

LB 160 | 2018

Definition of Crime Victim

Quick Reference

Effective Date: July 19, 2018



This legislative change from [LB 160](#) affects the statutory definition of a crime victim, which is referenced in several sections of statute. This bill will primarily impact determinations of who is eligible for statutory victims' rights, victim services, and victim compensation. This summary is provided as a resource for criminal justice and victim service providers in order to ensure that victims' rights are met.

29-119

(2)(a) Victim means a person who has had a personal confrontation with an offender as a result of a:

OLD	NEW
<ul style="list-style-type: none"> • homicide 28-302 to 28-306 • 1° sexual assault of a child 28-319.01 • 2° sexual assault of a child 28-320.01 • 3° sexual assault of a child 28-320.01 • 1° sexual assault 28-319 • 2° sexual assault 28-320 • 1° false imprisonment 28-314 • 1° assault 28-308 • 2° assault 28-309 • robbery 28-324 	<ul style="list-style-type: none"> • homicide 28-302 to 28-306 • 1° sexual assault of a child 28-319.01 • 2° sexual assault of a child 28-320.01 • 3° sexual assault of a child 28-320.01 • 1° sexual assault 28-319 • 2° sexual assault 28-320 • 3° sexual assault 28-320 • 1° domestic assault 28-323 • 2° domestic assault 28-323 • 3° domestic assault 28-323 • 1° false imprisonment 28-314 • 1° assault 28-308 • 2° assault 28-309 • 3° assault 28-310 <ul style="list-style-type: none"> ○ when the victim is an intimate partner as defined in 28-323 • robbery 28-324

Victim also includes a person who has suffered serious bodily injury as defined in section 28-109 as a result of a motor vehicle accident when the driver was charged with a violation of 60-6,196 or 60-6,197 or with a violation of a city or village ordinance enacted in conformance with either section.

Nebraska Crime Victim's Rights are constitutional rights outlined in statute 81-1848.

Certain rights are afforded to ALL victims of crime. Other expanded rights are afforded only to victims who fall under the definition on 29-119 (as laid out in the table above).

The 2018 legislative session expanded the types of crime victims in 29-119. As such, the rights offered to the additional types of crime victims will also need to be expanded. This primarily impacts misdemeanor domestic and sexual assaults. These crimes are now covered under 29-119 and should be afforded ALL rights outlined below.

Please review the above chart to ensure you are in compliance.

If you have questions, please contact the Nebraska Coalition for Victims of Crime at contact.necvc@gmail.com

81-1848 | Victims and Witnesses of Crimes; Rights; Enumerated.

1) Victims as defined in section 29-119 shall have the following rights:

- (a) To examine information which is a matter of public record and collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of issuance of arrest warrants, arrests, detentions, indictments, charges by information, and other formal criminal charges. Such information shall include any disposition arising from such arrests, charges, sentencing, correctional supervision, and release, but shall not include intelligence or investigative information;
- (b) To receive from the county attorney advance reasonable notice of any scheduled court proceedings and notice of any changes in that schedule;
- (c) To be present throughout the entire trial of the defendant, unless the victim is to be called as a witness or the court finds sequestration of the victim necessary for a fair trial. If the victim is to be called as a witness, the court may order the victim to be sequestered;
- (d) To be notified by the county attorney by any means reasonably calculated to give prompt actual notice of the following:
 - (i) The crimes for which the defendant is charged, the defendant's bond, and the time and place of any scheduled court proceedings;
 - (ii) The final disposition of the case;
 - (iii) The crimes for which the defendant was convicted;
 - (iv) The victim's right to make a written or oral impact statement to be used in the probation officer's preparation of a presentence investigation report concerning the defendant;
 - (v) The address and telephone number of the probation office which is to prepare the presentence investigation report;
 - (vi) That a presentence investigation report and any statement by the victim included in such report will be made available to the defendant unless exempted from disclosure by order of the court; and
 - (vii) The victim's right to submit a written impact statement at the sentencing proceeding or to read his or her impact statement submitted pursuant to subdivision (1)(d)(iv) of this section at the sentencing proceeding;
- (e) To be notified by the county attorney by any means reasonably calculated to give prompt actual notice of the time and place of any subsequent judicial proceedings if the defendant was acquitted on grounds of insanity;
- (f) To be notified as provided in section 81-1850, to testify before the Board of Parole or submit a written statement for consideration by the board, and to be notified of the decision of and any action taken by the board;
- (g) To submit a written statement for consideration at any conditional release proceedings, Board of Parole proceedings, pardon proceedings, or commutation proceedings. Conditional release proceeding means a proceeding convened pursuant to a Department of Correctional Services' decision to grant a furlough from incarceration for twenty-four hours or longer or a release into community-based programs, including educational release and work release; and
- (h) To have any personal identifying information, other than the victim's name, not be disclosed on pleadings and documents filed in criminal actions that may be available to the public. The Supreme Court shall adopt and promulgate rules to implement this subdivision.

(2) Victims and witnesses of ALL crimes shall have the following rights:

- (a) To be informed on all writs of subpoena or notices to appear that they are entitled to apply for and may receive a witness fee;
- (b) To be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled in order to save the person an unnecessary trip to court;
- (c) To receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts and to be provided with information as to the level of protection available;
- (d) To be informed of financial assistance and other social services available as a result of being a witness or a victim of a crime, including information on how to apply for the assistance and services;
- (e) To be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled;
- (f) To be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants;
- (g) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, shall be returned to the person within ten days after being taken;
- (h) To be provided with appropriate employer intercession services to insure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances;
- (i) To be entitled to a speedy disposition of the case in which they are involved as a victim or witness in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter;
- (j) To be informed by the county attorney of the final disposition of a felony case in which they were involved and to be notified pursuant to section [81-1850](#) whenever the defendant in such case is released from custody; and
- (k) To have the family members of all homicide victims afforded all of the rights under this subsection and services analogous to those provided under section [81-1847](#).