

# SOUTH DAKOTA CRIME VICTIMS' RIGHTS

## **UNDER SDCL 23A--28C-1, victims of violent crime have the following rights:**

1. Notification of scheduled bail hearings and release from custody, notification by the prosecutor's office when the case is received and to whom the case is assigned, and notification in advance of the date of the preliminary hearing and trial;
2. To be informed of what the charges mean and the elements necessary for conviction;
3. To testify at scheduled bail or bond hearings regarding any evidence indicating whether the offender represents a danger to the victim or the community if released;
4. Protection from intimidation by the defendant, including enforcement of orders or protection;
5. To offer written input into whether plea bargaining or sentencing bargaining agreements should be entered into;
6. To be resent during all scheduled phases of the trial or hearings, except where otherwise ordered by the judge hearing the case or by contrary policy of the presiding circuit judge;
7. To be prepared as a witness, including information about basic rules of evidence, cross-examination, objections, and hearsay;
8. To provide to the court a written or oral victim impact statement prior to sentencing regarding the financial and emotional impact of the crime on the victim and his/her family as well as recommendations for restitution and sentencing and Section 23A—28-8 notwithstanding, the right to appear at any hearing during which a change in the plan of restitution is to be considered;
9. Restitution, if the victim requests it, whether the convicted criminal is probated or incarcerated, unless the court or parole board provides to the victim on the record specific reasons for choosing not to require it;
10. To provide written input at parole hearings or with respect to commutation of sentences by the Governor, should those options be considered;
11. In a case in which the death penalty may be authorized, to provide to the court or to the jury, as appropriate, testimony about the victim and the impact of the crime on the victim's family;
12. Notification of the defendant's release from custody, which notice includes:
  - a) Notice of the defendant's escape from custody and return to custody following escape;
  - b) Notice of any other release from custody, including placement in an intensive supervision program or other alternative disposition, and any associated conditions of release;
  - c) Notice of parole; and
  - d) Notice of pending release of an inmate due to expiration of sentence.
13. Notification of the victim's right to request testing for infection by blood-borne pathogens pursuant to SDCL 23A—35B-2;
14. To be provided a copy of any report of law enforcement that is related to the crime, at the discretion of the state's attorney, or upon motion and order of the court. However, no victim may be given the criminal history or any defendant or any witness;
15. To be notified of a petition by the sex offender for removal from the sex offender registry and to provide written input with respect to the removal request.