

WHAT ARE MY RIGHTS AS A CRIME VICTIM?

NCGS – Chapter 15A - Article 46: Crime Victims' Rights Act

In 1998 North Carolina Victim Assistance Network (NCVAN) championed the initial Crime Victims' Rights Act (CVRA) which compelled the criminal legal system to treat victims of crime in a dignified and respectful manner. The CVRA set forth rights to be afforded to crime victims which provided them with services and information as they moved through the criminal legal process. However, the 1998 CVRA failed to prescribe compliance and possible remedies (*a means of legal reparation*) if those rights were not provided by each of the responding disciplines (law enforcement and the District Attorney's Office).

In 2019 North Carolina endeavored to correct this shortcoming with an enhanced version of the CVRA referred to as Marsy's Law. This enhanced amendment for North Carolina has incorporated compliance requirements for each agency, as well as remedies for violations of those rights should any violation occur.

As a person who has been affected by crime, you have the right to know what each agency's responsibilities are to you throughout the criminal investigation and the judicial proceedings. You also have the right to assert a claim for rights' violations with the responsible agency. If that claim does not result in a reasonable resolution, you have the right to appeal.

NCVAN has worked diligently to bring the opportunity to North Carolina for victim's voices to be heard and considered. NCVAN advocated for Marsy's Law rights to modify and strengthen our current CVRA. It is NCVAN's intent to offer the following summary of this enhanced amendment so that you will be informed and better equipped to advocate for yourself.

Please understand that NCVAN's summary of the CVRA is not legal advice, but a simpler explanation to ensure decisions made during a traumatic time are informed and accomplish the best outcomes for you as a victim.

Who is a Victim under NC Crime Victims' Rights Act?

"Victim. - A person against whom there is probable cause to believe an offense against the person or a felony property crime has been committed." The CRVA added certain offenses against a person and/or property, as well as offenses or acts of delinquency to this definition.

Under the CVRA, the category of victim is extended to include family members or the person legally responsible for the crime victim who is deceased as a result of the crime or, if the victim is a minor or is legally incapacitated. That person may be "a parent, guardian, or legal custodian, sibling or grandparent of the victim" or "a personal representative of the victim's estate or family member may act on behalf of the victim."

The CVRA states that the accused (person charged and arrested with the crime), even if he/she is a family member or legally responsible person of the victim, is not eligible to exercise these rights.

Critical Phases in the Criminal Legal Process:

When a crime occurs, there will be responding agencies who will be responsible for conducting the appropriate and legal response to victims of crime. Law Enforcement will commonly be the entry point for victims of crime as law enforcement will conduct an investigation and possibly charge the accused with a crime. Upon the arrest of the accused, the District Attorney's Office will conduct the next phase within the judicial process and will be responsible for the case as it moves through the court process towards final disposition. At some point other professionals within the criminal justice system such as judicial officials, the Clerk's Office and possibly, the Department of Community Corrections for Adults and Juveniles, may also be responsible for providing you with your entitled rights.

What are my rights under the NC-CVRA?

A victim of crime **shall be treated with dignity and respect** by the criminal justice system.

- (1) The right, ****upon request**, to reasonable, accurate, and timely notice of court proceedings of the accused.
- (2) The right, **upon request**, to be present at court proceedings of the accused.
- (3) The right to be reasonably heard at court proceedings involving a plea that disposes of the case or the conviction, sentencing, or release of the accused.
- (4) ******* The right to receive restitution in a reasonably timely manner, when ordered by the court.
- (5) The right to be given information about the crime, how the criminal justice system works, the rights of victims, and the availability of services for victims.
- (6) The right, **upon request**, to receive information about the conviction or final disposition and sentence of the accused.
- (7) The right, **upon request**, to receive notification of escape, release, proposed parole or pardon of the accused, or notice of a reprieve or commutation of the accused's sentence.
- (8) The right to present the victim's views and concerns in writing to the Governor or agency considering any action that could result in the release of the accused, prior to such action becoming effective.
- (9) The right to reasonably confer with the district attorney's office.

Please note that as a victim of a crime you have the right **to receive restitution** as ordered by the court pursuant to **North Carolina General Statutes Chapter 15 - Article 81C**. This means that at the sentencing hearing the court will determine whether restitution to you shall be ordered of the defendant who is convicted of the criminal offense which you are the victim.

****What is the significance of “upon request” in the CVRA? Why do I have to request my rights? Shouldn’t my rights be afforded to me automatically?**

Victims must “request” or “opt-in” to receive their rights. This means that when the District Attorney’s office informs you of your rights, you must in return communicate to the District Attorney’s Office that you want to exercise all of your rights, some of your rights, or none of your rights. Some victims do not want to participate in the criminal legal process and it is important that already overburdened criminal justice officials are not expending energy to locate and inform victims who do not want to participate in court proceedings.

https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_15A/Article_46.pdf

How will I receive the notifications mentioned in the CVRA?

It is important to know that the notification process will likely be different in each prosecutorial district. It is important that you ask questions of how specific notifications will happen when you speak to law enforcement and to the contact person for the District Attorney’s Office. It is in your best interest to remain aware of the notifications you are entitled during the investigation, pre-trial, during trial, and post-trial. Please remember that in order to remain informed you must ask the questions.