

# South Dakota Crime Victim's Rights – Marsy's Card

A victim shall have the following rights, beginning at the time of victimization:

- ① The right to due process and to be treated with fairness and respect for the victim's dignity;
- ② The right to be free from intimidation, harassment and abuse;
- ③ The right to be reasonably protected from the accused and any person acting on behalf of the accused;
- ④ The right to have the safety and welfare of the victim and the victim's family considered when setting bail or making release decisions;
- ⑤ The right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family, or which could disclose confidential or privileged information about the victim, and to be notified of any request for such information or records;
- ⑥ The right to privacy, which includes the right to refuse an interview, deposition or other discovery request, and to set reasonable conditions on the conduct of any such interaction to which the victim consents;
- ⑦ The right to reasonable, accurate and timely notice of, and to be present at, all proceedings involving the criminal or delinquent conduct, including release, plea, sentencing, adjudication and disposition, and any proceeding during which a right of the victim is implicated;
- ⑧ The right to be promptly notified of any release or escape of the accused;
- ⑨ The right to be heard in any proceeding involving release, plea, sentencing, adjudication, disposition or parole, and any proceeding during which a right of the victim is implicated;
- ⑩ The right to confer with the attorney for the government;
- ⑪ The right to provide information regarding the impact of the offender's conduct on the victim and the victim's family to the individual responsible for conducting any pre-sentence or disposition investigation or compiling any pre-sentence investigation report or plan of disposition, and to have any such information considered in any sentencing or disposition recommendations;
- ⑫ The right to receive a copy of any pre-sentence report or plan of disposition, and any other report or record relevant to the exercise of a victim's right, except for those portions made confidential by law;
- ⑬ The right to the prompt return of the victim's property when no longer needed as evidence in the case;
- ⑭ The right to full and timely restitution in every case and from each offender for all losses suffered by the victim as a result of the criminal conduct and as provided by law for all losses suffered as a result of delinquent conduct. All monies and property collected from any person who has been ordered to make restitution shall be first applied to the restitution owed to the victim before paying any amounts owed to the government;
- ⑮ The right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related post-judgment proceedings;
- ⑯ The right to be informed of the conviction, adjudication, sentence, disposition, place and time of incarceration, detention or other disposition of the offender, any scheduled release date of the offender, and the release of or the escape by the offender from custody;
- ⑰ The right to be informed in a timely manner of all post-judgment processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender. Any parole authority shall extend the right to be heard to any person harmed by the offender;
- ⑱ The right to be informed in a timely manner of clemency and expungement procedures, to provide information to the Governor, the court, any clemency board and other authority in these procedures, and to have that information considered before a clemency or expungement decision is made, and to be notified of such decision in advance of any release of the offender; and
- ⑲ The right to be informed of these rights, and to be informed that a victim can seek the advice of an attorney with respect to the victim's rights. This information shall be made available to the general public and provided to each crime victim in what is referred to as a Marsy's Card.

A victim is defined as a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. A victim also includes any spouse, parent, grandparent, child, sibling, grandchild, or guardian, and any person with a relationship to the victim that is substantially similar to a listed relationship, or a lawful representative of a victim who is deceased, incompetent, a minor, or physically or mentally incapacitated. A victim is not the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor or incapacitated victim.

The victim, the retained attorney of the victim, a lawful representative of the victim, or the attorney for the government, upon request of the victim, may assert and seek enforcement of these rights and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority shall act promptly on such a request.

Bond may be set for certain offenses without a proceeding. In those cases, notice to the crime victim may not be provided before release.

Crime victims may obtain additional information regarding these rights by logging on to <http://atg.sd.gov/victim/marsyslaw.aspx>.

Victims of certain crimes may seek enforcement of these rights by logging on to <http://savin.sd.gov>. A list of those crimes is available on the SAVIN website.

Victims of other crimes, or victims for whom the SAVIN system is not practical, may contact the State's Attorney's office in the county in which the crime or attempted crime was committed in order to seek enforcement of these rights. A list of State's Attorney contact information may be found at <http://sdstatesattorneys.org/sd-states-attorneys>.

**CRIME VICTIM'S RIGHTS**  
**SDCL 23A-28C-1**

- (1) To be notified of scheduled bail hearings and release from custody, to be notified by the prosecutor's office when the case is received and to whom the case is assigned, and to be notified in advance of the date of 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) To be protected from intimidation by the defendant, including enforcement of orders of protection;
- (5) To offer written input into whether plea bargaining or sentencing bargaining agreements should be entered into;
- (6) To be present 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 or her family as well as recommendations for restitution and sentencing and § 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) To receive restitution, 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 commutations 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) To be notified 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) To be notified of the victim's right to request testing for infection by blood-borne pathogens pursuant to § 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 of any defendant or any witness; and
- (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.

**Participation / Notification Request Form**

Defendant's Name: \_\_\_\_\_

Victim's Name: \_\_\_\_\_

Phone Numbers & Hours to Call:

Address: \_\_\_\_\_

Home: \_\_\_\_\_ between \_\_\_\_\_

\_\_\_\_\_

Work: \_\_\_\_\_ between \_\_\_\_\_

\_\_\_\_\_

Cell / Other: \_\_\_\_\_

Email Address: \_\_\_\_\_

Please check all applicable responses:

You will be registered for the South Dakota SAVIN System in order to be notified of all future court dates and offender status updates.

*(Check all that apply)* Please notify me by: Email  Text  Phone

- I wish to provide written input for court consideration related to the above-named offender.
- I wish to request restitution and will submit the required forms within ten (10) days:  
[Form B] Personal Injury  and/or [Form C] Personal Property
- I am the legal guardian and/or representative for the above-named minor child.

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Relationship: \_\_\_\_\_

\_\_\_\_\_

- Additional contact information and/or additional comments:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
On Behalf of

**FORM [B]**

**Personal Injury Form**

*(If more than one victim, a separate form for each victim is required)*

Defendant(s) Name: \_\_\_\_\_

Name of Victim: \_\_\_\_\_

**If injuries are described in a medical report, please include a copy of the report with this form.**

**If medical report(s) are not included with this form, please complete the attached "Authorization For Release of Information."**

Brief description of injuries: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Medical/Physical/Therapy/Counseling Treatment**

Name, address, telephone number of doctor and/or hospital that provided treatment to victim, as well as estimated cost to victim (past and future):

Medical Provider	Address	Telephone	Dates of Treatment	Cost to Victim (best estimate, past and future)

Insurance or Free Care: If the victim has filed a claim or received reimbursement from insurance companies or other sources, or if the victim has received free care (ex., Medicare/Medicaid), please list:

Company: Contact Person: Address:  Telephone: Policy or Account No: Deductible Amount:	Company: Contact Person: Address:  Telephone: Policy or Account No: Deductible Amount:
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**AUTHORIZATION FOR RELEASE OF INFORMATION**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Date of Birth: \_\_\_\_\_

TO: \_\_\_\_\_ (health care provider)

\_\_\_\_\_ (address)

I hereby consent and request that the South Dakota Attorney State's Attorney Office, its agents and employees, be permitted to:

1. Examine and obtain copies of all hospital and medical records dated \_\_\_\_\_; and
2. Interview all health care providers and other persons relating to my medical treatment or condition on \_\_\_\_\_.

The purpose or need for such authorization is to assist the Union County State's Attorney's office with formal prosecution and/or disposition of a criminal offense.

Further, I agree that a photocopy of this authorization be accepted with the same authority as the original.

Expiration Date: \_\_\_\_\_ or check: None

\_\_\_\_\_  
(Signature) Date: \_\_\_\_\_

Please initial:

\_\_\_ I understand I have the right to revoke this authorization. This revocation must be in writing.

\_\_\_ I understand this authorization cannot be revoked if the health care provider listed above has already provided the information, or if this authorization was obtained as a condition of obtaining insurance coverage.

\_\_\_ I understand that signing this authorization does not affect my ability to receive treatment from any health care provider.

\_\_\_ I understand this authorization allows my records to be redisclosed by the recipient, and that such redisclosure voids any protection under 45 CFR 164.508.

\_\_\_ I have received a copy of this authorization.

**FORM [C]**

**Personal Property Form**

*(If more than one victim, a separate form for each victim is required)*

Defendant(s) Name: \_\_\_\_\_

Name of Victim: \_\_\_\_\_

**Written estimates and/or supporting documentation must accompany this form.**

Personal Property Loss (use additional forms as necessary)

Item / Damage	Recovered or Repaired?	Estimated Replacement or Repair Costs	Insurance Claim Filed?	If "Yes", With Whom?

Reimbursement for Personal Property Loss (use additional forms as necessary)

If the victim has filed a claim for or received reimbursement from insurance companies or other sources, please list:

Company:  Contact Person: Address:  Telephone: Policy or Account No: Deductible Amount:	Company:  Contact Person: Address:  Telephone: Policy or Account No: Deductible Amount:
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