

Guide to Filing a Crime Victims' Rights Enforcement Claim (This is NOT a court order.)

If you are a victim of crime in Oregon, you have legal rights. For a description of those rights, you may look at the materials available at www.OregonCrimeVictimsRights.org.

Crime Victims' Constitutional Rights

Crime victims in Oregon have constitutional rights¹ in prosecutions and juvenile proceedings²:

1. To be reasonably protected throughout the criminal justice process or juvenile delinquency proceedings.
2. To have decisions by the court about pretrial release based on reasonable protection of the victim.
3. To be present at and, upon request, to be informed in advance of any critical stage of the proceedings held in open court when the defendant or alleged youth offender will be present.
4. To be heard at the pretrial release hearing and the sentencing or juvenile court delinquency disposition.
5. Upon request, to obtain the following information about the defendant, convicted criminal, alleged youth offender or youth offender:
 - a. conviction,
 - b. sentence,
 - c. imprisonment,
 - d. criminal history, and
 - e. future release from physical custody.
6. To refuse an interview, deposition or other discovery request by the defendant or persons acting on behalf of the defendant provided, however, that nothing in this paragraph shall restrict any other constitutional right of the defendant to discovery against the state.
7. To receive prompt restitution from the convicted criminal or youth offender who caused the victim's loss or injury.
8. To have a copy of a transcript of any court proceeding in open court, if one is prepared.
9. To be consulted, upon request, regarding plea negotiations involving any violent felony.
10. To be informed of these rights as soon as practical.

A Crime Victims' Rights Enforcement Claim

Any victim in a criminal or juvenile justice case who thinks one of their rights was violated may get a court to hear about the right they think was not honored and what they think should be done about it. The "Claim of Violation of Crime Victims' Rights," lets victims tell the court they think a right was violated. (There are separate forms for juvenile and adult criminal cases. The two forms are similar, but have different headings.)

A victim needs to file this form as soon as the victim is aware that a right might have been violated. If a victim files the form too late, the judge will not consider the claim. **SOME OF VICTIMS' RIGHTS ENFORCEMENT LAW WILL PROBABLY CHANGE IN 2009.** Get the current form and instructions at www.doj.state.or.us/crimev/cvr/rights_violated.shtml.

There is no charge to file this form with the court.

Here is what you need to do to file a victims' rights enforcement claim with the claim form:

¹ Or. Const. Art. 1, sects. 42 and 43.

² The federal Crime Victims' Rights Act governs federal prosecutions.

- Fill out the form clearly and completely. Once you finish, please review it to make sure you checked every box and filled in every line that applies to your case.
- At the top of the claim form, write in the name of the county where your case is being heard.
- On the “Case No.” line, write down the number of the criminal or juvenile case in which you think your rights were violated. If you do not know this number, leave the line blank.
- If you are filing the claim for yourself, check the second box on item number 2. If you do not care that the defendant or alleged youth offender sees your contact information, you may cross out the second sentence of item number 2.
- You may check as many rights as you think apply in your situation from the list of rights above item number 4 on the claim form.
- Item number 4 on the claim form is where you tell a judge what you think should happen to fix the problem. The judge may or may not be able to order anything that will address the problem you describe. Or the judge may agree that something should be done, but not agree with you about what that is. A judge will not be able to order that you get paid damages or that someone be fired, for example.
- You may sign the form yourself – you do not need an attorney to sign it for you.
- You will need to make a few copies of the form for filing. You should also keep a copy. The number of copies you will need to make depends on how many copies of the claim form you need to take to other parties.
- Once you have filled out the claim form, you must take it to the clerk of the court to file in the county where the case is being heard. (You do not have to pay to file the form.)
- After you file the claim with the court clerk, you must also give a copy of the form to the prosecuting attorney or juvenile department AND to the defense attorney, or to the defendant or alleged youth offender if they are not represented by an attorney. **IF YOU DO NOT WANT YOUR CONTACT INFORMATION SHARED WITH THE DEFENDANT OR ALLEGED YOUTH OFFENDER, DO NOT GIVE THE CONTACT INFORMATION PAGE OF THE CLAIM FORM TO THEM.** You only need to give that page of the form to the court clerk, the prosecuting attorney (or juvenile department) and the judge (if you are giving a copy of the claim form to the judge).
- If your contact information changes while your claim is being reviewed, provide updated contact information to the court and the prosecuting attorney (or juvenile department).
- Have the form delivered to the attorney/juvenile department or parties right away. Keep track in writing of when the copy of the form was given to the attorney/juvenile department or parties.
- If the claim is about something done by the judge or the court, you must give a copy to the clerk of the judge responsible for the action. Have the form delivered to the judge’s clerk right away. Keep track in writing of when the copy of the form was given to the judge’s clerk.

The court will contact you about whether there will be a hearing about your Claim of Violation. If a hearing will be held, you will also be informed when and where to come for a hearing.