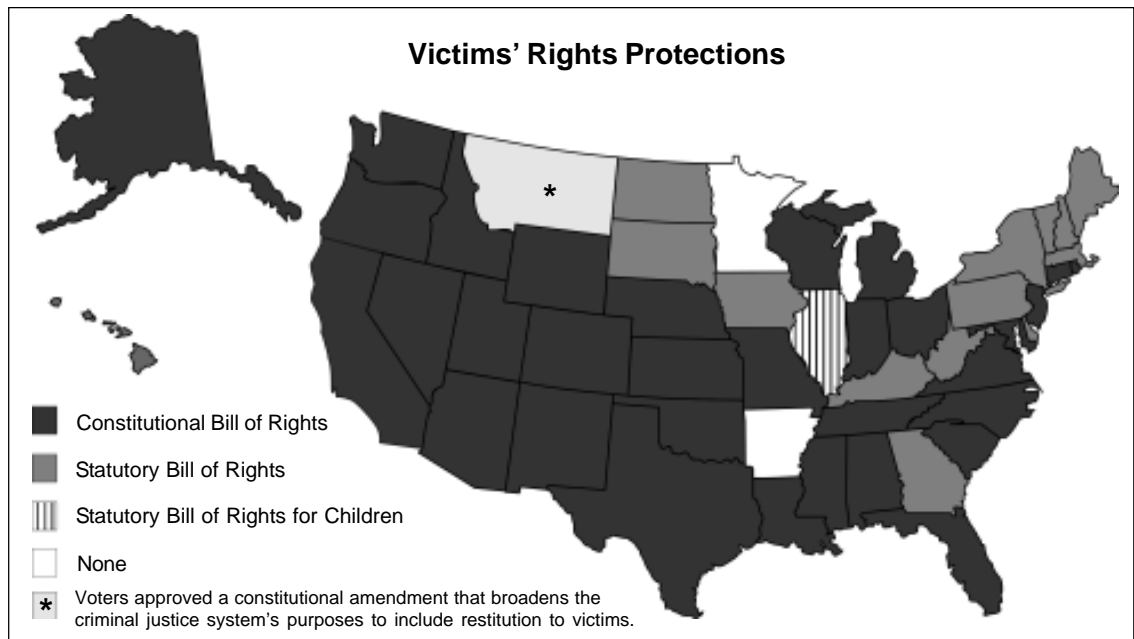


Enforcing and Evaluating Victims' Rights Laws

By Sarah Brown Hammond

State legislatures have enacted numerous laws advancing the rights of crime victims.

Over the past 25 years, state legislatures have enacted more than 27,000 laws advancing the rights of and creating services for crime victims. All 50 states have established statutory provisions that grant victims the right to participate in the judicial system and have also created victims' compensation programs. Thirty-two states have added victims' rights amendments to their constitutions, while other states have enacted a statutory bill of rights for victims of crime.



Problems remain in enforcing victims' laws.

Although the overall treatment of crime victims has seen vast improvements, problems remain in enforcing victims' laws. The statutes often lack procedures for administration and execution of the rights and services they provide. At times the system may be overburdened, uninformed or otherwise unaware of its responsibilities to victims. Consequently, victims may not receive the proper notifications they are entitled to, which prevents their ability to attend trial, to be heard or to participate in the system. Many jurisdictions also have no remedies available to victims, leaving them without legal recourse.

Compliance. Today, state legislatures are shifting their focus to ensuring compliance with these laws. This brief highlights some legislative examples in recent years at the state and federal level to enforce, measure and hold the system accountable to crime victims.

State Action

States are working on ensuring that offenders are held accountable and victims receive restitution. In Vermont, for example, state legislation created a restitution unit within the Center for Crime Victim Services to manage the restitution fund, collect restitution and make payments to victims. Collection methods also are expanding to include laws making a restitution order fully enforceable by the victim in the same manner as any other judgment in a civil matter. Thirty other states also have laws that allow this type of civil enforcement mechanism. Other state enactments include a 2003 Delaware law that requires the trial court to retain jurisdiction over an offender until restitution is paid in full. A 2004 California law requires a defendant with an unpaid balance on a restitution order to file a financial disclosure statement before release from probation.

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Legislatures are exploring enforcement measures in other areas of victims' law as well. In Maryland, a 2004 law calls for mandatory minimum standards for victim notification and restitution. It requires the secretary of Public Safety and Correction to adopt the regulations.

Federal Action

Efforts to explore enforcement measures, evaluate the effectiveness of victims' laws, and provide more resources to enforce victims' rights and services also are taking place at the federal level. The Justice for All Act, passed in 2004, authorizes grants to help states in enforcing victims' rights laws, including grants to establish state-of-the-art victim notification systems. The act also enhances rights and protections for victims of federal crimes, and requires federal courts to collect data and report instances in which a victim is denied his or her rights.

Recent legislation authorizes grants to assist states in enforcing victims' rights laws.

In recent years, Congress has also addressed victims' rights to participate in criminal justice proceedings. In the 1997 Oklahoma City bombing federal trial, the court entered an order that prevented victims who attended or watched the trial from also presenting victim impact statements at the sentencing hearings. In response, with leadership by Oklahoma's congressional delegation, the Victims' Rights Clarification Act was enacted. The act guarantees in the federal system that victims and surviving family members may both observe the trial and provide testimony during the sentencing phase.

Victim Satisfaction. Other work is underway to evaluate victim satisfaction. Congress recently earmarked funds for a national project administered by the Office of Juvenile Justice and Delinquency Prevention. This project, carried out by the American Prosecutors Research Institute, will develop a "juvenile justice system report card" to measure victims' satisfaction through surveys.

Work is underway to evaluate victim satisfaction.

The information generated from these and other state and federal efforts advances the goal of compliance with victims' laws. Collectively, this work to support, clarify, expand and enforce the victim's role in the justice process reflects the states' sentiment to honor and protect the rights of individual victims.

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