

TITLE I

THE STATE AND ITS GOVERNMENT

CHAPTER 21-M

DEPARTMENT OF JUSTICE

Section 21-M:8-k

21-M:8-k Rights of Crime Victims. –

I. As used in this section:

(a) "Victims" means a person who suffers direct or threatened physical, emotional, psychological or financial harm as a result of the commission or the attempted commission of a crime. "Victim" also includes the immediate family of any victim who is a minor or who is incompetent, or the immediate family of a homicide victim, or the surviving partner in a civil union.

(b) "Crime" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than one year or an offense expressly designated by law to be a felony; a misdemeanor sexual offense; an offense listed in RSA 173-B:1, I; a violation of a protective order under RSA 458:16, III; or after arraignment, a violation of a protective order issued under RSA 173-B.

II. To the extent that they can be reasonably guaranteed by the courts and by law enforcement and correctional authorities, and are not inconsistent with the constitutional or statutory rights of the accused, crime victims are entitled to the following rights:

(a) The right to be treated with fairness and respect for the victim's safety, dignity, and privacy throughout the criminal justice process.

(b) The right to be informed about the criminal justice process and how it progresses.

(c) The right to be free from intimidation and to be reasonably protected from the accused throughout the criminal justice process, including the right to relocate for the victim's safety.

(d) The right to reasonable and timely notice of all court proceedings, including post-conviction proceedings, and administrative proceedings including parole and probation.

(e) The right on the same basis as the accused to attend trial and all other court proceedings, including post-conviction proceedings.

(f) The right to confer with the prosecution and to be consulted about the disposition of the case, including plea bargaining.

(g) The right to have inconveniences associated with participation in the criminal justice process minimized.

(h) The right to be notified if presence in court is not required.

(i) The right to be informed about available resources, financial assistance, and social services.

(j) The right to full and timely restitution, as granted under RSA 651:62-67 or any other applicable state law, or victim's compensation, under RSA 21-M:8-h or any other applicable state law, for their losses.

(k) The right to be provided a secure, but not necessarily separate, waiting area during court proceedings.

(l) The right to be advised of case progress and final disposition.

(m) The right of confidentiality of the victim's address, place of employment, and other personal information.

(n) The right to the prompt return of property when no longer needed as evidence.

(o) The right to have input in the probation presentence report impact statement.

(p) The right to appear and be heard at any disposition and any proceeding involving the release, plea, sentencing, or parole of the accused, including the right to be notified of, to attend, and to make a written or oral impact statement at the sentence review hearings and sentence reduction hearings. No victim shall be subject to questioning by counsel when being heard.

(q) The right to be notified of an appeal, an explanation of the appeal process, the time, place and result of the appeal, and the right to attend the appeal hearing.

(r) The right to be notified of, to attend, and to make a written or oral victim impact statement at the sentence review hearings and sentence reduction hearings. No victim shall be subject to questioning by counsel when

giving an impact statement.

(s) The right to be notified of any change of status such as prison release, permanent interstate transfer, or escape, and the date of the parole board hearing, when requested by the victim.

(t) The right to address or submit a written statement for consideration by the parole board on the defendant's release and to be notified of the decision of the board, when requested by the victim.

(u) The right to all federal and state constitutional rights guaranteed to all victims of crime on an equal basis, and notwithstanding the provisions of any laws on capital punishment, the right not to be discriminated against or have their rights as a victim denied, diminished, expanded, or enhanced on the basis of the victim's support for, opposition to, or neutrality on the death penalty.

(v) The right to access to restorative justice programs, including victim-initiated victim-offender dialogue programs offered through the department of corrections.

(w) The right to be informed of the filing of a petition for post-conviction DNA testing under RSA 651-D.

(x) The right to have the prosecuting attorney notify the victim's employer, if requested by the victim, of the necessity of the victim's cooperation and testimony in a court proceeding that may necessitate the absence of the victim from work for good cause.

II-a. (a) In any case where the victim informs the court that he or she requires assistance in making an oral or written impact statement permitted under this section, the court shall allow the victim to designate a representative to write or speak on the victim's behalf.

(b) The victim's impact statement shall not be limited to the injuries, harm, or damages noted in the information or indictment, but may include all injuries, harm, and damages suffered as a result of the commission or attempted commission of the crime whether or not the injuries, harm, or damages were fully determined or discovered at the time the information or indictment was filed.

III. Nothing in this section shall be construed as creating a cause of action against the state, a county or municipality, or any of their agencies, instrumentalities, or employees. Nothing in this section shall be construed as creating any new cause of action or new remedy or right for a criminal defendant.

IV. The attorney general shall annually provide copies of current crime victims statutes, if available as a single publication from a commercial publisher, without charge only upon request of the members of the house criminal justice and public safety committee and senate judiciary committee.

Source. 1991, 39:2. 1993, 356:2. 2003, 259:1. 2007, 225:1, 2. 2009, 283:4, 6; 312:1. 2010, 299:4, eff. Sept. 11, 2010. 2020, 24:6, eff. Sept. 18, 2020.