

## **IC 35-40-6**

### **Chapter 6. Prosecuting Attorney Duties and Victim Assistance Programs**

#### **IC 35-40-6-1**

##### **Applicability of chapter**

Sec. 1. This chapter applies when:

- (1) law enforcement officials have received a report of an alleged offense not later than five (5) days after the alleged offense occurred or was discovered, unless the prosecuting attorney having jurisdiction finds that the report was not made within the five (5) day period due to circumstances beyond the control of a victim of the alleged offense; and
- (2) a victim fully cooperates with and responds to reasonable requests from law enforcement officials and the prosecuting attorney.

*As added by P.L.139-1999, SEC.1.*

#### **IC 35-40-6-2**

##### **Victims to be treated with dignity**

Sec. 2. A prosecuting attorney shall provide that:

- (1) victims are treated with dignity, respect, and sensitivity at all stages of the criminal justice process; and
- (2) the rights of victims are protected.

*As added by P.L.139-1999, SEC.1.*

#### **IC 35-40-6-3**

##### **Victim assistance program; contract to operate**

Sec. 3. A prosecuting attorney may contract with a person to operate a victim assistance program to provide the services required under this chapter.

*As added by P.L.139-1999, SEC.1.*

#### **IC 35-40-6-4**

##### **Victim assistance program; purposes**

Sec. 4. A prosecuting attorney or a victim assistance program shall do the following:

- (1) Inform a victim that the victim may be present at all public stages of the criminal justice process to the extent that:
  - (A) the victim's presence and statements do not interfere with a defendant's constitutional rights; and
  - (B) there has not been a court order restricting, limiting, or prohibiting attendance at the criminal proceedings.
- (2) Timely notify a victim of all criminal justice hearings and proceedings that are scheduled for a criminal matter in which the victim was involved.
- (3) Promptly notify a victim when a criminal court proceeding has been rescheduled or canceled.

- (4) Obtain an interpreter or translator, if necessary, to advise a victim of the rights granted to a victim under the law.
- (5) Coordinate efforts of local law enforcement agencies that are designed to promptly inform a victim after an offense occurs of the availability of, and the application process for, community services for victims and the families of victims, including information concerning services such as the following:
  - (A) Victim compensation funds.
  - (B) Victim assistance resources.
  - (C) Legal resources.
  - (D) Mental health services.
  - (E) Social services.
  - (F) Health resources.
  - (G) Rehabilitative services.
  - (H) Financial assistance services.
  - (I) Crisis intervention services.
  - (J) Transportation and child care services to promote the participation of a victim or a member of the victim's immediate family in the criminal proceedings.
- (6) Inform the victim that the court may order a defendant convicted of the offense involving the victim to pay restitution to the victim under IC 35-50-5-3.
- (7) Upon request of the victim, inform the victim of the terms and conditions of release of the person accused of committing a crime against the victim.
- (8) Upon request of the victim, give the victim notice of the criminal offense for which:
  - (A) the defendant accused of committing the offense against the victim was convicted or acquitted; or
  - (B) the charges were dismissed against the defendant accused of committing the offense against the victim.
- (9) In a county having a victim-offender reconciliation program (VORP), provide an opportunity for a victim, if the accused person or the offender agrees, to:
  - (A) meet with the accused person or the offender in a safe, controlled environment;
  - (B) give to the accused person or the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim and the victim's family; and
  - (C) negotiate a restitution agreement to be submitted to the sentencing court for damages incurred by the victim as a result of the offense.
- (10) Assist a victim in preparing verified documentation necessary to obtain a restitution order under IC 35-50-5-3.
- (11) Advise a victim of other rights granted to a victim under the law.

*As added by P.L.139-1999, SEC.1.*

**IC 35-40-6-5**

**Victim-offender reconciliation program**

Sec. 5. (a) If a victim participates in a victim-offender reconciliation program (VORP) operated by a victim assistance program under section 4(9) of this chapter, the victim shall execute a waiver releasing:

- (1) the prosecuting attorney responsible for the victim assistance program; and
- (2) the victim assistance program; from civil and criminal liability for actions taken by the victim, an accused person, or an offender as a result of participation by the victim, the accused person, or the offender in a victim-offender reconciliation program (VORP).

(b) A victim is not required to participate in a victim-offender reconciliation program (VORP) under section 4(9) of this chapter.

*As added by P.L.139-1999, SEC.1.*

**IC 35-40-6-6**

**Threat of harm to victim**

Sec. 6. If:

- (1) a victim submits to the prosecuting attorney an affidavit asserting:
  - (A) that an act or threat of physical violence or intimidation has been made against the victim or the immediate family of the victim; and
  - (B) that the act or threat described in clause (A) has been made by the defendant or at the direction of the defendant; and
- (2) the prosecuting attorney has reason to believe the allegations in the affidavit are true and warrant the filing of a motion for bond revocation;

the prosecuting attorney shall file a motion under IC 35-33-8-5 requesting the court to revoke the defendant's bond or order for personal recognizance.

*As added by P.L.139-1999, SEC.1.*

**IC 35-40-6-7**

**Notification requested by victim**

Sec. 7. If the defendant is convicted, and upon the victim's request, the victim shall be notified, if applicable, of the following:

- (1) The function of the presentence report.
- (2) The name and telephone number of the probation department that is preparing the presentence report.
- (3) The right to make a victim impact statement under IC 35-38-1-8.5.
- (4) The defendant's right to review the presentence report.

(5) The victim's right to review the presentence report, except those parts excised by the court or made confidential by IC 35-40-5-6.

(6) The victim's right to be present and heard at any sentencing procedure under IC 35-40-5-5.

(7) The time, place, and date of the sentencing proceeding.

*As added by P.L.139-1999, SEC.1. Amended by P.L.14-2000, SEC.71.*

#### **IC 35-40-6-8**

##### **Request form for revocation of bond**

Sec. 8. The prosecuting attorney or a victim assistance program shall advise a victim on how the request form completed under section 6 of this chapter may be filed with the appropriate agencies and departments.

*As added by P.L.139-1999, SEC.1.*

#### **IC 35-40-6-9**

##### **Contact between victim and probation department**

Sec. 9. (a) Notice provided under this chapter does not relieve a probation department of responsibility under IC 35-38-1-8.5 to initiate the contact between a victim and the probation department concerning the consequences suffered by the victim as a result of the crime.

(b) At the time of contact with a victim, a probation department shall advise the victim of the date, time, and place of sentencing and of the victim's right to be present and to be heard at the proceeding.

*As added by P.L.139-1999, SEC.1.*

#### **IC 35-40-6-10**

##### **Victim to be informed of status of case**

Sec. 10. If a person convicted of a crime against the victim seeks appellate review or attacks the person's conviction or sentence, the prosecuting attorney or the office of the attorney general, whichever is appropriate, shall inform the victim, upon request, of the status of the case and of the decision of the court.

*As added by P.L.139-1999, SEC.1.*