victim to determine the economic, physical, and psychological effect of the crime on the victim.	972.15 (2m)
At least 90 days prior to expiration of probation, shall notify the victim the status of the unpaid restitution.	973.09 (3) (b)

DEPARTMENT OF HEALTH SERVICES RESPONSIBILITIES

Notify a registered victim if the NGI defendant is granted an extended home visit or leave.	51.37 (10)
Notify a registered victim if the NGI defendant is discharged or the commitment is terminated.	971.17 (6m)
Notify the registered victim if the offender committed under Chapter 980 is placed on supervised release under s. 980.08 or discharged under s. 980.9 (4).	980.11

GOVERNOR'S RESPONSIBILITIES

Notify victim of a pardon application, including manner victim may provide written statement and participate in hearing.	304.09
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CONSTITUTIONAL PROVISION ARTICLE I. SECTION 9m

Victims of crime. [As created April 1993 and **amended April 2020**]

(1)

(a) In this section, notwithstanding any statutory right, privilege, or protection, "victim" means any of the following:

1. A person against whom an act is committed that would constitute a crime if committed by a competent adult.
2. If the person under subd. 1. is deceased or is physically or emotionally unable to exercise his or her rights under this section, the person's spouse, parent or legal guardian, sibling, child, person who resided with the deceased at the time of death, or other lawful representative.
3. If the person under subd. 1. is a minor, the person's parent, legal guardian or custodian, or other lawful representative.
4. If the person under subd. 1. is adjudicated incompetent, the person's legal guardian or other lawful representative.

(b) “Victim” does not include the accused or a person who the court finds would not act in the best interests of a victim who is deceased, incompetent, a minor, or physically or emotionally unable to exercise his or her rights under this section.

(2) In order to preserve and protect victims' rights to justice and due process throughout the criminal and juvenile justice process, victims shall be entitled to all of the following rights, which shall vest at the time of victimization and be protected by law in a manner no less vigorous than the protections afforded to the accused:

- (a) To be treated with dignity, respect, courtesy, sensitivity, and fairness.
- (b) To privacy.
- (c) To proceedings free from unreasonable delay.
- (d) To timely disposition of the case, free from unreasonable delay.
- (e) Upon request, to attend all proceedings involving the case.
- (f) To reasonable protection from the accused throughout the criminal and juvenile justice process.
- (g) Upon request, to reasonable and timely notification of proceedings.
- (h) Upon request, to confer with the attorney for the government.
- (i) Upon request, to be heard in any proceeding during which a right of the victim is implicated, including release, plea, sentencing, disposition, parole, revocation, expungement, or pardon.
- (j) To have information pertaining to the economic, physical, and psychological effect upon the victim of the offense submitted to the authority with jurisdiction over the case and to have that information considered by that authority.
- (k) Upon request, to timely notice of any release or escape of the accused or death of the accused if the accused is in custody or on supervision at the time of death.
- (l) To refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused.

- (m) To full restitution from any person who has been ordered to pay restitution to the victim and to be provided with assistance collecting restitution.
- (n) To compensation as provided by law.
- (o) Upon request, to reasonable and timely information about the status of the investigation and the outcome of the case.
- (p) To timely notice about all rights under this section and all other rights, privileges, or protections of the victim provided by law, including how such rights, privileges, or protections are enforced.

(3) Except as provided under sub. (2) (n), all provisions of this section are self-executing. The legislature may prescribe further remedies for the violation of this section and further procedures for compliance with and enforcement of this section.

(4)

(a) In addition to any other available enforcement of rights or remedy for a violation of this section or of other rights, privileges, or protections provided by law, the victim, the victim's attorney or other lawful representative, or the attorney for the government upon request of the victim may assert and seek in any circuit court or before any other authority of competent jurisdiction, enforcement of the rights in this section and any other right, privilege, or protection afforded to the victim by law. The court or other authority with jurisdiction over the case shall act promptly on such a request and afford a remedy for the violation of any right of the victim. The court or other authority with jurisdiction over the case shall clearly state on the record the reasons for any decision regarding the disposition of a victim's right and shall provide those reasons to the victim or the victim's attorney or other lawful representative.

(b) Victims may obtain review of all adverse decisions concerning their rights as victims by courts or other authorities with jurisdiction under par. (a) by filing petitions for supervisory writ in the court of appeals and supreme court.

(5) This section does not create any cause of action for damages against the state; any political subdivision of the state; any officer, employee, or agent of the state or a political subdivision of the state acting in his or her official capacity; or any officer, employee, or agent of the courts acting in his or her official capacity.

(6) This section is not intended and may not be interpreted to supersede a defendant's federal constitutional rights or to afford party status in a proceeding to any victim.

[1993 J.R. 2, vote April 1993; 2017 J.R. 13, 2019 J.R. 3, vote April 2020]

WISCONSIN STATUTES CHAPTER 950

- ▶ Enabling legislation for these constitutional rights.
- ▶ Articulates victim and witness rights.
- ▶ Delegates responsibilities for providing these rights.
- ▶ Establishes an enforcement mechanism and remedies.
- ▶ Effective December 1, 1998.

DEFINITION OF VICTIM UNDER Wis. Ch. 950

“**Victim**” under sec. 938.02 (20m) and 950.02 (4) (a) means:

- ▶ A person against whom a delinquent act or crime has been committed.
 - ▼ “Person” includes natural persons as well as businesses and governments Sec. 990.01 (26)
- ▶ If a child — a parent, guardian or legal custodian.
- ▶ If physically or emotionally unable to exercise the rights, then a person designated by the person or a family member.
- ▶ If deceased, any of the following:
 - ▼ A family member
 - ▼ A person who resided with the person who is deceased.
- ▶ If incompetent under ch. 880, the guardian of the person.
- ▶ Does not include a person alleged to have committed the delinquent act or crime.

950.04 (1v) RIGHTS OF VICTIMS

Victims of crimes have the following rights:

- ▶ (ag) To be treated with fairness, dignity, and respect for his or privacy by public officials, employees, or agencies. This paragraph does not impair the right or duty of a public official or employee to conduct his or her official duties reasonably and in good faith.
- ▶ (ar) To have his or her interest considered when the court is deciding whether to grant a continuance in the case, as provided under ss. 938.315 (2) and 971.10 (3) (b) 3.
- ▶ (b) To attend court proceedings in the case, subject to ss. 906.15 and 938.299 (1). The court may require the victim to exercise his or her right under this paragraph using telephone or live audiovisual means, if available, if the victim is under arrest, incarcerated, imprisoned or otherwise detained by any law enforcement agency or is admitted or committed on an inpatient basis to a treatment facility under ch. 51, 971 or 980, and the victim does not have a person specified in s. 950.02 (4) (a) 3 to exercise the victim's right under this paragraph.
- ▶ (bm) To be provided with appropriate intercession services to ensure that employers of victims 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.
- ▶ (c) To be accompanied by a service representative, as provided under s. 895.73.
- ▶ (d) To request an order for, and to be given the results of, testing to determine the presence of a communicable disease, as provided under ss. 938.296 or 968.38.
- ▶ (dL) To not be the subject of a law enforcement officer's or district attorney's order, request, or suggestion that he or she submit to a test using a lie detector, as defined in s. 111.37 (1) (b), if he or she claims to have been the victim of a sexual assault under s. 940.22 (2), 940.225, 948.02 (1) or (2), or 948.085, except as permitted under s. 968.265.
- ▶ (do) To be informed about the process by which he or she may file a complaint under s. 968.02 or 968.26 (2) and about the process of an inquest under s. 979.05 if he or she is the victim of an officer involved death, as defined in s. 175.47 (1) (c).
- ▶ (dr) To not have his or her personal identifiers, as defined in s. 85.103 (1) and including an electronic mail address, used or disclosed by a public

official, employee, or agency for a purpose that is unrelated to the official responsibilities of the official, employee, or agency.

- ▶ (e) To be provided a waiting area under ss. 938.2965 and 967.10.
- ▶ (em) To have his or her interests considered by the court in determining whether to exclude persons from a preliminary hearing, as provided under s. 970.03 (4).
- ▶ (er) To not be compelled to submit to a pretrial interview or deposition by a defendant or his or her attorney as provided under s. 971.23 (6c).
- ▶ (f) To have the parole commission make a reasonable attempt to notify the victim of applications for parole, as provided under s. 304.06 (1).
- ▶ (g) To have reasonable attempts made to notify the victim of hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2, 302.114 (6), 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and 972.14 (3) (b).
- ▶ (gm) To have reasonable attempts made to notify the victim of petitions for sentence adjustment as provided under s. 973.09 (3m), 973.195 (lr) (d), or 973.198.
- ▶ (i) To have, at his or her request, the opportunity to consult with intake workers, district attorneys and corporation counsel in cases under ch. 938, as provided under ss. 938.245 (1m), 938.265 and 938.32 (1) (am).
- ▶ (j) To have, at his or her request, the opportunity to consult with the prosecution in a case brought in a court of criminal jurisdiction, as provided under s. 971.095 (2).
- ▶ (k) To a speedy disposition of the case in which they are involved as a victim in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter.
- ▶ (L) To have the district attorney or corporation counsel, whichever is applicable, make a reasonable attempt to contact the victim concerning the victim's right to make a statement, as provided under ss. 938.32 (1) (b) 2, 938.335 (3m) (b) and 972.14 (3) (b).
- ▶ (m) To provide statements concerning sentencing, disposition or parole, as provided under ss. 304.06 (1) (e), 938.32 (1) (b) 1g, 938.335 (3m) (ag) and 972.14 (3) (a).
- ▶ (n) To have direct input in the parole decision-making process, as provided by the rules promulgated under s. 304.06 (1) (em).
- ▶ (nn) To attend parole interviews or hearings and make statements as provided under s. 304.06 (1) (eg).

- ▶ (nt) To attend a hearing on a petition for modification of a bifurcated sentence and provide a statement concerning modification of the bifurcated sentence, as provided under s. 302.113 (9g) (d).
- ▶ (nx) To attend a hearing on a petition for modification of a term of probation under s. 973.09 (3) (d) and provide a statement to the court concerning modification of the term of probation as provided under s. 973.09 (3m).
- ▶ (o) To have information concerning the impact of a delinquent act on the victim included in a court report under s. 938.33 and to have the person preparing the court report attempt to contact the victim, as provided under s. 938.331.
- ▶ (p) To have the person preparing a presentence investigation under s. 972.15 make a reasonable attempt to contact the victim, as provided in s. 972.15 (2m), and to view the sentence recommendation and any victim information included on the presentence investigation report, as provided in s. 972.15 (4m).
- ▶ (pd) To view portions of a presentence investigation report prepared under s. 972.15 that relate to the crime upon the victim, subject to the limits set forth in s. 972.15 (4r).
- ▶ (pm) To have the court provided with information pertaining to the economic, physical and psychological effect of the crime upon the victim and have the information considered by the court.
- ▶ (q) To restitution, as provided under ss. 938.245 (2) (a) 5, 938.32 (1t), 938.34 (5), 938.345, 943.212, 943.23 (6), 943.245, 943.51 and 973.20.
- ▶ (qm) To recompense as provided under s. 969.13 (5) (a).
- ▶ (r) To a judgment for unpaid restitution, as provided under ss. 895.035 (2m) and 973.09 (3) (b).
- ▶ (rm) To compensation, as provided under subch. I of ch. 949.
- ▶ (s) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence, subject to s. 968.205. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, property subject to preservation under s. 968.205, and property the ownership of which is disputed, shall be returned to the person within 10 days of being taken.
- ▶ (t) To receive information from law enforcement agencies, as provided under s. 950.08 (2g).
- ▶ (u) To receive information from district attorneys, as provided under s. 950.08 (2r).

- ▶ (um) To have district attorneys make a reasonable attempt to notify the victim under s. 971.17 (4m) regarding conditional releases under s. 971.17.
- ▶ (v) To have the department of corrections make a reasonable attempt to notify the victim under s. 301.046 (4) regarding community residential confinements, under s. 301.048 (4m) regarding participation in the intensive sanctions program, under s. 301.38 regarding escapes from a Type 1 prison, under s. 301.46 (3) regarding persons registered under s. 301.45, under s. 302.105 regarding release upon expiration of certain sentences, under s. 304.063 regarding extended supervision and parole releases, and under s. 938.51 regarding release or escape of a juvenile from correctional custody.
- ▶ (vg) To have the department of corrections make a reasonable attempt to notify the victim, pursuant to s. 302.107, of a revocation of parole or of release to extended supervision under s. 302.11 (7), 302.113 (9), 302.114 (9), or 304.06 (3) or (3g).
- ▶ (vm) To have the appropriate clerk of court send the victim a copy of an inmate's petition for extended supervision and notification of the hearing on that petition under s. 302.114 (6).
- ▶ (w) To have the department of corrections make a reasonable attempt to notify the victim under s. 303.068 (4m) regarding leave granted to qualified inmates under 303.068.
- ▶ (x) To have the department of health services make a reasonable attempt to notify the victim under s. 971.17 (6m) regarding termination or discharge under s. 971.17 and under s. 51.37 (10) regarding home visits under s. 51.37 (10).
- ▶ (xm) To have the department of health services make a reasonable attempt to notify the victim under s. 980.11 regarding supervised release under s. 980.08 and discharge under s. 980.09 (4).
- ▶ (y) To have reasonable attempts made to notify the victim concerning actions taken in a juvenile proceeding, as provided under ss. 938.24 (5m), 938.25 (2m), 938.312 and 938.346.
- ▶ (yd) To have the appropriate clerk of court make a reasonable attempt to send the victim a copy of a motion made under s. 974.07 (2) for postconviction deoxyribonucleic acid testing of certain evidence and notification of any hearing on that motion, as provided under s. 974.07 (4).
- ▶ (ym) To have the governor make a reasonable attempt to notify the victim of a pardon application, as provided under s. 304.09 (2) and (3).

- ▶ (z) To make a written statement concerning pardon applications, as provided under s. 304.10 (2).
- ▶ (zm) To request information from a district attorney concerning the disposition of a case involving a crime of which he or she was a victim, as provided under s. 971.095 (6).
- ▶ (zx) To complain to the department of justice concerning the treatment of crime victims, as provided under s. 950.08 (3), and to request review by the crime victims rights board of the complaint, as provided under s. 950.09 (2).

950.04 (2w) RIGHTS OF WITNESSES

950.04 (2w) RIGHTS OF WITNESSES.

Witnesses of crimes have the following rights:

- ▶ (a) To request information from the district attorney about the final disposition of the case.
- ▶ (b) 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.
- ▶ (c) 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.
- ▶ (d) To be informed of financial assistance and other social services available as a result of being a witness of a crime, including information on how to apply for the assistance and services.
- ▶ (dm) To not have his or her personal identifiers, as defined in s. 85.103 (1) and including an electronic mail address, used or disclosed by a public official, employee, or agency for a purpose that is unrelated to the official responsibilities of the official, employee, or agency.
- ▶ (e) To be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled.
- ▶ (f) To be provided a waiting area under ss. 938.2965 and 967.10.
- ▶ (fm) 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.

- ▶ (g) To be provided with appropriate employer intercession services to ensure that employers of 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.
- ▶ (h) To be entitled to a speedy disposition of the case in which they are involved as a witness in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter.

CHILD VICTIMS AND WITNESSES

950.055 CHILD VICTIMS AND WITNESSES – ADDITIONAL RIGHTS

950.055 (2) ADDITIONAL SERVICES. In addition to all rights afforded to victims and witnesses under s. 950.04 and services provided under s. 950.06 (1m), 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 depositions by audiovisual means 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.

VICTIM & WITNESS RIGHTS ENFORCEMENT & REMEDIES

Assert and seek enforcement in circuit court – Wisconsin Constitution Article I, Section 9m(4)

In addition to any other available enforcement of rights or remedy for a violation of this section or of other rights, privileges, or protections provided by law, the victim, the victim's attorney or other lawful representative, or the attorney for the government upon request of the victim may assert and seek in any circuit court or before any other authority of competent jurisdiction, enforcement of the rights in this section and any other right, privilege, or protection afforded to the victim by law. The court or other authority with jurisdiction over the case shall act promptly on such a request and afford a remedy for the violation of any right of the victim. The court or other authority with jurisdiction over the case shall clearly state on the record the reasons for any decision regarding the disposition of a victim's right and shall provide those reasons to the victim or the victim's attorney or other lawful representative.

Petition for Supervisory Writ – Wisconsin Constitution Article I, Section 9m(4)

Victims may obtain review of all adverse decisions concerning their rights as victims by courts or other authorities with jurisdiction under par. (a) by filing petitions for supervisory writ in the court of appeals and supreme court.

Standing Wis. Stat. § 950.105

A crime victim has a right to assert, in a court in the county in which the alleged violation occurred, his or her rights as a crime victim under the statutes or under article I, section 9m, of the Wisconsin Constitution. This section does not preclude a district attorney from asserting a victim's statutory or constitutional crime victim's rights in a criminal case or in a proceeding or motion brought under this section.

Penalties Wis. Stat. § 950.11

A public official, employee or agency that intentionally fails to provide a right specified under s. 950.04 (1v) to a victim of a crime may be subject to a forfeiture of not more than \$1,000.

Department of Justice Wis. Stat. § 950.08 (3)

- ▶ May receive complaints.
- ▶ Seek to mediate complaints.
- ▶ With the consent of the involved parties, actually mediate complaints regarding the treatment of crime victims and witnesses by public officials, employees or agencies or under crime victim and witness assistance programs.
- ▶ May act as a liaison between crime victims or witnesses and others when seeking to mediate these complaints.
- ▶ May request a written response regarding the complaint from the subject of a complaint.
- ▶ If asked by the department to provide a written response regarding a complaint, the subject of a complaint shall respond to the request within a reasonable time.

Crime Victims' Rights Board Wis. Stat. §§ 15.255 (2), 950.09 (2), (3), (4)

- ▶ 5 Members:
 - ▾ One District Attorney (WDAA appointee),
 - ▾ One local law enforcement representative (AG appointee),
 - ▾ One Victim-Witness Coordinator (AG appointee), and
 - ▾ Two state citizens (one Crime Victim Council appointee; one Governor appointee).
- ▶ The board shall promulgate rules establishing procedures for the exercise of its powers under this section.
- ▶ May review a complaint made to DOJ regarding a violation of the rights of a crime victim at the request of one of the involved parties, s. 950.09 (2).
- ▶ Request to the Board to review a complaint may not be made until DOJ has completed its action on the complaint under s. 950.08 (3).
- ▶ The board may not begin any investigation or take any action until it first determines that there is probable cause to believe that the subject of the complaint violated the rights of a crime victim.
- ▶ Issue private or public reprimands.

- Refer judge violations to judicial commission.
- Seek appropriate equitable relief (no appeal to reverse or modify conviction or sentence).
 - Bring a civil action for forfeiture of up to \$1,000. Forfeiture action shall be brought in the circuit court for the county in which violation alleged to have occurred.
- Issue reports and make recommendations on victim rights and services.
- Actions not subject to review or approval of AG.

Confidentiality of Complaints Wis. Stat. § 950.095

- DOJ records on complaints confidential unless waived by subject of the complaint.
- Complaint referred to the Board confidential before probable cause finding unless waived.
- If complaint becomes public before a finding of probable cause by the board:
 - DOJ/Board may confirm complaint made/being reviewed,
 - Clarify the procedural aspects of the action,
 - Explain subject's right to respond and deny allegations,
 - Advise that action completed and no basis for the complaint was found, and
 - Correct public misinformation.

Complaint Investigation Restrictions Wis. Stat. § 950.095 (1m)

- Avoid unnecessary embarrassment/publicity for the subject of the complaint.
- Request nondisclosure of the investigation by others.

DOJ/Board may: Wis. Stat. § 950.095 (2)

- Inform complainant of outcome.
- Refer information of alleged misconduct to judicial commission, attorney disciplinary board, or appropriate law enforcement authority.

- Disclose to the chief justice or director of state courts information relating to matters affecting the administration of the courts.

Limitation on Liability; Appeals Wis. Stat. § 950.10

- No cause of action for money damages for failure to comply.
- Failure to provide right, service or notice not grounds to appeal, reverse or modify a conviction or sentence.