

## VICTIM'S RIGHTS

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When the Magistrate Court issues a warrant for the arrest of person, and you are listed as a victim of that crime, Georgia has important laws concerning you in the legal system. You have both rights and responsibilities under these laws.

The purpose of this page is to explain your rights and responsibilities under our legal system. This page will also explain where you may obtain more information concerning different stages of the criminal process. If you have any questions about the information contained in this page, contact the prosecuting attorney's office, or the authorities listed under a particular topic. The address and telephone number for each of the agencies discussed in this document are listed at the end of this page.

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- Introduction

In order for you to exercise your rights under the law, you must give your telephone number and address to the proper authorities. The telephone number must be for a regular landline phone, and not a pager or other electronic device.

The authorities to which you may need to give your address and telephone number include:

- the prosecuting attorney's office,
- the custodial authority (where the accused is being held),
- the investigating law enforcement agency,
- victim's assistance program,
- the State Board of Pardons and Paroles, and
- the probation office.

If you are subjected to any threats or intimidation by the accused or anyone associated with the accused, contact the following immediately:

- the prosecuting attorney's office,
- the investigating law enforcement agency, and
- the custodial authority (if the accused is still being held).

- Confidentiality

Information, such as your address and telephone number given to the prosecuting attorney's office is confidential and is generally not subject to disclosure. However, please note that under the law, prosecutors are generally required to give the defendant's attorney the addresses and telephone numbers of any witnesses the prosecution intends to call during the trial of the case. However, the trial court can order the defense attorney not to give this information to anyone, including the accused.

- Defendant May Be Released Pending Trial

Please keep in mind that the accused may be released from jail before and during the trial. If the accused is released prior to trial, you have the right to give your opinion concerning the release of the accused. You have the right to file a written complaint with the prosecuting attorney if any acts or threats of violence or intimidation occur against you or a member of your family, if this is done by the accused, or at the direction of the accused. If you file a written complaint, the prosecuting attorney may ask the court to revoke the accused's bond and order that the accused be re-arrested. You may also contact the appropriate law enforcement agency to seek additional criminal charges.

- Designation Of Someone To Act In Your Place

If you are physically disabled and unable to exercise your rights under the law, you may designate a spouse, adult child, parent, sibling, or grandparent, to act in your place for as long as you are disabled. You must make this designation in writing. Please note that if you make such a designation, your notification rights will still apply to you, and not to the person you designate to act in your place. If you wish to make such a designation you may do so on your own, or you may contact the prosecuting attorney's office for assistance.

- Notification - General Rights

These rights do not have to be requested. You will have these rights unless you waive them:

You have the right to be notified of the arrest of the accused. This notification will generally come from the investigating authority or the custodial authority.

You have the right to be notified of any proceeding in which the arrest of the accused will be considered. This notification will generally come from the prosecuting attorney's office.

You have the right to be notified of the release of the accused. The notification will generally come from the prosecuting attorney's office.

The notifying agency depends upon if it is a pre-sentence or post-sentence release. If it is a pre-sentence release then either the prosecuting attorney's office or the Sheriff's department would generally be the agencies notifying the victim. If it is a post-sentence release then either the prosecuting attorney's office or Department of Corrections/Pardons and Parole would generally be the notifying agencies.

- Notification Rights Which Must Be Requested In Writing

You may also exercise the following rights. To do so, you must make a request, in writing, to the prosecuting attorney's office.

You may request to be notified of any scheduled court proceedings involving the accused. This includes any changes in the court schedule. Please note that if the proceeding is one in which the release of the accused will be considered you will be notified whether or not you have made a written request.

If the accused is tried and convicted, you may request to be notified if the accused files for a new trial or an appeal. This notification will include any scheduled court proceedings and any changes to the schedule, and the results of the motion or appeal.

If the accused is granted a new trial, or if the case is returned to the trial court for any further proceedings, you may request any of the rights discussed herein.

If you wish to make a written request for any of these notification rights, you may do so on your own, or you may contact the prosecuting attorney's office for assistance.

- Opinions

You have the right to express your views on the outcome of the case. This includes plea negotiations, sentence negotiations, and participation in pretrial or post conviction diversion programs. To do so, please contact the prosecuting attorney's office.

- Procedural Steps In A Criminal Case

The following is a brief summary of the steps in a criminal case:

**Arrest:** An arrest occurs when a law enforcement officer takes the accused into custody. Usually, a warrant will be required to arrest the accused. To obtain a warrant, law enforcement officers must go to a judge and show that there is sufficient evidence (probable cause) to make an arrest. The judge issues the warrant. Law enforcement officers are required to advise the accused of his or her legal rights.

**First Appearance:** The accused is advised of his or her rights by a judge. A date may be set for a preliminary hearing and a bond hearing. In certain cases the Magistrate Court may not set bond and the case will be referred to the Superior Court for a bond hearing.

**Bail:** The accused may be allowed to make bail or bond. The judge makes this determination. If the case is a misdemeanor the judge is required to set bail. By posting bail, the accused is allowed to be released pending the outcome of the case. This may also include special conditions placed upon the bond.

**Preliminary Hearing:** A preliminary hearing may be held in which the judge determines if there is enough evidence cause for the case to proceed.

**Grand Jury:** In certain felony cases, a grand jury determines whether the accused will be formally charged with a crime. If the grand jury decides that the accused should be charged, they will present the District Attorney with a True Bill of Indictment. In some felony cases and all misdemeanor cases, the case is not presented to the grand jury. Instead, the prosecuting attorney will review the case to determine whether to prepare a formal accusation against the accused.

**Arraignment:** If the accused is indicted or a written accusation is filed, an arraignment is held. The accused will answer the indictment or accusation by entering a plea to the charges. Often, the arraignment is used to appoint an attorney for the accused if the accused is not yet represented. If the accused plans to plead guilty, the plea may be postponed so that the accused can discuss the case with the attorney and the plea taken at a later date. A plea may also be submitted at this hearing.

**Trial:** If the accused pleads not guilty, the case will proceed to trial. A judge or a jury will determine the guilt or innocence of the accused.

**Sentencing:** If the defendant pleads guilty, or is found guilty at trial, the case will proceed to sentencing before the judge. The judge determines whether to sentence the accused to prison or probation and the length of the sentence. The judge may also order the defendant to pay restitution to the victim.

If you have any questions about the steps in a criminal case, you may contact the prosecuting attorney's office.

- Victim Impact Statement

In many cases, you will have the right to make a Victim Impact Statement, which describes how the crime has affected you. If the accused is found guilty, the victim impact statement may be used by the prosecuting attorney and the judge during the sentencing hearing. The judge may consider the statement in determining the sentence of the accused. Victim Impact Statements may also be considered by the probation office (if the accused is placed on probation) and the State Board of Pardons and Paroles (if the accused is sentenced to a prison term). The Victim Impact Statement is utilized in conjunction and at the direction of the District Attorney's Office.

If you wish to make a Victim Impact Statement, contact the prosecuting attorney's office.

- Waiting Areas

During any court proceeding involving the accused, you have the right to wait in an area separate from the accused, family and friends of the accused, and witnesses for the accused. If such an area is not available, you may contact the prosecuting attorney, who will help to minimize your contact with these people.

- Waivers

You may, if you choose, waive any of the rights described in this document. You will be provided with the necessary forms and information if you request to waive any of your rights. If you wish to waive any of your rights, contact the prosecuting attorney's office.

- Notification Rules Concerning Parole

If the accused is found: guilty and sentenced to a prison term, you also have notification rights concerning any possible parole of the accused, including the right to express your opinion prior to a parole decision being made. To exercise your parole notification rights, you must either express an objection to any parole of the accused, or make a request for notification. Objections and requests are made to the State Board of Pardons and Paroles. If you have any questions concerning parole or need assistance, contact the State Board of Pardons and Paroles.

- Compensation

As a victim of a criminal act, you may be eligible for Compensation. The State of Georgia administers victim Compensation. The maximum amount of Compensation is \$25,000.00. There is generally a (2) year limit after the occurrence of the crime for making an application for Compensation. If you are interested in applying for Compensation, contact the victim assistance program. You will be given all the necessary information and rules on how to apply for Compensation.

- Numbers And Addresses Of Agencies

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| Walton County District Attorney's Office | Walton County Government Building<br>303 South Hammond Drive, Suite 334<br>Monroe, Georgia 30655        | 770-267-1355 |
| Walton County Magistrate Court           | Walton County Government Building<br>303 South Hammond Drive, Suite 116<br>Monroe, Georgia 30655        | 770-267-1349 |
| State Board of Pardons and Paroles       | Floyd Building, 5 <sup>th</sup> Floor East<br>2 Martin Luther King, Jr. Drive<br>Atlanta, Georgia 30334 | 404-656-5651 |