

Your Criminal Justice System

Helpful Information
for the Victims and
Witnesses of Crime



Provided by Kansas Attorney General

Derek Schmidt

Victims' Services Division

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A Message from Attorney General Derek Schmidt



Dear Fellow Kansans,

I hope you and your family never become victims of crime.

But if you do, knowing a bit about what to expect, how the criminal justice system works, and what resources are available

to help you can be comforting and reassuring. This brochure is designed to give you that key information.

In our office, we are committed to helping crime victims anywhere in the state and at any stage of the criminal justice system. If you have any questions or concerns, please feel free to contact our Victims' Services Division at (800) 828-9745.

Thank you for the honor of serving as your Attorney General.

Best wishes,

A handwritten signature in black ink that reads "Derek". The signature is written in a cursive, slightly stylized font.

Derek Schmidt
Kansas Attorney General

The Kansas Attorney General's Victims' Services Division

The Kansas Attorney General's Victims' Services Division works to ensure efficient and effective statewide coordination of local crime victim and witness assistance programs and direct assistance to crime victims and their families. The division also educates and trains the public, professionals and victim advocates on crime victims' rights and administers numerous state grant funds to local crime victim assistance programs.

The Victims' Services Division strives to lessen the impact of victimization for persons who have suffered as a result of a crime. The Victim Witness Coordinator of the Office of the Attorney General or your local municipal, county or district attorney's office can provide the following services regarding your case:

- Information regarding case status and legal process
- Notification of hearings
- Kansas crime victim compensation information
- Assistance with victim impact statement and restitution forms
- Referrals to available resources in their community
- Liaison between victim and prosecutor
- Sentencing, probation and parole information
- Accompaniment of victims and families to court proceedings

For information call (800) 828-9745.

Constitutional Amendment for Victims of Crime

(a) Victims of crime, as defined by law, shall be entitled to certain basic rights, including the right to be informed of and to be present at public hearings, as defined by law, of the criminal justice process, and to be heard at sentencing or at any other time deemed appropriate by the court, to the extent that these rights do not interfere with the constitutional or statutory rights of the accused.

(b) Nothing in this section shall be construed as creating a cause of action for money damages against the state, a county, a municipality, or any of the agencies, instrumentalities, or employees thereof. The legislature may provide for other remedies to ensure adequate enforcement of this section.

(c) Nothing in this section shall be construed to authorize a court to set aside or to void a finding of guilty or not guilty or an acceptance of a plea of guilty or to set aside any sentence imposed or any other final disposition in any criminal case.

Article 15, Section 15

Kansas Victims' Bill of Rights

1. Victims should be treated with courtesy, compassion and with respect for their dignity and privacy and should suffer the minimum of necessary inconvenience from their involvement with the criminal justice system.
2. Victims should receive, through formal and informal procedures, prompt and fair redress for the harm which they have suffered.
3. Information regarding the availability of criminal restitution, recovery of damages in a civil cause of action, the crime victims compensation fund and other remedies and the mechanisms to obtain such remedies should be made available to victims.
4. Information should be made available to victims about their participation in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings.
5. The views and concerns of victims should be ascertained and the appropriate assistance provided throughout the criminal process.
6. When the personal interests of victims are affected, the views or concerns of the victim should, when appropriate and consistent with criminal law and procedure, be brought to the attention of the court.
7. Measures may be taken when necessary to provide for the safety of victims and their families and to protect them from intimidation and retaliation.
8. Enhanced training should be made available to sensitize criminal justice personnel to the needs and concerns of victims and guidelines should be developed for this purpose.
9. Victims should be informed of the availability of health and social services and other relevant assistance that they might continue to receive the necessary medical, psychological and social assistance through existing programs and services.
10. Victims should report the crime and cooperate with law enforcement authorities.

K.S.A. 74-7333

Frequently Asked Questions

What is a complaint?

A complaint is a statement of facts about an alleged crime, which is filed in court formally charging a person with that crime. Facts about the crime are submitted to the Municipal, County or District Attorney's Office by a law enforcement officer on a police report. Upon review, if the evidence is deemed sufficient for prosecution, the complaint is filed, thereby initiating the prosecution of a criminal case.

What is an arrest warrant?

An arrest warrant is an order signed by a judge authorizing the police to arrest a person believed to have committed a crime.

What happens to the accused?

The person accused of the crime is now called the defendant. The defendant will make his/her first appearance before a judge soon after their arrest. At first appearance, the defendant receives a copy of the complaint, the charge(s) are read, a bond is set and the judge sees that the defendant is represented by legal counsel.

What is the purpose of bail?

Bail is cash or surety bond, set by the court to ensure the defendant's appearance in court at the next scheduled hearing(s). The amount of the bond/bail varies depending upon a number of facts including the seriousness of the offense and the prior record of the defendant.

What is a no-contact order?

A no contact order is a condition of a defendant's bond, which may be issued by the judge in a criminal case. The defendant has been instructed by the judge, at first appearance, not to contact or cause another person to contact the victim or any endorsed witnesses on the defendant's behalf. If a no contact order is issued and the defendant contacts you, call the police and the Victim Witness Coordinator.

What if I change my mind and do not want to testify or want the charges dismissed?

Any crime committed against any person is a crime against the State of Kansas. Once the decision to file charges has been made, it is the State of Kansas, not the victim, prosecuting the defendant. The disposition of a case is ultimately the prosecutor's decision. If you have any reluctance about testifying in a case, please discuss your concerns with the Victim Witness Coordinator or the prosecutor handling the case. We will try to help with concerns or doubts you may have.

What if I am threatened as a victim/witness?

Any attempt to prevent or influence a witness from testifying is a violation of the law. Report any such incident immediately to the police, the Victim Witness Coordinator and your prosecuting attorney.

Should I talk to the defense attorney?

That is strictly your decision. You have no legal obligation to talk to the defense attorney. If you have any concern about talking to the defense attorney, do not hesitate to discuss it with the Victim Witness Coordinator.

May I watch the trial?

Unless the court orders that witnesses may not attend, you may watch the trial; however, you should not discuss your testimony with other witnesses.

If I receive a subpoena, will the case definitely go to court on that date?

You are required to appear unless you are notified that the case will not proceed on that day. It is a good idea to call the prosecutor's office and verify that the case is still scheduled.

Will I be notified of all the defendant's hearings?

You will receive a letter informing you of all the defendant's court appearances. You may attend any or all of the defendant's hearings, but when you are subpoenaed for a hearing you **must** appear.

Will I be compensated for appearing as a witness?

Yes. The law provides that you may receive a witness fee of \$10 for each day you are required to appear at a hearing or trial, whether or not you actually testify. In addition, you may receive mileage reimbursement for a round trip to and from the courthouse. To collect this fee, ask the attorney assigned to the case or present your subpoena to your county clerk's office. We will make every effort to assure that you spend no more time than absolutely necessary at the courthouse.

Can I receive compensation for losses I suffered as a result of the crime?

The Kansas Crime Victims Compensation Act provides victims of violent crime with compensation for loss of earnings and out-of-pocket expenses for injuries sustained as a direct result of a crime against their person. These expenses can include medical care, counseling and partial funeral, burial or cremation expenses. A dependent or legal representative of a victim who has died as a result of a violent crime may apply on behalf of the victim. Contact the Crime Victims Compensation Board at (785) 296-2359 for more information.

When can I get my property back?

All property will be released as soon as possible; however, under usual circumstances, it cannot be released until it is no longer needed as evidence. The property may be kept with the law enforcement agency until the disposition of the case.

What if I move or change jobs during the proceedings?

Immediately notify the prosecutor's office and Victim Witness Coordinator of any change in address or employment should they need to contact you.

How does a case get dismissed?

If the judge decides probable cause for the offense charged has not been established by the prosecutor, the court dismisses the case. This means that all legal action has come to an end, and the defendant is released.

What is a preliminary hearing?

A preliminary hearing (for felony cases only) is a probable cause hearing where the prosecutor presents evidence, but not as much evidence as would be needed at trial. Testimony is taken under oath and the prosecutor must establish that there is probable cause to believe: (1) a crime has been committed in the state of Kansas; and (2) that the defendant committed the crime. If the prosecutor meets that burden, the judge will allow the State to proceed to trial against the defendant.

What happens at trial?

The trial of both felonies and misdemeanors may be before a jury or a judge. In a trial, the prosecutor from the Municipal, County or District Attorney's Office presents the case for the state and has the burden of proving beyond a reasonable doubt that the defendant did commit the crime charged. If the defendant is found guilty in a felony case, the judge will defer sentencing pending completion of a pre-sentence investigation and may do so in a misdemeanor case. If the defendant is found not guilty, he/she is released.

What is a pre-sentence investigation

After a guilty verdict or guilty plea in all felony and some misdemeanor cases, the judge will order a court services officer to prepare a pre-sentence investigation, often called a "PSI." The report consists of the defendant's version of the crime, prior criminal history, and a review of the facts of the crime. The victim's feelings regarding the crime and restitution information is also included. The pre-sentence investigation is open to the public except for the portion regarding the victim's feelings and proposed restitution amount.

Kansas Sentencing Guidelines

Effective July 1, 1993

In most cases, a defendant who committed a felony on or after July 1, 1993, will be sentenced under the Kansas Sentencing Guidelines Act.

What is the Sentencing Guidelines Act?

It is a sentencing structure based on two controlling factors: crime severity and criminal history.

What is crime severity?

Crime severity refers to the seriousness of the offense and is designated by a severity level number. Severity levels range from a 1 through a 10, with 1 representing the most serious crimes.

What is criminal history?

Criminal history refers to a defendant's past criminal convictions. Prior convictions of a defendant will result in a harsher sentence if convicted of the current crime.

How is the defendant sentenced?

A grid is used to determine the defendant's sentence. Each grid block has three numbers. The numbers represent months of imprisonment. The three numbers provide the judge with a range of sentencing. The judge has discretion to sentence at any place within the range. The judge shall sentence the center number for typical cases. The upper and lower numbers should be used for circumstances having aggravating or mitigating factors.

May the judge depart from the sentencing grid?

Yes. The court has the authority to depart from the recommended sentence on the grid; however, the court must make a record of the aggravating or mitigating circumstances that led it to depart from the sentencing grid. Aggravating circumstances are factors which the judge may use to increase the

(cont'd on next page)

defendant's sentence. Mitigating circumstances are factors which the judge may use to decrease the defendant's sentence.

What is probation?

Probation is a period of time that the defendant is placed under the supervision of a probation officer. The defendant remains in the community and must report to his/her probation officer on a regular basis and follow any and all conditions ordered by the court.

What is good-time credit?

Inmates who demonstrate good work and behavior are eligible to earn good time credits which decrease the term of the incarceration. Inmates must earn this credit, it is not automatically credited to their sentence. Inmates sentenced after 2008 are eligible to earn the following good time credit:

- Felony levels 1-6= 15%
- Felony levels 7-10=20%

How long will the defendant be on probation?

For all crimes committed on or after July 1, 1993, the recommended duration of probation in all felony cases is as follows:

- Felony levels 1-5 = 36 months
- Felony levels 6-7 = 24 months
- Felony levels 8-10 = 12 months

What is post-release supervision?

Upon completion of the imposed prison sentence, the inmate will be released to serve a term of post-release supervision. The recommended time for post-release supervision in all felony cases is as follows:

- Felony levels 1-4 = 36 months
- Felony levels 5-6 = 24 months
- Felony levels 7-10 = 12 months

Stages of a criminal case



VITAL INFORMATION

Name of Prosecutor Assigned to Case:

Victim Witness Coordinator Assigned to Case:

Telephone Number: _____

County: _____

Defendant(s): _____

Court Case Number: _____

DATES TO REMEMBER

Preliminary Hearing

Date: _____ Time: _____

Trial

Date: _____ Time: _____

Motion Hearing

Date: _____ Time: _____

Sentencing

Date: _____ Time: _____

Other

Date: _____ Time: _____

Due to the complexity of the criminal proceedings, hearings are often continued. The Victim Witness Coordinator will contact you if a criminal proceeding is changed.

**PLEASE NOTIFY VICTIM WITNESS
COORDINATOR IF YOU CHANGE YOUR ADDRESS
OR PHONE NUMBER.**