

## APPENDIX: CONSTITUTIONAL AND STATUTORY PROVISIONS

### Constitutional Victims' Rights Provisions:

#### I.10a Rights of victims of crime

Victims of criminal offenses shall be accorded fairness, dignity, and respect in the criminal justice process, and, as the general assembly shall define and provide by law, shall be accorded rights to reasonable and appropriate notice, information, access, and protection and to a meaningful role in the criminal justice process. This section does not confer upon any person a right to appeal or modify any decision in a criminal proceeding, does not abridge any other right guaranteed by the Constitution of the United States or this constitution, and does not create any cause of action for compensation or damages against the state, any political subdivision of the state, any officer, employee, or agent of the state or of any political subdivision, or any officer of the court.

(Adopted November 8, 1994)

As Approved by voters November, 2017:

#### Section 10a. Rights of Crime Victims

Victims of criminal offenses shall be accorded fairness, dignity, and respect in the criminal justice process, and, as the General Assembly shall define and provide by law, shall be accorded rights to reasonable and appropriate notice, information, access, and protection and to a meaningful role in the criminal justice process. This section does not confer upon any person a right to appeal or modify any decision in a criminal proceeding, does not abridge any other right guaranteed by the Constitution of the United States or this constitution, and does not create any cause of action for compensation or damages against the state, any officer, employee, or agent of the state or of any political subdivision, or any officer of the court.

(A) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, which shall be protected in a manner no less vigorous than the rights afforded to the accused:

- (1) To be treated with fairness and respect for the victim's safety, dignity and privacy;
- 2) Upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim, and to be present at all such proceedings;
- (3) To be heard in any public proceeding involving release, plea, sentencing, disposition, or parole, or in any public proceeding in which a right of the victim is implicated;
- (4) To reasonable protection from the accused or any person acting on behalf of the accused;
- (5) Upon request, to reasonable notice of any release or escape of the accused;
- (6) Except as authorized by section 10 of Article I of this constitution, to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused;

- (7) To full and timely restitution from the person who committed the criminal offense or delinquent act against the victim;
- (8) To proceedings free from unreasonable delay and a prompt conclusion of the case;
- (9) Upon request, to confer with the attorney for the government; and
- (10) To be informed, in writing, of all rights enumerated in this section.

(B) The victim, the attorney for the government upon request of the victim, or the victim's other lawful representative, in any proceeding involving the criminal offense or delinquent act against the victim or in which the victim's rights are implicated, may assert the rights enumerated in this section and any other right afforded to the victim by law. If the relief sought is denied, the victim or the victim's lawful representative may petition the court of appeals for the applicable district, which shall promptly consider and decide the petition.

(C) This section does not create any cause of action for damages or compensation against the state, any political subdivision of the state, any officer, employee, or agent of the state or of any political subdivision, or any officer of the court.

(D) As used in this section, "victim" means a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim.

(E) All provisions of this section shall be self-executing and severable, and shall supersede all conflicting state laws.

(F) This section shall take effect ninety days after the election at which it was approved.[4]

## **Statutory Victims' Rights Provisions**

### **Chapter 2930: VICTIM'S RIGHTS**

#### **2930.01 Definitions.**

As used in this chapter:

(A) "Crime" means any of the following:

- (1) A felony;
- (2) A violation of section 2903.05, 2903.06, 2903.13, 2903.21, 2903.211, 2903.22, 2907.06, 2919.25, or 2921.04 of the Revised Code, a violation of section 2903.07 of the Revised Code as it existed prior to March 23, 2000, or a violation of a substantially equivalent municipal ordinance;
- (3) A violation of division (A) or (B) of section 4511.19, division (A) or (B) of section 1547.11, or division (A)(3) of section 4561.15 of the Revised Code or of a municipal ordinance substantially similar to any of those divisions that is the proximate cause of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident in which the victim

receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility.

(4) A motor vehicle accident to which both of the following apply:

(a) The motor vehicle accident is caused by a violation of a provision of the Revised Code that is a misdemeanor of the first degree or higher.

(b) As a result of the motor vehicle accident, the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility.

(B) "Custodial agency" means one of the following:

(1) The entity that has custody of a defendant or an alleged juvenile offender who is incarcerated for a crime, is under detention for the commission of a specified delinquent act, or who is detained after a finding of incompetence to stand trial or not guilty by reason of insanity relative to a crime, including any of the following:

(a) The department of rehabilitation and correction or the adult parole authority;

(b) A county sheriff;

(c) The entity that administers a jail, as defined in section 2929.01 of the Revised Code;

(d) The entity that administers a community-based correctional facility and program or a district community-based correctional facility and program;

(e) The department of mental health and addiction services or other entity to which a defendant found incompetent to stand trial or not guilty by reason of insanity is committed.

(2) The entity that has custody of an alleged juvenile offender pursuant to an order of disposition of a juvenile court, including the department of youth services or a school, camp, institution, or other facility operated for the care of delinquent children.

(C) "Defendant" means a person who is alleged to be the perpetrator of a crime in a police report or in a complaint, indictment, or information that charges the commission of a crime and that provides the basis for the criminal prosecution and subsequent proceedings to which this chapter makes reference.

(D) "Member of the victim's family" means a spouse, child, stepchild, sibling, parent, stepparent, grandparent, or other relative of a victim but does not include a person who is charged with, convicted of, or adjudicated to be a delinquent child for the crime or specified delinquent act against

the victim or another crime or specified delinquent act arising from the same conduct, criminal episode, or plan.

(E) "Prosecutor" means one of the following:

(1) With respect to a criminal case, it has the same meaning as in section 2935.01 of the Revised Code and also includes the attorney general and, when appropriate, the employees of any person listed in section 2935.01 of the Revised Code or of the attorney general.

(2) With respect to a delinquency proceeding, it includes any person listed in division (C) of section 2935.01 of the Revised Code or an employee of a person listed in that division who prosecutes a delinquency proceeding.

(F) "Public agency" means an office, agency, department, bureau, or other governmental entity of the state or of a political subdivision of the state.

(G) "Public official" has the same meaning as in section 2921.01 of the Revised Code.

(H) "Victim" means either of the following:

(1) A person who is identified as the victim of a crime or specified delinquent act in a police report or in a complaint, indictment, or information that charges the commission of a crime and that provides the basis for the criminal prosecution or delinquency proceeding and subsequent proceedings to which this chapter makes reference.

(2) A person who receives injuries as a result of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident that is proximately caused by a violation described in division (A) (3) of this section or a motor vehicle accident that is proximately caused by a violation described in division (A) (4) of this section and who receives medical treatment as described in division (A) (3) or (4) of this section, whichever is applicable.

(I) "Victim's representative" means a member of the victim's family or another person who pursuant to the authority of section 2930.02 of the Revised Code exercises the rights of a victim under this chapter.

(J) "Court" means a court of common pleas, juvenile court, municipal court, or county court.

(K) "Delinquency proceeding" means all proceedings in a juvenile court that are related to a case in which a complaint has been filed alleging that a child is a delinquent child.

(L) "Case" means a delinquency proceeding and all related activity or a criminal prosecution and all related activity.

(M) The "defense" means the defense against criminal charges in a criminal prosecution or the defense against a delinquent child complaint in a delinquency proceeding.

(N) The "prosecution" means the prosecution of criminal charges in a criminal prosecution or the prosecution of a delinquent child complaint in a delinquency proceeding.

(O) "Specified delinquent act" means any of the following:

- (1) An act committed by a child that if committed by an adult would be a felony;
- (2) An act committed by a child that is a violation of a section listed in division (A) (1) or (2) of this section or is a violation of a substantially equivalent municipal ordinance;
- (3) An act committed by a child that is described in division (A) (3) or (4) of this section.

(P)(1) "Alleged juvenile offender" means a child who is alleged to have committed a specified delinquent act in a police report or in a complaint in juvenile court that charges the commission of a specified delinquent act and that provides the basis for the delinquency proceeding and all subsequent proceedings to which this chapter makes reference.

(2) As used in divisions (O) and (P) (1) of this section, "child" has the same meaning as in section 2151.011 of the Revised Code.

(Q) "Motor vehicle accident" means any accident involving a motor vehicle.

(R) "Motor vehicle" has the same meaning as in section 4509.01 of the Revised Code.

(S) "Aircraft" has the same meaning as in section 4561.01 of the Revised Code.

(T) "Aquatic device" means any vessel, or any water skis, aquaplane, or similar device.

(U) "Vehicle," "streetcar," and "trackless trolley" have the same meanings as in section 4511.01 of the Revised Code.

(V) "Vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident" means any accident involving a vehicle, streetcar, trackless trolley, aquatic device, or aircraft.

(W) "Vessel" has the same meaning as in section 1546.01 of the Revised Code.

Amended by 131st General Assembly File No. TBD, SB 293, §1, eff. 9/14/2016.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 03-23-2000; 05-17-2006

### **2930.02 Victim's representative.**

(A) If a victim is a minor or is incapacitated, incompetent, or deceased, or if the victim chooses to designate another person, a member of a victim's family or another person may exercise the rights of the victim under this chapter as the victim's representative.

If more than one person seeks to act as the victim's representative for a particular victim, the court in which the criminal prosecution or delinquency proceeding is held shall designate one of those persons as the victim's representative. If a victim does not want to have anyone act as the victim's representative, the court shall order that only the victim may exercise the rights of a victim under this chapter.

(B) If pursuant to division (A) of this section a victim's representative is to exercise the rights of a victim, the victim or victim's representative shall notify the prosecutor or, if it is a delinquency proceeding and a prosecutor is not involved in the case, shall notify the court that the victim's representative is to act for the victim. When a victim or victim's representative has so notified the prosecutor or the court, all notice under this chapter shall be sent only to the victim's representative, all rights under this chapter shall be granted only to the victim's representative, and all references in this chapter to a victim shall be interpreted as being references to the victim's representative unless the victim informs the notifying authority that the victim also wishes to receive the notices or exercise the rights. If division (B) of section 2930.03 of the Revised Code requires a victim to make a request in order to receive any notice of a type described in this division and if a victim's representative is to exercise the rights of the victim, the victim's representative shall make the request.

Effective Date: 11-22-1999.

### **2930.03 Methods of giving notice.**

(A) A person or entity required or authorized under this chapter to give notice to a victim shall give the notice to the victim by any means reasonably calculated to provide prompt actual notice. Except when a provision requires that notice is to be given in a specific manner, a notice may be oral or written.

(B)

(1) Except for receipt of the initial information and notice required to be given to a victim under divisions (A) and (B) of section 2930.04, section 2930.05, and divisions (A) and (B) of section 2930.06 of the Revised Code and the notice required to be given to a victim under division (D) of section 2930.16 of the Revised Code, a victim who wishes to receive any notice authorized by this chapter shall make a request for the notice to the prosecutor or the custodial agency that is to provide the notice, as specified in this chapter. If the victim does not make a request as described in this division, the prosecutor or custodial agency is not required to provide any notice described in this chapter other than the initial information and notice required to be given to a victim under divisions (A) and (B) of section 2930.04, section 2930.05, and divisions (A) and (B) of section 2930.06 of the Revised Code and the notice required to be given to a victim under division (D) of section 2930.16 of the Revised Code.

(2) A victim who does not wish to receive any of the notices required to be given to a victim under division (E)(2) or (K) of section 2929.20, division (D) of section 2930.16, division (H) of section 2967.12, division (E)(1)(b) of section 2967.19, division (A)(3)(b) of section 2967.26, division (D)(1) of section 2967.28, or division (A)(2) of section 5149.101 of

the Revised Code shall make a request to the prosecutor or custodial agency that is to provide the particular notice that the notice not be provided to the victim. Unless the victim makes a request as described in this division, the prosecutor or custodial agency shall provide the notices required to be given to a victim under division (E)(2) or (K) of section 2929.20, division (D) of section 2930.16, division (H) of section 2967.12, division (E)(1)(b) of section 2967.19, division (A)(3)(b) of section 2967.26, division (D)(1) of section 2967.28, or division (A)(2) of section 5149.101 of the Revised Code in any manner, and in accordance with the procedures, specified in the particular division. This division also applies to a victim's representative or a member of a victim's immediate family that is authorized to receive any of the notices specified in this division.

(C) A person or agency that is required to furnish notice under this chapter shall give the notice to the victim at the address or telephone number provided to the person or agency by the victim. A victim who requests to receive notice under this chapter as described in division (B) of this section shall inform the person or agency of the name, address, or telephone number of the victim and of any change to that information.

(D) A person or agency that has furnished information to a victim in accordance with any requirement or authorization under this chapter shall notify the victim promptly of any significant changes to that information.

(E) Divisions (A) to (D) of this section do not apply regarding a notice that a prosecutor is required to provide under section 2930.061 of the Revised Code. A prosecutor required to provide notice under that section shall provide the notice as specified in that section.

Amended by 129th General Assembly File No.178, SB 160, §1, eff. 3/22/2013.

Effective Date: 01-30-2004.

#### **2930.04 Information provided to victim by law enforcement agency.**

(A) After its initial contact with a victim of a crime, the law enforcement agency responsible for investigating the crime promptly shall give to the victim, in writing, all of the following information:

- (1) An explanation of the victim's rights under this chapter;
- (2) Information about medical, counseling, housing, emergency, and any other services that are available to a victim;
- (3) Information about compensation for victims under the reparations program in sections 2743.51 to 2743.72 of the Revised Code and the name, street address, and telephone number of the agency to contact to apply for an award of reparations under those sections;
- (4) Information about protection that is available to the victim, including protective orders issued by a court.

(B) As soon as practicable after its initial contact with a victim of a crime, the law enforcement agency responsible for investigating the crime shall give to the victim all of the following information:

- (1) The business telephone number of the law enforcement officer assigned to investigate the case;
- (2) The office address and business telephone number of the prosecutor in the case;
- (3) A statement that, if the victim is not notified of the arrest of the offender in the case within a reasonable period of time, the victim may contact the law enforcement agency to learn the status of the case.

(C) To the extent that the information required by this section is provided in the pamphlet prepared pursuant to section 109.42 of the Revised Code or in the information card or other material prepared pursuant to section 2743.71 of the Revised Code, the law enforcement agency may fulfill that portion of its obligations under this section by giving that pamphlet, information card, or other material to the victim.

Effective Date: 07-01-1996.

#### **2930.05 Notice of arrest or detention of offender.**

(A) Within a reasonable period of time after the arrest or detention of a defendant or an alleged juvenile offender for a crime or specified delinquent act, the law enforcement agency that investigates the crime or specified delinquent act shall give the victim of the crime or specified delinquent act notice of all of the following:

- (1) The arrest or detention;
- (2) The name of the defendant or alleged juvenile offender;
- (3) Whether the defendant or alleged juvenile offender is eligible for pretrial release or for release from detention;
- (4) The telephone number of the law enforcement agency;
- (5) The victim's right to telephone the agency to ascertain whether the defendant or alleged juvenile offender has been released from custody or from detention.

(B) If a defendant or alleged juvenile offender has been released from custody on a bond or personal recognizance or has been released from detention and the prosecutor in the case has received the affidavit of a victim stating that the defendant or alleged juvenile offender, or someone acting at the defendant's or alleged juvenile offender's direction, has committed or threatened to commit one or more acts of violence or intimidation against the victim, the victim's family, or the victim's representative, the prosecutor may file a motion asking the court to reconsider the conditions of the



bond or personal recognizance granted to the defendant or alleged juvenile offender or to consider returning the defendant or alleged juvenile offender to detention.

Effective Date: 11-22-1999.

**2930.06 Prosecutor to confer with victim - court to give notice of proceedings to victim.**

(A) The prosecutor in a case, to the extent practicable, shall confer with the victim in the case before pretrial diversion is granted to the defendant or alleged juvenile offender in the case, before amending or dismissing an indictment, information, or complaint against that defendant or alleged juvenile offender, before agreeing to a negotiated plea for that defendant or alleged juvenile offender, before a trial of that defendant by judge or jury, or before the juvenile court conducts an adjudicatory hearing for that alleged juvenile offender. If the juvenile court disposes of a case prior to the prosecutor's involvement in the case, the court or a court employee shall notify the victim in the case that the alleged juvenile offender will be granted pretrial diversion, the complaint against that alleged juvenile offender will be amended or dismissed, or the court will conduct an adjudicatory hearing for that alleged juvenile offender. If the prosecutor fails to confer with the victim at any of those times, the court, if informed of the failure, shall note on the record the failure and the prosecutor's reasons for the failure. A prosecutor's failure to confer with a victim as required by this division and a court's failure to provide the notice as required by this division do not affect the validity of an agreement between the prosecutor and the defendant or alleged juvenile offender in the case, a pretrial diversion of the defendant or alleged juvenile offender, an amendment or dismissal of an indictment, information, or complaint filed against the defendant or alleged juvenile offender, a plea entered by the defendant or alleged juvenile defender, an admission entered by the defendant or alleged juvenile offender, or any other disposition in the case. A court shall not dismiss a criminal complaint, charge, information, or indictment or a delinquent child complaint solely at the request of the victim and over the objection of the prosecuting attorney, village solicitor, city director of law, or other chief legal officer responsible for the prosecution of the case.

(B) After a prosecution in a case has been commenced, the prosecutor or a designee of the prosecutor other than a court or court employee, to the extent practicable, promptly shall give the victim all of the following information, except that, if the juvenile court disposes of a case prior to the prosecutor's involvement in the case, the court or a court employee, to the extent practicable, promptly shall give the victim all of the following information:

- (1) The name of the crime or specified delinquent act with which the defendant or alleged juvenile offender in the case has been charged and the name of the defendant or alleged juvenile offender;
- (2) The file number of the case;
- (3) A brief statement regarding the procedural steps in a criminal prosecution or delinquency proceeding involving a crime or specified delinquent act similar to the crime or specified delinquent act with which the defendant or alleged juvenile offender has been charged and the right of the victim to be present during all proceedings held throughout the prosecution of the case;

- (4) A summary of the rights of a victim under this chapter;
- (5) Procedures the victim or the prosecutor may follow if the victim becomes subject to threats or intimidation by the defendant, alleged juvenile offender, or any other person;
- (6) The name and business telephone number of a person to contact for further information with respect to the case;
- (7) The right of the victim to have a victim's representative exercise the victim's rights under this chapter in accordance with section 2930.02 of the Revised Code and the procedure by which a victim's representative may be designated;
- (8) Notice that any notification under division (C) of this section, sections 2930.07 to 2930.15, division (A), (B), or (C) of section 2930.16, sections 2930.17 to 2930.19, and section 5139.56 of the Revised Code will be given to the victim only if the victim asks to receive the notification and that notice under division (E)(2) or (K) of section 2929.20, division (D) of section 2930.16, division (H) of section 2967.12, division (E)(1)(b) of section 2967.19, division (A)(3)(b) of section 2967.26, division (D)(1) of section 2967.28, or division (A)(2) of section 5149.101 of the Revised Code will be given unless the victim asks that the notification not be provided.

(C) Upon the request of the victim, the prosecutor or, if it is a delinquency proceeding and a prosecutor is not involved in the case, the court shall give the victim notice of the date, time, and place of any scheduled criminal or juvenile proceedings in the case and notice of any changes in those proceedings or in the schedule in the case.

(D) A victim who requests notice under division (C) of this section and who elects pursuant to division (B) of section 2930.03 of the Revised Code to receive any further notice from the prosecutor or, if it is a delinquency proceeding and a prosecutor is not involved in the case, the court under this chapter shall keep the prosecutor or the court informed of the victim's current address and telephone number until the case is dismissed or terminated, the defendant is acquitted or sentenced, the delinquent child complaint is dismissed, the defendant is adjudicated a delinquent child, or the appellate process is completed, whichever is the final disposition in the case.

(E) If a defendant is charged with the commission of a misdemeanor offense that is not identified in division (A)(2) of section 2930.01 of the Revised Code and if a police report or a complaint, indictment, or information that charges the commission of that offense and provides the basis for a criminal prosecution of that defendant identifies one or more individuals as individuals against whom that offense was committed, after a prosecution in the case has been commenced, the prosecutor or a designee of the prosecutor other than a court or court employee, to the extent practicable, promptly shall notify each of the individuals so identified in the report, complaint, indictment, or information that, if the defendant is convicted of or pleads guilty to the offense, the individual may make an oral or written statement to the court hearing the case regarding the sentence to be imposed upon the defendant and that the court must consider any statement so made that is relevant. Before imposing sentence in the case, the court shall permit the individuals so identified in the report, complaint, indictment, or information to make an oral or written statement. Division (A) of section 2930.14 of the Revised Code applies regarding any statement so made. The

court shall consider a statement so made, in accordance with division (B) of that section and division (D) of section 2929.22 of the Revised Code.

Amended by 129th General Assembly File No.178, SB 160, §1, eff. 3/22/2013.

Effective Date: 01-01-2004.

**2930.061 Notice of charges to department of developmental disabilities.**

(A) If a person is charged in a complaint, indictment, or information with any crime or specified delinquent act or with any other violation of law, and if the case involves a victim that the prosecutor in the case knows is a person with a developmental disability, in addition to any other notices required under this chapter or under any other provision of law, the prosecutor in the case shall send written notice of the charges to the department of developmental disabilities. The written notice shall specifically identify the person so charged.

(B) As used in this section, “developmental disability” has the same meaning as in section 5123.01 of the Revised Code.

Amended by 131st General Assembly File No. TBD, HB 158, §1, eff. 10/12/2016.

Amended by 128th General Assemblych.178, SB 79, §1, eff. 10/6/2009.

Effective Date: 01-30-2004.

**2930.062 Notification of victim's injuries.**

A victim described in division (H)(2) of section 2930.01 of the Revised Code may provide the prosecutor, or if it is a delinquency proceeding and a prosecutor is not involved in the case may provide the court, in the victim's case with written notification of the victim's injuries at any time. Upon receipt of the written notification, the prosecutor or court shall give the victim all of the information specified in division (B) of section 2930.06 if the prosecutor has not already done so.

Effective Date: 05-17-2006.

**2930.07 Protection of victim's identification information.**

(A) If the prosecutor in a case determines that there are reasonable grounds for the victim in a case to be apprehensive regarding acts or threats of violence or intimidation by the defendant or alleged juvenile offender in the case or at the defendant's or alleged juvenile offender's direction against the victim, the victim's family, or the victim's representative, the prosecutor may file a motion with the court requesting that the court issue an order specifying that the victim and other witnesses in the case not be compelled in any phase of the criminal or delinquency proceeding to give testimony that would disclose the victim's or victim's representative's address, place of employment, or similar identifying fact without the victim's or victim's representative's consent. The court shall hold a hearing on the motion in chambers, and a court reporter shall make a record of the proceeding.

(B) If the court, pursuant to division (A) of this section, orders that the victim's or victim's representative's address, telephone number, place of employment, or other identifying fact shall be confidential, the court files or documents shall not contain that information unless it is used to identify the location of the crime or specified delinquent act. The hearing shall be recorded, and the court shall order the transcript sealed.

Effective Date: 11-22-1999.

#### **2930.08 Notification of substantial delay in prosecution.**

If a motion, request, or agreement between counsel is made in a case and the motion, request, or agreement might result in a substantial delay in the prosecution of the case, the prosecutor in the case, to the extent practicable and if the victim has requested notice pursuant to division (B) of section 2930.03 of the Revised Code, shall inform the victim that the motion, request, or agreement has been made and that it might result in a delay. If the victim objects to the delay, the prosecutor shall inform the court of the victim's objections, and the court shall consider the victim's objections in ruling on the motion, request, or agreement.

Effective Date: 07-01-1996.

#### **2930.09 Victim's presence at trial.**

A victim in a case may be present whenever the defendant or alleged juvenile offender in the case is present during any stage of the case against the defendant or alleged juvenile offender that is conducted on the record, other than a grand jury proceeding, unless the court determines that exclusion of the victim is necessary to protect the defendant's or alleged juvenile offender's right to a fair trial or to a fair delinquency proceeding. At any stage of the case at which the victim is present, the court, at the victim's request, shall permit the victim to be accompanied by an individual to provide support to the victim unless the court determines that exclusion of the individual is necessary to protect the defendant's or alleged juvenile offender's right to a fair trial or to a fair delinquency proceeding.

Effective Date: 11-22-1999.

#### **2930.10 Minimizing contact between victim and defendant - separate waiting areas.**

(A) The court in which a criminal prosecution or delinquency proceeding is held shall make a reasonable effort to minimize any contact between the victim in the case, members of the victim's family, the victim's representative, or witnesses for the prosecution and the defendant or alleged juvenile offender in the case, members of the defendant's or alleged juvenile offender's family, or witnesses for the defense before, during, and immediately after all court proceedings.

(B) The court shall provide a waiting area for the victim, members of the victim's family, the victim's representative, or witnesses for the prosecution that is separate from the waiting area provided for the defendant or alleged juvenile offender, members of the defendant's or alleged juvenile offender's family, and defense witnesses if a separate waiting area is available and the use of the area is practical.

Effective Date: 11-22-1999.

**2930.11 Returning or retaining victim's property.**

(A) Except as otherwise provided in this section or in Chapter 2981. of the Revised Code, the law enforcement agency responsible for investigating a crime or specified delinquent act shall promptly return to the victim of the crime or specified delinquent act any property of the victim that was taken in the course of the investigation. In accordance with Criminal Rule 26 or an applicable Juvenile Rule, the law enforcement agency may take photographs of the property for use as evidence. If the ownership of the property is in dispute, the agency shall not return the property until the dispute is resolved.

(B) The law enforcement agency responsible for investigating a crime or specified delinquent act shall retain any property of the victim of the crime or specified delinquent act that is needed as evidence in the case, including any weapon used in the commission of the crime or specified delinquent act, if the prosecutor certifies to the court a need to retain the property in lieu of a photograph of the property or of another evidentiary substitute for the property itself.

(C) If the defendant or alleged juvenile offender in a case files a motion requesting the court to order the law enforcement agency to retain property of the victim because the property is needed for the defense in the case, the agency shall retain the property until the court rules on the motion. The court, in making a determination on the motion, shall weigh the victim's need for the property against the defendant's or alleged juvenile offender's assertion that the property has evidentiary value for the defense. The court shall rule on the motion in a timely fashion.

Effective Date: 11-22-1999; 07-01-2007.

**2930.12 Notice of the defendant's acquittal or conviction.**

At the request of the victim in a criminal prosecution, the prosecutor shall give the victim notice of the defendant's acquittal or conviction. At the request of the victim in a delinquency proceeding, the prosecutor shall give the victim notice of the dismissal of the complaint against the alleged juvenile offender or of the adjudication of the alleged juvenile offender as a delinquent child, except that, if the juvenile court dismisses the complaint against the alleged juvenile offender or adjudicates the alleged juvenile offender a delinquent child prior to the prosecutor's involvement in the case, at the request of the victim, the court or a court employee shall give the victim notice of the dismissal or of the adjudication. If the defendant or alleged juvenile offender is convicted or is adjudicated a delinquent child, the notice shall include all of the following:

(A) The crimes or specified delinquent acts of which the defendant was convicted or for which the alleged juvenile offender was adjudicated a delinquent child;

(B) The address and telephone number of the probation office or other person, if any, that is to prepare a presentence investigation report pursuant to section 2951.03 of the Revised Code or Criminal Rule 32.2, the address and telephone number of the person, if any, who is to prepare a disposition investigation report pursuant to division (C)(1) of section 2152.18 of the Revised Code,

and the address and telephone number of the person, if any, who is to prepare a victim impact statement pursuant to division (D)(1) of section 2152.19 or section 2947.051 of the Revised Code;

(C) Notice that the victim may make a statement about the impact of the crime or specified delinquent act to the probation officer or other person, if any, who prepares the presentence investigation report or to the person, if any, who prepares a victim impact statement, that a statement of the victim included in the report will be made available to the defendant or alleged juvenile offender unless the court exempts it from disclosure, and that the court may make the victim impact statement available to the defendant or alleged juvenile offender;

(D) Notice of the victim's right under section 2930.14 of the Revised Code to make a statement about the impact of the crime or specified delinquent act before sentencing or disposition;

(E) The date, time, and place of the sentencing hearing or dispositional hearing;

(F) One of the following:

(1) Any sentence imposed upon the defendant and any subsequent modification of that sentence, including modification under section 2929.20 or 5120.036 of the Revised Code or as a result of the defendant's appeal of the sentence pursuant to section 2953.08 of the Revised Code;

(2) Any disposition ordered for the defendant and any subsequent modification of that disposition, including judicial release or early release in accordance with section 2151.38 of the Revised Code.

Amended by 129th General Assembly File No.29, HB 86, §1, eff. 9/30/2011.

Effective Date: 01-01-2002.

### **2930.13 Victim impact statement.**

(A) If the court orders the preparation of a victim impact statement pursuant to division (D)(1) of section 2152.19 or section 2947.051 of the Revised Code, the victim in the case may make a written or oral statement regarding the impact of the crime or specified delinquent act to the person whom the court orders to prepare the victim impact statement. A statement made by the victim under this section shall be included in the victim impact statement.

(B) If a probation officer or other person is preparing a presentence investigation report pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2, or a disposition investigation report pursuant to section 2152.18 of the Revised Code, concerning the defendant or alleged juvenile offender in the case, the victim may make a written or oral statement regarding the impact of the crime or specified delinquent act to the probation officer or other person. The probation officer or other person shall use the statement in preparing the presentence investigation report or disposition investigation report and, upon the victim's request, shall include a written statement submitted by the victim in the presentence investigation report or disposition investigation report.

(C) A statement made by the victim under division (A) or (B) of this section may include the following:

- (1) An explanation of the nature and extent of any physical, psychological, or emotional harm suffered by the victim as a result of the crime or specified delinquent act that is the basis of the case;
- (2) An explanation of the extent of any property damage or other economic loss suffered by the victim as a result of that crime or specified delinquent act;
- (3) An opinion regarding the extent to which, if any, the victim needs restitution for harm caused by the defendant or alleged juvenile offender as a result of that crime or specified delinquent act and information about whether the victim has applied for or received any compensation for loss or damage caused by that crime or specified delinquent act;
- (4) The victim's recommendation for an appropriate sanction or disposition for the defendant or alleged juvenile offender regarding that crime or specified delinquent act.

(D) If a statement made by a victim under division (A) of this section is included in a victim impact statement, the provision, receipt, and retention of copies of, the use of, and the confidentiality, nonpublic record character, and sealing of the victim impact statement is governed by division (B)(2) of section 2152.20 or by division (C) of section 2947.051 of the Revised Code, as appropriate. If a statement made by a victim under division (B) of this section is included in a presentence investigation report prepared pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 or in a disposition investigation report pursuant to division (C)(1) of section 2152.18 of the Revised Code, the provision, receipt, and retention of copies of, the use of, and the confidentiality, nonpublic record character, and sealing of the presentence investigation report or disposition investigation report that contains the victim's statement is governed by section 2951.03 of the Revised Code.

Effective Date: 01-01-2002; 07-11-2006.

#### **2930.14 Victim's statement.**

(A) Before imposing sentence upon, or entering an order of disposition for, a defendant or alleged juvenile offender for the commission of a crime or specified delinquent act, the court shall permit the victim of the crime or specified delinquent act to make a statement. The court may give copies of any written statement made by a victim to the defendant or alleged juvenile offender and defendant's or alleged juvenile offender's counsel and may give any written statement made by the defendant or alleged juvenile offender to the victim and the prosecutor. The court may redact any information contained in a written statement that the court determines is not relevant to and will not be relied upon in the sentencing or disposition decision. The written statement of the victim or of the defendant or alleged juvenile offender is confidential and is not a public record as used in section 149.43 of the Revised Code. Any person to whom a copy of a written statement was released by the court shall return it to the court immediately following sentencing or disposition.

(B) The court shall consider a victim's statement made under division (A) of this section along with other factors that the court is required to consider in imposing sentence or in determining the order of disposition. If the statement includes new material facts, the court shall not rely on the new material facts unless it continues the sentencing or dispositional proceeding or takes other appropriate action to allow the defendant or alleged juvenile offender an adequate opportunity to respond to the new material facts.

Effective Date: 11-22-1999.

### **2930.15 Notice of appeal.**

(A) If a defendant is convicted of committing a crime against a victim or an alleged juvenile offender is adjudicated a delinquent child for committing a specified delinquent act against a victim, if the victim requests notice of the filing of an appeal, and if the defendant or alleged juvenile offender files an appeal, the prosecutor in the case promptly shall notify the victim of the appeal. The prosecutor also shall give the victim all of the following information:

- (1) A brief explanation of the appellate process, including the possible disposition of the case;
- (2) Whether the defendant or alleged juvenile offender has been released on bail or other recognizance or under conditions imposed by the juvenile court pending the disposition of the appeal;
- (3) The time, place, and location of appellate court proceedings and any subsequent changes in the time, place, or location of those proceedings;
- (4) The result of the appeal.

(B) If the appellate court returns the defendant's or alleged juvenile offender's case to the trial court or juvenile court for further proceedings, the victim may exercise all the rights that previously were available to the victim in the trial court or the juvenile court.

Effective Date: 11-22-1999.

### **2930.16 Notice of incarceration and release date.**

(A) If a defendant is incarcerated, a victim in a case who has requested to receive notice under this section shall be given notice of the incarceration of the defendant. If an alleged juvenile offender is committed to the temporary custody of a school, camp, institution, or other facility operated for the care of delinquent children or to the legal custody of the department of youth services, a victim in a case who has requested to receive notice under this section shall be given notice of the commitment. Promptly after sentence is imposed upon the defendant or the commitment of the alleged juvenile offender is ordered, the prosecutor in the case shall notify the victim of the date on which the defendant will be released from confinement or the prosecutor's reasonable estimate of that date or the date on which the alleged juvenile offender will have served the minimum period of commitment or the prosecutor's reasonable estimate of that date. The prosecutor also shall notify



the victim of the name of the custodial agency of the defendant or alleged juvenile offender and tell the victim how to contact that custodial agency. If the custodial agency is the department of rehabilitation and correction, the prosecutor shall notify the victim of the services offered by the office of victims' services pursuant to section 5120.60 of the Revised Code. If the custodial agency is the department of youth services, the prosecutor shall notify the victim of the services provided by the office of victims' services within the release authority of the department pursuant to section 5139.55 of the Revised Code and the victim's right pursuant to section 5139.56 of the Revised Code to submit a written request to the release authority to be notified of actions the release authority takes with respect to the alleged juvenile offender. The victim shall keep the custodial agency informed of the victim's current address and telephone number.

(B)

(1) Upon the victim's request or in accordance with division (D) of this section, the prosecutor promptly shall notify the victim of any hearing for judicial release of the defendant pursuant to section 2929.20 of the Revised Code, of any hearing for release of the defendant pursuant to section 2967.19 of the Revised Code, or of any hearing for judicial release or early release of the alleged juvenile offender pursuant to section 2151.38 of the Revised Code and of the victim's right to make a statement under those sections. The court shall notify the victim of its ruling in each of those hearings and on each of those applications.

(2) If an offender is sentenced to a prison term pursuant to division (A)(3) or (B) of section 2971.03 of the Revised Code, upon the request of the victim of the crime or in accordance with division (D) of this section, the prosecutor promptly shall notify the victim of any hearing to be conducted pursuant to section 2971.05 of the Revised Code to determine whether to modify the requirement that the offender serve the entire prison term in a state correctional facility in accordance with division (C) of that section, whether to continue, revise, or revoke any existing modification of that requirement, or whether to terminate the prison term in accordance with division (D) of that section. The court shall notify the victim of any order issued at the conclusion of the hearing.

(C) Upon the victim's request made at any time before the particular notice would be due or in accordance with division (D) of this section, the custodial agency of a defendant or alleged juvenile offender shall give the victim any of the following notices that is applicable:

(1) At least sixty days before the adult parole authority recommends a pardon or commutation of sentence for the defendant or at least sixty days prior to a hearing before the adult parole authority regarding a grant of parole to the defendant, notice of the victim's right to submit a statement regarding the impact of the defendant's release in accordance with section 2967.12 of the Revised Code and, if applicable, of the victim's right to appear at a full board hearing of the parole board to give testimony as authorized by section 5149.101 of the Revised Code;

(2) At least sixty days before the defendant is transferred to transitional control under section 2967.26 of the Revised Code, notice of the pendency of the transfer and of the victim's right under that section to submit a statement regarding the impact of the transfer;

(3) At least sixty days before the release authority of the department of youth services holds a release review, release hearing, or discharge review for the alleged juvenile offender, notice of the pendency of the review or hearing, of the victim's right to make an oral or written statement regarding the impact of the crime upon the victim or regarding the possible release or discharge, and, if the notice pertains to a hearing, of the victim's right to attend and make statements or comments at the hearing as authorized by section 5139.56 of the Revised Code;

(4) Prompt notice of the defendant's or alleged juvenile offender's escape from a facility of the custodial agency in which the defendant was incarcerated or in which the alleged juvenile offender was placed after commitment, of the defendant's or alleged juvenile offender's absence without leave from a mental health or developmental disabilities facility or from other custody, and of the capture of the defendant or alleged juvenile offender after an escape or absence;

(5) Notice of the defendant's or alleged juvenile offender's death while in confinement or custody;

(6) Notice of the filing of a petition by the director of rehabilitation and correction pursuant to section 2967.19 of the Revised Code requesting the early release under that section of the defendant;

(7) Notice of the defendant's or alleged juvenile offender's release from confinement or custody and the terms and conditions of the release.

(D)

(1) If a defendant is incarcerated for the commission of aggravated murder, murder, or an offense of violence that is a felony of the first, second, or third degree or is under a sentence of life imprisonment or if an alleged juvenile offender has been charged with the commission of an act that would be aggravated murder, murder, or an offense of violence that is a felony of the first, second, or third degree or be subject to a sentence of life imprisonment if committed by an adult, except as otherwise provided in this division, the notices described in divisions (B) and (C) of this section shall be given regardless of whether the victim has requested the notification. The notices described in divisions (B) and (C) of this section shall not be given under this division to a victim if the victim has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the victim not be provided the notice. Regardless of whether the victim has requested that the notices described in division (C) of this section be provided or not be provided, the custodial agency shall give notice similar to those notices to the prosecutor in the case, to the sentencing court, to the law enforcement agency that arrested the defendant or alleged juvenile offender if any officer of that agency was a victim of the offense, and to any member of the victim's immediate family who requests notification. If the notice given under this division to the victim is based on an offense committed prior to March 22, 2013, and if the prosecutor or custodial agency has not previously successfully provided any notice to the victim under this division or division (B) or (C) of this section with respect to that offense and the offender who committed it, the notice also shall inform the victim that the victim may request that the victim not be provided any further notices with respect to that offense and the offender who committed it and shall describe the procedure for

making that request. If the notice given under this division to the victim pertains to a hearing regarding a grant of a parole to the defendant, the notice also shall inform the victim that the victim, a member of the victim's immediate family, or the victim's representative may request a victim conference, as described in division (E) of this section, and shall provide an explanation of a victim conference.

The prosecutor or custodial agency may give the notices to which this division applies by any reasonable means, including regular mail, telephone, and electronic mail. If the prosecutor or custodial agency attempts to provide notice to a victim under this division but the attempt is unsuccessful because the prosecutor or custodial agency is unable to locate the victim, is unable to provide the notice by its chosen method because it cannot determine the mailing address, telephone number, or electronic mail address at which to provide the notice, or, if the notice is sent by mail, the notice is returned, the prosecutor or custodial agency shall make another attempt to provide the notice to the victim. If the second attempt is unsuccessful, the prosecutor or custodial agency shall make at least one more attempt to provide the notice. If the notice is based on an offense committed prior to March 22, 2013, in each attempt to provide the notice to the victim, the notice shall include the opt-out information described in the preceding paragraph. The prosecutor or custodial agency, in accordance with division (D)(2) of this section, shall keep a record of all attempts to provide the notice, and of all notices provided, under this division.

Division (D)(1) of this section, and the notice-related provisions of divisions (E)(2) and (K) of section 2929.20, division (H) of section 2967.12, division (E)(1)(b) of section 2967.19, division (A)(3)(b) of section 2967.26, division (D)(1) of section 2967.28, and division (A)(2) of section 5149.101 of the Revised Code enacted in the act in which division (D)(1) of this section was enacted, shall be known as "Roberta's Law."

(2) Each prosecutor and custodial agency that attempts to give any notice to which division (D)(1) of this section applies shall keep a record of all attempts to give the notice. The record shall indicate the person who was to be the recipient of the notice, the date on which the attempt was made, the manner in which the attempt was made, and the person who made the attempt. If the attempt is successful and the notice is given, the record shall indicate that fact. The record shall be kept in a manner that allows public inspection of attempts and notices given to persons other than victims without revealing the names, addresses, or other identifying information relating to victims. The record of attempts and notices given to victims is not a public record, but the prosecutor or custodial agency shall provide upon request a copy of that record to a prosecuting attorney, judge, law enforcement agency, or member of the general assembly. The record of attempts and notices given to persons other than victims is a public record. A record kept under this division may be indexed by offender name, or in any other manner determined by the prosecutor or the custodial agency. Each prosecutor or custodial agency that is required to keep a record under this division shall determine the procedures for keeping the record and the manner in which it is to be kept, subject to the requirements of this division.

(E) The adult parole authority shall adopt rules under Chapter 119. of the Revised Code providing for a victim conference, upon request of the victim, a member of the victim's immediate family, or the victim's representative, prior to a parole hearing in the case of a prisoner who is incarcerated for the commission of aggravated murder, murder, or an offense of violence that is a felony of the first,

second, or third degree or is under a sentence of life imprisonment. The rules shall provide for, but not be limited to, all of the following:

- (1) Subject to division (E) (3) of this section, attendance by the victim, members of the victim's immediate family, the victim's representative, and, if practicable, other individuals;
- (2) Allotment of up to one hour for the conference;
- (3) A specification of the number of persons specified in division (E)(1) of this section who may be present at any single victim conference, if limited by the department pursuant to division (F) of this section.

(F) The department may limit the number of persons specified in division (E)(1) of this section who may be present at any single victim conference, provided that the department shall not limit the number of persons who may be present at any single conference to fewer than three. If the department limits the number of persons who may be present at any single victim conference, the department shall permit and schedule, upon request of the victim, a member of the victim's immediate family, or the victim's representative, multiple victim conferences for the persons specified in division (E)(1) of this section.

(G) As used in this section, "victim's immediate family" has the same meaning as in section 2967.12 of the Revised Code.

Amended by 131st General Assembly File No. TBD, HB 158, §1, eff. 10/12/2016.

Amended by 129th General Assembly File No.178, SB 160, §1, eff. 3/22/2013.

Amended by 129th General Assembly File No.29, HB 86, §1, eff. 9/30/2011.

Effective Date: 11-22-1999; 04-29-2005; 01-02-2007; 2007 SB10 01-01-2008.

### **2930.17 Statement of victim prior to judicial release or early release.**

(A) In determining whether to grant a judicial release to a defendant from a prison term pursuant to section 2929.20 of the Revised Code at a time before the defendant's stated prison term expires, in determining whether to grant a release to an offender from a prison term pursuant to section 2967.19 of the Revised Code at a time before the offender's stated prison term expires, or in determining whether to grant a judicial release or early release to an alleged juvenile offender from a commitment to the department of youth services pursuant to section 2151.38 of the Revised Code, the court shall permit a victim of a crime or specified delinquent act for which the defendant or alleged juvenile offender was incarcerated or committed to make a statement, in addition to any other statement made under this chapter, concerning the effects of that crime or specified delinquent act on the victim, the circumstances surrounding the crime or specified delinquent act, the manner in which the crime or specified delinquent act was perpetrated, and the victim's opinion whether the defendant or alleged juvenile offender should be released. The victim may make the statement in writing or orally, at the court's discretion. The court shall give the defendant or alleged juvenile offender and either the adult parole authority or the department of youth services,

whichever is applicable, a copy of any written impact statement made by the victim under this division.

(B) In deciding whether to grant a judicial release or early release to the defendant or alleged juvenile offender, the court shall consider a statement made by the victim under division (A) of this section or section 2930.14 or 2947.051 of the Revised Code.

Amended by 129th General Assembly File No.29, HB 86, §1, eff. 9/30/2011.

Effective Date: 11-22-1999.

**2930.18 No employee discipline for court attendance necessary to protect rights of victim.**

No employer of a victim shall discharge, discipline, or otherwise retaliate against the victim, a member of the victim's family, or a victim's representative for participating, at the prosecutor's request, in preparation for a criminal or delinquency proceeding or for attendance, pursuant to a subpoena, at a criminal or delinquency proceeding if the attendance is reasonably necessary to protect the interests of the victim. This section generally does not require an employer to pay an employee for time lost as a result of attendance at a criminal or delinquency proceeding. An employer who knowingly violates this section is in contempt of court. This section does not limit or affect the application to any person of section 2151.211, 2939.121, or 2945.451 of the Revised Code.

Effective Date: 11-22-1999.

**2930.19 Prosecutor to protect rights of victims.**

(A) In a manner consistent with the duty of a prosecutor to represent the interests of the public as a whole, a prosecutor shall seek compliance with this chapter on behalf of a victim, a member of the victim's family, or the victim's representative.

(B) The failure of a public official or public agency to comply with the requirements of this chapter does not give rise to a claim for damages against that public official or public agency, except that a public agency as an employer may be held responsible for a violation of section 2930.18 of the Revised Code.

(C) The failure of any person or entity to provide a right, privilege, or notice to a victim under this chapter does not constitute grounds for declaring a mistrial or new trial, for setting aside a conviction, sentence, adjudication, or disposition, or for granting post-conviction release to a defendant or alleged juvenile offender.

(D) If there is a conflict between a provision in this chapter and a specific statute governing the procedure in a case involving a capital offense, the specific statute supersedes the provision in this chapter.

(E) If the victim of a crime is incarcerated in a state or local correctional facility or is in the legal custody of the department of youth services, the victim's rights under this chapter may be modified

by court order to prevent any security risk, hardship, or undue burden upon a public official or public agency with a duty under this chapter.

Effective Date: 11-22-1999.