



Proposed Wisconsin Victims of Crime Amendment (SA 1 to AJR 47/SJR 53)

In order to preserve and protect the rights of victims to justice and due process throughout the criminal justice process, victims shall be entitled to 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) to be present at all times at all proceedings involving the case
- f) to reasonable protection from the accused throughout the criminal 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 submitted to the authority with jurisdiction over the case pertaining to the economic, physical and psychological effect of the crime or juvenile offense upon the victim and have the 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 and to be provided with assistance collecting restitution
- n) to have any monies or property collected from any person who has been ordered to make restitution to the victim be applied first to restitution of the victim before being applied to any amounts owed by that person to the government
- o) to compensation as provided by law

- p) to timely information about the outcome of the case
- q) to timely notice about all rights in this section and all other rights, privileges or protections of the victim provided by law, including how such rights, privileges or protections are enforced

Except as provided under sub. (2) (o), all provisions of this section are self-executing. The legislature may provide further procedures for compliance with and enforcement of this section.

In this section, notwithstanding any statutory right, privilege or protection, “victim” means all 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, incompetent, a minor, or incapacitated, the person’s spouse, parent or legal guardian, child, person with whom the person against whom the act was committed resided, or other lawful representative, unless the spouse, parent, child, person, or other lawful representative is in custody for a criminal offense.

“Victim” does not include the accused or a person whom the court finds would not act in the best interests of a victim who is deceased, incompetent, a minor or incapacitated.

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 trial 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.

The victim may obtain review of any adverse decision related to his or her rights as a victim by a court or other authority with jurisdiction under par. (a) in the appropriate district of the court of appeals and supreme court.

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.

this section is not intended to and may not be interpreted to supersede a defendant’s federal constitutional rights or to afford party status in a proceeding to any victim.