

South Carolina Code of Laws

ARTICLE 14

VICTIM ASSISTANCE PROVIDER

SECTION 16-3-1400. Definitions.

For purposes of this article:

(1) "Victim service provider" means a person:

(a) who is employed by a local government or state agency and whose job duties involve providing victim assistance as mandated by South Carolina law; or

(b) whose job duties involve providing direct services to victims and who is employed by an organization that is incorporated in South Carolina, holds a certificate of authority in South Carolina, or is registered as a charitable organization in South Carolina, and the organization's mission is victim assistance or advocacy and the organization is privately funded or receives funds from federal, state, or local governments to provide services to victims.

"Victim service provider" does not include a municipal court judge, magistrates court judge, circuit court judge, special circuit court judge, or family court judge.

(2) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not an action or proceeding is commenced.

ARTICLE 15

VICTIM AND WITNESS SERVICES

SECTION 16-3-1505. Legislative intent.

In recognition of the civic and moral duty of victims of and witnesses to a crime to cooperate fully and voluntarily with law enforcement and prosecution agencies, and in further recognition of the continuing importance of this citizen cooperation to state and local law enforcement efforts and to the general effectiveness and the well-being of the criminal and juvenile justice systems of this State, and to implement the rights guaranteed to victims in the Constitution of this State, the General Assembly declares its intent, in this article, to ensure that all victims of and witnesses to a crime are treated with dignity, respect, courtesy, and sensitivity; that the rights and services extended in this article to victims of and witnesses to a crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants; and that the State has a responsibility to provide support to

a network of services for victims of a crime, including victims of domestic violence and criminal sexual assault.

DEFINITION OF VICTIM

SECTION 16-3-1510. Definitions.

For the purpose of this article:

(1) "Victim" means any individual who suffers direct or threatened physical, psychological, or financial harm as the result of the commission or attempted commission of a criminal offense, as defined in this section. "Victim" also includes any individual's spouse, parent, child, or the lawful representative of a victim who is:

- (a) deceased;
- (b) a minor;
- (c) incompetent; or
- (d) physically or psychologically incapacitated.

"Victim" does not include any individual who is the subject of an investigation for, who is charged with, or who has been convicted of or pled guilty or nolo contendere to the offense in question. "Victim" also does not include any individual, including a spouse, parent, child, or lawful representative, who is acting on behalf of the suspect, juvenile offender, or defendant unless his actions are required by law. "Victim" also does not include any individual who was imprisoned or engaged in an illegal act at the time of the offense.

(2) "Individual" means a human being.

(3) "Criminal offense" means an offense against the person of an individual when physical or psychological harm occurs, or the property of an individual when the value of the property stolen or destroyed, or the cost of the damage to the property is in excess of one thousand dollars. This includes both common law and statutory offenses, the offenses contained in Sections 16-25-20, 16-25-30, 16-25-50, 56-5-1210, 56-5-2910, 56-5-2920, 56-5-2930, 56-5-2945, and the common law offense of attempt, punishable pursuant to Section 16-1-80. However, "criminal offense" specifically excludes the drawing or uttering of a fraudulent check or an offense contained in Title 56 that does not involve personal injury or death.

For purposes of this article, a victim of any misdemeanor or felony under state law must be notified of or provided with the information required by this section. The terms "crime", "criminal conduct", "charge", or any variation of these terms as used in this article mean all misdemeanors and felonies under state law except the crimes the General Assembly specifically excludes from the notification provisions contained in this article.

(4) "Witness" means a person who has been or is expected to be summoned to testify for either the prosecution or the defense or who by reason of having relevant information is

subject to be called or likely to be called as a witness for the prosecution or defense for criminal offenses defined in this section, whether or not any action or proceeding has been commenced.

(5) "Prosecuting agency" means the solicitor, Attorney General, special prosecutor, or any person or entity charged with the prosecution of a criminal case in general sessions or family court.

(6) "Summary court" means magistrate or municipal court.

(7) "Initial offense incident report" means a uniform traffic accident report or a standardized incident report form completed at the time of the initial law enforcement response. "Initial offense incident report" does not include supplementary reports, investigative notes or reports, statements, letters, memos, other communications, measurements, sketches, or diagrams not included in the initial offense incident report, or any material that may be considered the work product of a law enforcement officer or witness.

(8) "In writing" means any written communication, including electronically transmitted data.

SUMMARY COURT

SECTION 16-3-1515. Victim or witness wishing to receive services under article to supply certain information; requirements for receiving restitution; victims wishing to be present in court to notify prosecuting agency or Summary court judge; victim impact statement.

(A) A victim or prosecution witness who wishes to exercise his rights under this article or receive services under this article, or both, must provide a law enforcement agency, a prosecuting agency, a Summary court judge, the Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, or the Department of Juvenile Justice, as appropriate, his legal name, current mailing address, and current telephone number upon which the agency must rely in the discharge of its duties under this article.

RESTITUTION/ PRESENT AND HEARD

(B) A victim who wishes to receive restitution must, within appropriate time limits set by the prosecuting agency or Summary court judge, provide the prosecuting agency or Summary court judge with an itemized list which includes the values of property stolen, damaged, or destroyed; property recovered; medical expenses or counseling expenses, or both; income lost as a result of the offense; out-of-pocket expenses incurred as a result of the offense; any other financial losses that may have been incurred; an itemization of financial recovery from insurance, the offense victim's compensation fund, or other sources. The prosecuting agency, court, or both, may require documentation of all claims. This information may be included in a written victim impact statement.

(C) A victim who wishes to be present for any plea, trial, or sentencing must notify the prosecuting agency or Summary court judge of his desire to be present. This notification may be included in a written victim impact statement.

(D) A victim who wishes to submit a written victim impact statement must provide it to the prosecuting agency or Summary court judge within appropriate time limits set by the prosecuting agency or Summary court judge.

(E) A victim who wishes to make an oral victim impact statement to the court at sentencing must notify the prosecuting agency or Summary court judge of this desire in advance of the sentencing.

LAW ENFORCEMENT'S DUTIES TO VICTIMS

SECTION 16-3-1520. Victim entitled to copy of initial incident report; assistance in applying for victim's compensation benefits; information on progress of case.

(A) A law enforcement agency must provide a victim, free of charge, a copy of the initial incident report of his case, and a document which:

- (1) describes the constitutional rights the State grants victims in criminal cases;
- (2) describes the responsibilities of victims in exercising these rights;
- (3) lists local victim assistance and social service providers;
- (4) provides information on eligibility and application for victim's compensation benefits; and
- (5) provides information about the rights of victims and witnesses who are harassed or threatened.

(B) A law enforcement agency, within a reasonable time of initial contact, must assist each eligible victim in applying for victim's compensation benefits and other available financial, social service, and counseling assistance.

(C) Law enforcement victim advocates, upon request, may intervene with, and seek special consideration from, creditors of a victim who is temporarily unable to continue payments as a result of an offense and with the victim's employer, landlord, school, and other parties as considered appropriate through the investigative process.

(D) A law enforcement agency, upon request, must make a reasonable attempt to inform a victim of the status and progress of his case from initial incident through:

- (1) disposition in Summary court;
- (2) the referral of a juvenile offender to the Department of Juvenile Justice; or
- (3) transmittal of a general sessions warrant to the prosecuting agency.

NOTIFICATION OF VICTIMS/ DETENTION

SECTION 16-3-1525. Arrest or detention of person accused of committing offense; notification to victims; protection of witnesses; notification of bond proceedings; juvenile detention hearings.

(A) A law enforcement agency, upon effecting the arrest or detention of a person accused of committing an offense involving one or more victims, must make a reasonable attempt to notify each victim of the arrest or detention and of the appropriate bond or other pretrial release hearing or procedure.

(B) A law enforcement agency, before releasing to his parent or guardian a juvenile offender accused of committing an offense involving one or more victims, must make a reasonable effort to inform each victim of the release.

(C) A law enforcement agency, upon effecting the arrest or detention of a person accused of committing an offense involving one or more victims, must provide to the jail, prison, or detention or holding facility having physical custody of the defendant, the name, mailing address, and telephone number of each victim. If the person is transferred to another facility, this information immediately must be transmitted to the receiving facility. The names, addresses, and telephone numbers of victims and witnesses contained in the files of a jail, prison, or detention or holding facility are confidential and must not be disclosed directly or indirectly, except as necessary to provide notifications.

(D) A law enforcement agency, after detaining a juvenile accused of committing an offense involving one or more victims, must provide to the Department of Juvenile Justice the name, address, and telephone number of each victim. The law enforcement officer detaining the juvenile, regardless of where the juvenile is physically detained, retains the responsibility of notifying the victims of the pretrial, bond, and detention hearings, or pretrial releases that are not delegated pursuant to this article.

(E) Upon detention of a person, other than a juvenile, accused of committing an offense not under the jurisdiction of a Summary court, and involving one or more victims, the arresting law enforcement agency must provide, in writing, to the prosecuting agency before a bond or release hearing before a circuit or family court judge the name, address, and telephone number of each victim.

(F) Upon detention of a person, other than a juvenile, accused of committing an offense involving one or more victims and which is triable in **Summary court** or an offense involving one or more victims for which a preliminary hearing may be held, the arresting law enforcement agency must provide, in writing, to the **Summary court** the name, mailing address, and telephone number of each victim.

PROTECTION OF VICTIMS/ TRANSPORTATION TO COURT

(G) A law enforcement agency must provide any measures necessary to protect the victims and witnesses, including transportation to and from court and physical protection in the courthouse.

BOND HEARINGS / SUMMARY COURT

(H) In cases in which a defendant has bond set by a Summary court judge:

(1) the arresting agency of the defendant reasonably must attempt to notify each victim of each case for which bond is being determined of his right to attend the bond hearing and make recommendations to the presiding judge. This notification must be made sufficiently in advance to allow the victim to exercise his rights contained in this article;

(2) the Summary court judge, before proceeding with a bond hearing in a case involving a victim, must ask the representative of the facility having custody of the defendant to verify that a reasonable attempt was made to notify the victim sufficiently in advance to attend the proceeding. If notice was not given in a timely manner, the hearing must be delayed for a reasonable time to allow notice; and

(3) the summary court judge must impose bond conditions which are sufficient to protect a victim from harassment or intimidation by the defendant or persons acting on the defendant's behalf.

BAIL AND RECOGNIZANCE; ARREST AND COMMITTAL OF WITNESSES

SC Code §22-5-510. Bailing persons; bond hearing; information to be provided to court; contempt.

(A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event, including, but not limited to, any charges pending against the person requesting bail. "Violent offenses" as used in this section means the offenses contained in Section 16-1-60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

(B) A person charged with a bailable offense **must have a bond hearing within twenty-four hours of his arrest** and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.

(C) Prior to or at the time of the bond hearing, the law enforcement officer, local detention facility officer, or local jail officer, as applicable, attending the hearing shall provide the court with the following information if available:

- (1) the person's criminal record;
- (2) any charges pending against the person;

- (3) all incident reports generated as a result of the offense charged; and
- (4) any other information that will assist the court in determining bail.

(D) The law enforcement officer, local detention facility officer, or local jail officer, as applicable, shall inform the court if any of the information required in subsection (C) is not available at the time of the bond hearing and the reason the information is not available. Failure on the part of the law enforcement officer, local detention facility officer, or local jail officer, as applicable, to provide the court with the information required in subsection (C) does not constitute grounds for the postponement or delay of the person's bond hearing.

(E) A court hearing this matter has contempt powers to enforce these provisions.

BOND HEARINGS / CIRCUIT COURT

SECTION 16-3-1525. (continued)

(I) In cases in which a defendant has a bond proceeding before a circuit court judge:

(1) the prosecuting agency reasonably must attempt to notify each victim of each case for which bond is being determined of his right to attend the bond hearing and make recommendations to the presiding judge. This notification must be made sufficiently in advance to allow the victim to exercise his rights contained in this article;

(2) the circuit court judge, before proceeding with a bond hearing in a case involving a victim, must ask the representative of the prosecuting agency to verify that a reasonable attempt was made to notify the victim sufficiently in advance to attend. If notice was not given in a timely manner, the hearing must be delayed for a reasonable time to allow notice; and

(3) the circuit court judge must impose bond conditions which are sufficient to protect a victim from harassment or intimidation by the defendant or persons acting on the defendant's behalf.

JUVENILE CASES / FAMILY COURT

(J) In cases in which a juvenile has a detention hearing before a family court judge:

(1) the prosecuting agency reasonably must attempt to notify each victim of each case for which the juvenile is appearing before the court of his right to attend the detention hearing and make recommendations to the presiding judge. This notification must be made sufficiently in advance to allow the victim to exercise his rights pertaining to the detention hearing;

(2) the family court judge, before proceeding with a detention hearing in a case involving a victim, must ask the prosecuting agency to verify that a reasonable attempt was made to

notify the victim sufficiently in advance to attend. If notice was not given in a timely manner, the hearing must be delayed for a reasonable time to allow notice; and

(3) the family court judge, if he does not rule that a juvenile must be detained, must impose conditions of release which are sufficient to protect a victim from harassment or intimidation by the juvenile or a person acting on the juvenile's behalf.

PRELIMINARY HEARINGS / SUMMARY COURT

(K) Upon scheduling a preliminary hearing in a case involving a victim, the summary court judge reasonably must attempt to notify each victim of each case for which the defendant has a hearing of his right to attend.

SPECIAL NOTIFICATIONS OF VICTIMS

(L) A diversion program, except a diversion program administered by the South Carolina Prosecution Coordination Commission or by a circuit solicitor, reasonably must attempt to notify the victim of a crime prior to the defendant's release from the program unless the defendant is released to a law enforcement agency.

(M) In every case when there is a court-ordered or mandatory mental evaluation, which takes place in an inpatient facility, the organization or facility responsible for the evaluation reasonably must attempt to notify the victim of the crime prior to the defendant's release from the facility unless the defendant is released to a law enforcement agency.

(N)(1) Notification of a victim pursuant to the provisions of this section may be by electronic or other automated communication or recording. However, after three unsuccessful attempts to reach the victim in cases involving criminal domestic violence, criminal sexual conduct, and stalking and harassment, and those cases when physical injury has occurred as a result of a physical or sexual assault and in cases where a pattern of conduct exists by the offender or suspected offender that would cause a reasonable person to believe he may be at risk of physical assault the appropriate agency or diversion program shall attempt to make personal contact with the victim, or the victim's guardian, upon the judicial or administrative release or the escape of the offender.

(2) For purposes of this section, "pattern" means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose.

NOTIFYING VICTIMS / RELEASE, ESCAPE OR TRANSFER

SECTION 16-3-1530. Duty to notify victim of release, escape, or transfer of person accused.

Notwithstanding any other provision of law, except the provisions contained in Section 16-3-1525(D) relating to juvenile detention:

(1) a department or agency having custody or custodial supervision of a person accused, convicted, or adjudicated guilty of committing an offense involving one or more victims reasonably must attempt to notify each victim, upon request, of the **release** of the person;

(2) a department or agency having custody or custodial supervision of a person accused, convicted, or adjudicated guilty of committing an offense involving one or more victims reasonably must attempt to notify each victim, upon request, of an **escape** by the person;

(3) a department or agency having custody of a person accused, convicted, or adjudicated guilty of committing an offense involving one or more victims must inform each victim, upon request, of any **transfer** of the person to a less secure facility;

(4) a department or agency having custody or custodial supervision of a person accused, convicted, or adjudicated guilty of committing an offense involving one or more victims must reasonably attempt to notify each victim and prosecution witness, upon request, of an **escape** by the person.

SUMMARY COURT / VICTIMS' RIGHTS VICTIM IMPACT STATEMENT

SECTION 16-3-1535. Summary court's duty to notify victim of victim's rights; form for victim impact statement.

(A) The **summary court**, upon retaining jurisdiction of an offense involving one or more victims, reasonably must attempt to notify each victim of his right to:

- (1) be present and participate in all hearings;
- (2) be represented by counsel;
- (3) pursue civil remedies; and
- (4) submit an oral or written victim impact statement, or both, for consideration by the **summary court** judge at the disposition proceeding.

(B) The **summary court** must provide to each victim who wishes to make a written victim impact statement a form that solicits pertinent information regarding the offense, including:

- (1) the victim's personal information and supplementary contact information;
- (2) an itemized list of the victim's economic loss and recovery from any insurance policy or any other source;
- (3) details of physical or psychological injuries, or both, including their seriousness and permanence;
- (4) identification of psychological services requested or obtained by the victim;
- (5) a description of any changes in the victim's personal welfare or family relationships; and
- (6) any other information the victim believes to be important and pertinent.

(C) The **summary court** judge must inform a victim of the applicable procedures and practices of the court.

(D) The **summary court** judge reasonably must attempt to notify each victim related to the case of each hearing, trial, or other proceeding.

(E) A law enforcement agency and the **summary court** must return to a victim personal property recovered or taken as evidence as expeditiously as possible, substituting photographs of the property and itemized lists of the property including serial numbers and unique identifying characteristics for use as evidence when possible.

(F) The **summary court** judge must recognize and protect the rights of victims and witnesses as diligently as those of the defendant.

DJJ'S DUTIES TO VICTIMS

SECTION 16-3-1540. Department of Juvenile Justice to confer with victims before taking certain actions.

(A) The Department of Juvenile Justice, upon referral of a juvenile accused of committing an offense involving one or more victims, must make a reasonable effort to confer with each victim before:

- (1) placing the juvenile in a diversion program;
- (2) issuing a recommendation for diversion;
- (3) referring the juvenile to the prosecuting agency for prosecution;
- (4) issuing a recommendation for evaluation at the agency's reception and evaluation center; or
- (5) taking other action.

(B) The Department of Juvenile Justice must make a reasonable effort to keep each victim reasonably informed of the status and progress of a case from the time it is referred by law enforcement until it is referred to the prosecuting agency.

JUVENILE CASES / VICTIM IMPACT STATEMENT

SECTION 16-3-1545. Juvenile cases; notification to victims of right to submit victim impact statement for disposition proceeding; form of statement; other required information for victims.

(A) The prosecuting agency, when a juvenile case is referred or a general sessions charge is received involving one or more victims, reasonably must attempt to notify each victim of his right to submit an oral or written victim impact statement, or both, for consideration by the circuit or family court judge at the disposition proceeding. The victim also must be informed that a written victim impact statement may be submitted at any postadjudication proceeding by the Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, or the Department of Juvenile Justice. The prosecuting agency must provide to each victim who wishes to make a written victim impact statement a form that solicits pertinent information regarding the offense that may include:

- (1) the victim's personal information and supplementary contact information;
- (2) an itemization of the victim's economic loss and recovery from any insurance policy or another source;

- (3) details of physical or psychological injuries, or both, including their seriousness and permanence;
- (4) identification of psychological services requested or obtained by the victim;
- (5) a description of any changes in the victim's personal welfare or family relationships; and
- (6) any other information the victim believes to be important and pertinent.

PROSECUTOR'S DUTIES TO VICTIMS

- (B) The prosecuting agency must offer the victim assistance in preparing a comprehensive victim impact statement and assistance in reviewing and updating the statement, as appropriate, before the case is disposed.
- (C) The prosecuting agency must inform victims and witnesses of the applicable procedures and practices of the criminal or juvenile justice system, or both.
- (D) The prosecuting agency must inform each victim of his right to legal counsel and of any available civil remedies.
- (E) A law enforcement agency, the prosecuting agency, and the circuit and family courts must return to a victim personal property recovered or taken as evidence as expeditiously as possible, substituting photographs of the property and itemized lists of the property including serial numbers and unique identifying characteristics to use as evidence when possible.
- (F) The prosecuting agency must inform victims and prosecution witnesses of financial assistance, compensation, and fees to which they may be entitled and must offer to the victims and witnesses assistance with applications for these items.
- (G) The prosecuting agency, upon request, must make a reasonable attempt to keep each victim informed of the status and progress of a case, with the exception of preliminary hearings, from the time a juvenile case is referred to, or a general sessions charge is received by, the prosecuting agency for disposition of the case in general sessions or family court.
- (H) The prosecuting agency must discuss a case with the victim. The agency must confer with each victim about the disposition of the case including, but not limited to, diversions and plea negotiations.
- (I) The prosecuting agency reasonably must attempt to notify each victim of each hearing, trial, or other proceeding. This notification must be made sufficiently in advance to allow the victim to exercise his rights contained in this article. When proceedings are canceled or rescheduled, the prosecuting agency must reasonably attempt to inform victims and witnesses in a timely manner.

(J) The prosecuting agency victim advocate, upon request, may intercede with, and seek special consideration from, employers of victims and witnesses to prevent loss of pay or benefits, or both, resulting from their participation in the criminal or juvenile justice system and with the victim's creditors, landlord, school, and other parties, as appropriate, throughout the prosecution process.

(K) If a victim or witness is threatened, the prosecuting agency immediately must refer the incident to the appropriate law enforcement agency for prompt investigation and make a reasonable attempt to prosecute the case.

(L) The prosecuting agency must take reasonable and appropriate steps to minimize inconvenience to victims and witnesses throughout court preparation and court proceedings and must familiarize victims and witnesses with courtroom procedure and protocol.

(M) The prosecuting agency must refer victims to counselors, social service agencies, and victim assistance providers, as appropriate.

NO EMPLOYER RETALIATION / NO SEQUESTERING VICTIMS

SECTION 16-3-1550. Restriction on employers of victims and witnesses; protection of rights of victims and witnesses.

(A) Employers of victims and witnesses must not retaliate against or suspend or reduce the wages and benefits of a victim or witness who lawfully responds to a subpoena. A wilful violation of this provision constitutes contempt of court.

(B) A person must not be sequestered from a proceeding adjudicating an offense of which he was a victim.

CIRCUIT / FAMILY COURT/ SEPARATE WAITING AREAS

(C) For proceedings in the circuit or family court, the law enforcement and prosecuting agency must make reasonable efforts to provide victims and prosecution witnesses waiting areas separate from those used by the defendant and defense witnesses.

(D) The circuit or family court judge must recognize and protect the rights of victims and witnesses as diligently as those of the defendant. A circuit or family court judge, before proceeding with a trial, plea, sentencing, or other dispositive hearing in a case involving a victim, must ask the prosecuting agency to verify that a reasonable attempt was made to notify the victim sufficiently in advance to attend. If notice was not given in a timely manner, the hearing must be delayed for a reasonable time to allow notice.

SPECIAL VICTIMS

(E) The circuit or family court must treat sensitively witnesses who are very young, elderly, handicapped, or who have special needs by using closed or taped sessions when appropriate. The prosecuting agency or defense attorney must notify the court when a victim or witness deserves special consideration.

VICTIM IMPACT STATEMENT / EXPERT WITNESS FEES / RESTITUTION

(F) The circuit or family court must hear or review any victim impact statement, whether written or oral, before sentencing. Within a reasonable period of time before sentencing, the prosecuting agency must make available to the defense any written victim impact statement and the court must allow the defense an opportunity to respond to the statement. However, the victim impact statement must not be provided to the defense until the defendant has been found guilty by a judge or jury. The victim impact statement and its contents are not admissible as evidence in any trial.

(G) The circuit and family court must address the issue of restitution as provided by statute.

SECTION 16-3-1555. Expert witness fees; disbursement and filing of victim's impact statement.

(A) The circuit or family court must order, in a timely manner, reasonable expert witness fees and reimbursement to victims of reasonable out-of-pocket expenses associated with lawfully serving a subpoena.

(B) The prosecuting agency must forward, as appropriate and within a reasonable time, a copy of each victim's impact statement or the name, mailing address, and telephone number of each victim, or both, to the Department of Corrections, the Department of Probation, Parole, and Pardon Services, or the Board of Juvenile Parole, and the Department of Juvenile Justice. The names, addresses, and telephone numbers of victims and prosecution witnesses contained in the records of the Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, and the Department of Juvenile Justice are confidential and must not be disclosed directly or indirectly, except by order of a court of competent jurisdiction or as necessary to provide notifications, or services, or both, between these agencies, these agencies and the prosecuting agency, or these agencies and the Attorney General.

(C) The prosecuting agency must file with an indictment a copy of a written victim's impact statement. The victim's impact statement may be sealed by the appropriate authority until the defendant has been adjudicated, found guilty, or has pled guilty.

(D) The prosecuting agency must inform the victim and the prosecution witnesses of their responsibility to provide the prosecuting agency, the Department of Corrections, the

Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, the Department of Juvenile Justice, or the Attorney General, as appropriate, their legal names, current addresses, and telephone numbers.

(E) The prosecuting agency must inform the victim about the collection of restitution, fees, and expenses, the recovery of property used as evidence, and how to contact the Department of Corrections, the Board of Juvenile Parole, the Department of Probation, Parole, and Pardon Services, the Department of Juvenile Justice, or the Attorney General, as appropriate.

POST CONVICTION PROCEEDINGS

SECTION 16-3-1560. Notification to victim of post-conviction proceedings affecting probation, parole, or release, and of victim's right to attend.

(A) The Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, or the Department of Juvenile Justice, as appropriate, reasonably must attempt to notify each victim, who has indicated a desire to be notified, of post-conviction proceedings affecting the probation, parole, or release of the offender, including proceedings brought under Chapter 48 of Title 44, and of the victim's right to attend and comment at these proceedings. This notification must be made sufficiently in advance to allow the victim to exercise his rights as they pertain to post-conviction proceedings.

(B) The Attorney General, upon receiving notice of appeal or other post-conviction action by an offender convicted of or adjudicated guilty for committing an offense involving one or more victims, must request from the Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, or the Department of Juvenile Justice, as appropriate, the victim's personal information.

(C) The Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, or the Department of Juvenile Justice, upon receipt of request for the victim's personal information from the Attorney General in an appeal or post-conviction proceeding, must supply the requested information within a reasonable period of time.

(D) The Attorney General must confer with victims regarding the defendant's appeal and other post-conviction proceedings, including proceedings brought under Chapter 48 of Title 44.

(E) The Attorney General must keep each victim reasonably informed of the status and progress of the appeal or other post-conviction proceedings, including proceedings brought under Chapter 48 of Title 44, until their resolution.

(F) The Attorney General reasonably must attempt to notify a victim of all post-conviction proceedings, including proceedings brought under Chapter 48 of Title 44, and

of the victim's right to attend. This notification must be made sufficiently in advance to allow the victim to exercise his rights pertaining to post-conviction proceedings.

CRIME VICTIM OMBUDSMAN'S (CVO) DUTIES

SECTION 16-3-1610. Definitions.

As used in this article:

(1) "Criminal and juvenile justice system" means circuit solicitors and members of their staffs; the Attorney General and his staff; law enforcement agencies and officers; adult and juvenile probation, parole, and correctional agencies and officers; officials responsible for victims' compensation and other services which benefit victims of crime, and state, county, and municipal victim advocacy and victim assistance personnel.

(2) "Victim assistance program" means an entity, whether governmental, corporate, nonprofit, partnership, or individual, which provides, is required by law to provide, or claims to provide services or assistance, or both to victims on an ongoing basis.

(3) "Victim" means a person who suffers direct or threatened physical, emotional, or financial harm as the result of an act by someone else, which is a crime. The term includes immediate family members of a homicide victim or of any other victim who is either incompetent or a minor and includes an intervenor.

SECTION 16-3-1620. Department of Crime Victim Ombudsman.

(A) The Department of Crime Victim Ombudsman is created in the Office of the Attorney General, South Carolina Crime Victim Services Division. The Crime Victim Ombudsman is appointed by the Director of the Crime Victim Services Division.

(B) The Crime Victim Ombudsman shall:

(1) refer crime victims to the appropriate element of the criminal and juvenile justice systems or victim assistance programs, or both, when services are requested by crime victims or are necessary as determined by the ombudsman;

(2) act as a liaison between elements of the criminal and juvenile justice systems, victim assistance programs, and crime victims when the need for liaison services is recognized by the ombudsman; and

(3) review and attempt to resolve complaints against elements of the criminal and juvenile justice systems or victim assistance programs, or both, made to the ombudsman by victims of criminal activity within the state's jurisdiction.

SECTION 16-3-1630. Ombudsman; responsibilities; authority; annual report.

Upon receipt of a written complaint that contains specific allegations and is signed by a victim of criminal activity within the state's jurisdiction, the ombudsman shall forward copies of the complaint to the person, program, and agency against whom it makes allegations, and conduct an inquiry into the allegations stated in the complaint.

In carrying out the inquiry, the ombudsman is authorized to request and receive information and documents from the complainant, elements of the criminal and juvenile

justice systems, and victim assistance programs that are pertinent to the inquiry. Following each inquiry, the ombudsman shall issue a report verbally or in writing to the complainant and the persons or agencies that are the object of the complaint and recommendations that in the ombudsman's opinion will assist all parties. The persons or agencies that are the subject of the complaint shall respond, within a reasonable time, to the ombudsman regarding actions taken, if any, as a result of the ombudsman's report and recommendations.

The ombudsman shall prepare a public annual report, not identifying individual agencies or individuals, summarizing his activity. The annual report must be submitted directly to the Governor, General Assembly, elements of the criminal and juvenile justice systems, and victim assistance programs.

SECTION 16-3-1640. Confidentiality of information and files.

Information and files requested and received by the ombudsman are confidential and retain their confidential status at all times. Juvenile records obtained under this section may be released only in accordance with provisions of the Children's Code.

SECTION 16-3-1650. Cooperation with the criminal and juvenile justice systems and victim assistance programs.

All elements of the criminal and juvenile justice systems and victim assistance programs shall cooperate with the ombudsman in carrying out the duties described in Sections 16-3-1620 and 16-3-1630.

SECTION 16-3-1660. Grounds for dismissal.

A victim's exercise of rights granted by this article is not grounds for dismissing a criminal proceeding or setting aside a conviction or sentence.

SECTION 16-3-1670. Purpose.

This article does not create a cause of action on behalf of a person against an element of the criminal and juvenile justice systems, victim assistance programs, the State, or any agency or person responsible for the enforcement of rights and provision of services set forth in this chapter.

SECTION 16-3-1680. Recommendation of regulations.

The Department of Crime Victim Ombudsman through the Crime Victim Services Division may recommend to the Attorney General those regulations necessary to assist it in performing its required duties as provided by this chapter.

SECTION 16-3-1690. Submission of complaints; appeals.

Complaints regarding any allegations against the Office of the Attorney General, Crime Victim Services Division or any of its affiliated departments concerning crime victim services should be submitted in writing to the Crime Victim Ombudsman, who shall cause a rotating three-person panel of the Crime Victim Services Coordinating Council chosen by him to record, review, and respond to the allegations. Appeal of the three-person panel's response or any decision made by the panel regarding the allegations

will be heard by the State Inspector General under the authority provided by the provisions of Chapter 6, Title 1. The State Inspector General shall provide the procedures for this appeal process, including, but not limited to, a written finding at the end of the appeal process, which must be provided to the complainant and to the Attorney General and the Director of the Crime Victim Services Division.

SC DEPARTMENT OF CRIME VICTIM SERVICES TRAINING, PROVIDER CERTIFICATION, AND STATISTICAL ANALYSIS (CVST)

What Does CVST Do?

SECTION 16-3-1410

(A) The Department of Crime Victim Services Training, Provider Certification, and Statistical Analysis is created within the Office of the Attorney General, South Carolina Crime Victim Services Division. The Director of the Crime Victim Services Division shall appoint a deputy director of the department.

(B) The Department of Crime Victim Services Training, Provider Certification, and Statistical Analysis shall:

- (1) provide oversight of training, education, and certification of victim assistance programs;
- (2) in cooperation with the Victim Services Coordinating Council, promulgate training standards and requirements;
- (3) approve training curricula for credit hours toward certification;
- (4) provide victim service provider certification;
- (5) maintain records of certified victim service providers; and
- (6) collect and analyze statistical data gathered from providers; grant providers; grant recipients; all victim services funding streams; and local, state, and federal crime data and publish analysis, needs assessments, and reports.

Who and What is a VSP?

SECTION 16-3-1420

(1) "Victim service provider" means a person:

(a) who is employed by a local government or state agency and whose job duties involve providing victim assistance as mandated by South Carolina law; or

(b) whose job duties involve providing direct services to victims and who is employed by an organization that is incorporated in South Carolina, holds a certificate of authority in South Carolina, or is registered as a charitable organization in South Carolina, and the organization's mission is victim assistance or advocacy and the organization is privately funded or receives funds from federal, state, or local governments to provide services to victims.

"Victim service provider" does not include a municipal court judge, magistrates court judge, circuit court judge, special circuit court judge, or family court judge.

(2) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not an action or proceeding is commenced.

What is the responsibility of employers?

SECTION 16-3-1410 (C)

(C) Public crime victim assistance programs shall ensure that all victim service providers employed in their respective offices are certified through the department.

(1) Private, nonprofit programs shall ensure that all crime victim service providers in these nonprofit programs are certified by a Victim Services Coordinating Council-approved certification program. Victim Services Coordinating Council approval must include review of the program to ensure that requirements are commensurate with the certification requirements for public victim assistance service providers.

(2) Crime victim service providers, serving in public or private nonprofit programs and employed on the effective date of this article, are exempt from basic certification requirements but must meet annual continuing education requirements to maintain certification. Crime victim service providers, serving in public or private nonprofit programs and employed after the effective date of this article, are required to complete the basic certification requirements within one year from the date of employment and to meet annual continuing education requirements to maintain certification throughout their employment.

(3) The mandatory minimum certification requirements, as promulgated by the deputy director, may not exceed fifteen hours, and the mandatory minimum requirements for continuing advocacy education, as promulgated by the deputy director, may not exceed twelve hours.

(4) Nothing in this section shall prevent an entity from requiring, or an individual from seeking, additional certification credits beyond the basic required hours.

Read more: <http://www.scag.gov/department-of-crime-victim-services-training-provider-certification-statistical-analysis-cvst/about-department-of-crime-victim-services-training-provider-certification-statistical-analysis-cvst#ixzz6VOFh2uIr>

NO CAUSE OF ACTION / ENFORCEMENT OF VICTIMS' RIGHTS

SECTION 16-3-1565. No cause of action against public employees or agencies under this article.

(A) Nothing in this article creates a cause of action on behalf of a person against a public employee, public agency, the State, or an agency responsible for the enforcement of rights and provision of services set forth in this article.

(B) A sentence must not be invalidated because of failure to comply with the provisions of this article.

(C) This article must not be construed to create a cause of action for monetary damages.