

SUMMARY OF VICTIM RIGHTS AS PERTAINS TO FAMILY COURT

For victims of dangerous felonies which include murder, arson, sexual assault, 1st degree assault, 1st degree burglary/robbery, kidnapping or the attempt to commit any of these felonies, the following right shall automatically be afforded. To victims of all other crimes and witnesses, these rights shall be afforded upon a written request.

To be present at all criminal justice proceedings including juvenile proceedings where the offense would have been a felony if committed by an adult.

To be informed in a timely manner of court dates, continuances and final dispositions.

The right to confer with and be informed by the attorney for the Juvenile Officer under Chapter 552 RSMo. or its successors on guilty pleas and all hearings and sentences.

The right to be heard at juvenile hearings unless in the determination of the court the interest of justice requires otherwise. The right to be provided a secure waiting area during court proceedings.

The right to be informed by the appropriate juvenile authorities or custodial authority of:

- Status of any case concerning a crime against a victim.

- Availability of Crime Victim Compensation and community emergency crisis intervention services.

- Release of a person.

- The escape and recapture of a person.

A victim of crime committed by a juvenile may request in writing to the appropriate juvenile authority/Division of Youth Services notification of:

- Projected date of release from confinement.

- Release on a furlough, work release, electronic monitoring, or to a community correctional facility program in advance of such release.

- Any scheduled release hearings, or rescheduling. No hearing shall be conducted without 30 days advance notice.

The right to reasonable protection for victims and witnesses from harm and threats arising out of their cooperation with law enforcement and prosecution efforts.

For victims to be informed on the right of restitution and witness fees for which they are entitled.

When a victim's property is no longer needed for evidence or needs to be retained pending an appeal, the prosecuting attorney or any law enforcement agency having possession of such property shall upon request of the victim be returned within five (5) working days unless the property is contraband or subject to forfeiture proceedings.

The employer may not discharge or discipline any witness, victim, or member of the victim's family for honoring a subpoena or for participating in the preparation of a criminal proceeding.

The court shall allow the victim of any offense to submit a written statement to the Court.

The court shall allow the victim to appear before the court personally or by counsel for the purpose of making a statement unless the court finds that the presence of the victim would not serve justice. The statement shall relate solely to the facts of the case and any personal injuries or financial loss incurred by the victim. A member of the immediate family of the victim may appear personally or by counsel to make a statement if the victim has died or is otherwise unable to appear as a result of the offense committed by the child.

Nothing in this section shall be construed to prevent the release of general information regarding the informal adjustment or formal adjudication of the disposition of a child's case to a victim, or a member of the immediate family of a victim, of any offense committed by the child. Such general information shall not be specific as to location and duration of treatment or detention or as to any terms of supervision.

Restitution payments to the victim have priority over restitution payments to a third-party payor. If the victim has been compensated for the victim's loss by a third-party payor, the court may order restitution payments to the third-party payer in the amount that the third-party payor compensated the victim.

Payment of restitution to a victim under this section has priority over payment of restitution to any governmental entity.

Considering the age and circumstances of a child, the court may order

the child to make restitution to the wronged person personally.

The general public shall be excluded and only such persons admitted who have a direct interest in the case or in the work of the court, except in cases where the child is accused of conduct, which, if committed by an adult would be considered a Class A or B felony; or for conduction which would be considered a Class C felony, if the youth has previously been formally adjudicated for the commission of two or more unrelated acts which would have been Class A, B, or C felonies, if committed by an adult.

JUVENILE LAW AND PROCEDURE IN MISSOURI

The Juvenile Court movement in the United States started in the late 1890's. It is generally recognized that the first "Juvenile Court" started in Cook County, Illinois in 1900. Today, each state has its own set of rules governing the handling of juveniles who commit crimes or who are victims of abuse or neglect.

Originally, the philosophy of the Court was to provide treatment to a juvenile who committed a crime. The rationale is that juveniles are still in the formation stage of learning responsibility, capability, oral and social development. Juveniles were to be treated so they would learn to behave as law abiding citizens.

The states under the authority of Juvenile Court took on the role of the parent and the Judge made decisions based on the juvenile's background, caseworker, reports and options available to the Court in treating juveniles. The Missouri statute states the purpose as to "facilitate the care, protection and discipline of children."

The hearings were not formalized. The atmosphere was one of a conference. All matters before the Court were civil matters and new terminology evolved.

The last three decades have seen the Juvenile Court become more formalized and the recognition of rights, juvenile civil rights. In a Family Court hearing, the juvenile has the following rights:

- To be represented by an attorney.

- To be given a list of charges.

- To prove the case against the juvenile must be within a reasonable doubt.

To confront and examine witnesses.
Discovery of evidence.

For the police to question a juvenile, the interview must take place in the presence of the parent(s) and a juvenile officer. The Miranda and McMillan rights are to be read. If the juvenile or parent(s) request an attorney, the interview is ended until an attorney is present. The juvenile and/or parent(s) can refuse to be interviewed by the police.

In 1995, the Missouri Legislature enacted new provisions in the Juvenile Code. The new law allows police to photograph and fingerprint juveniles who were apprehended for a felony. The fingerprints and photographs are to be kept separate from adults and in a central depository. Prior to this, a Court Order was required and could be used in a specific case.

Victims can attend the hearings of the juvenile. The general public can attend Court proceedings when the case is an A or B felony; or if it is a C felony and the juvenile has two unrelated prior adjudicated felonies. The public is to be excluded when the social background is being discussed.

Prior to 1995, the public was excluded. In 1992, the Missouri Constitution Amendment allowed victims of a crime committed by a juvenile to attend the hearings of the accused juvenile.

When the police apprehend a juvenile, the police are to contact the Family Court and inform them of the apprehension and circumstances surrounding it. The police can now fingerprint and photograph juveniles who are apprehended if the offense is a felony. The photograph and fingerprints are to be kept in a central depository with the Missouri Highway Patrol.

On July 1, 1995, the Missouri Juvenile Code was revised in keeping with the mood of the country and the rise of violent crime. The Juvenile Officer is now required to file a motion to transfer the juvenile to the Court of General Jurisdiction whenever it is alleged a juvenile committed a murder, 1st degree, 2nd degree murder, 1st degree assault, forcible rape, forcible sodomy, first degree robbery, distribution of drugs or two or more unrelated felonies. The age of the juvenile has been lowered to 12 years whereby a juvenile could be sent to the adult system. The law permits the Judge to give to a juvenile committed to the Division of Youth Services a new specific period of time to be spent at a Division of Youth Services facility.

Another part of the new law is to allow a juvenile who has been convicted in criminal court to be sent to the Division of Youth Services and at the age of 18 years be sent to the Department of Corrections. Victims are able to learn more about their own case. They are allowed to attend court hearings and address the Court as to the effects of their victimization. The public will now be able to attend the trial and sentencing portion of hearings when it concerns an A or B Felony, and if it is a C Felony and the juvenile has had two prior felony adjudications. The Dispositional Hearing takes place, after a finding by the court that the petition is true. The Deputy Juvenile Officer assigned to the case gives a report on the juvenile's social background and a recommendation as to the course of the juvenile. The juvenile can also give a recommendation as to the course of rehabilitation. The Court then decides what course of action to take.

JUDICIAL PROCESS TERMS FOR FAMILY COURT

Arraignment Hearing - A youth is brought before a Judge. The youth has an opportunity to plead guilty or innocent. If the youth pleads guilty, the Judge can sentence the youth at this time, or request the Deputy Juvenile Officer to do a social history for a Disposition hearing to be held 30 days later.

Adjudication Hearing - Evidence is heard. The Court finds the petition true or false. If the Court attaches jurisdiction, the Judge can sentence a youth then, or assign a Deputy Juvenile Officer to do a social history and have a Disposition hearing 30 days later.

Admission - Voluntary acknowledgment that certain facts are true. A statement by the youth admitting to certain facts.

Arraignment - An initial step in a delinquency case. The youth, parents, and attorney appear before the Court and are informed of rights and the youth has the opportunity to admit or deny the petition. If the youth denies, the case is set for an adjudicatory trial.

Certification Hearing - A juvenile who commits a serious offense may be certified as an adult. The decision is based on the seriousness of the offense, prior court record, mental capacity and other information.

Complaint - In Juvenile Court, a written list of alleged behavior that is harmful to the youth or others.

Defense Attorney - A lawyer hired or appointed to represent the youth.

Delinquency - Any act committed by a youth, which if he were an adult would be considered a criminal act.

Deputy Juvenile Officer (DJO) - A court worker who supervises youth under the Court's jurisdiction.

Detention - A locked facility where youth are placed by the Court to await a court hearing or permanent placement.

Dismissal Without Prejudice - Permits the Juvenile Officer to bring the case to court again.

Dismissal With Prejudice - The Juvenile Officer is not permitted to bring the case to court again.

Dispositional Hearing - A court proceeding in which the Court decides what type of treatment is appropriate for the youth.

Home Detention - An order of the Court placing the youth at home instead of detention while awaiting a court hearing.

Informal Adjustments - A youth admits he did commit the offense and agrees to follow the Deputy Juvenile Officer's instructions for up to six months. This admission takes place at the Case Assessment Interview. It does not involve a hearing before the Court.

Petition - A court document that states behavior of the youth is alleged to have committed which the Juvenile Officer needs to prove to the Court.

Restitution - The Juvenile Court has the authority to order restitution to crime victims. Restitution is based on the juvenile's ability to pay. Crime victims should talk with the Juvenile Officer that is handling the case to learn that particular court's policy on restitution. The Court can order the parent to pay only at a hearing where it is determined that the parent should pay up to a maximum of \$4,000.00. Victims can take the parent and juvenile to small claims court.

Subpoena - An official court order commanding a witness to produce documents or to testify in a court hearing.

Testify - To give evidence as a witness under oath before the court.

Trial - A process used to determine if the juvenile did commit an act. The judge hears testimony from witnesses, reviews the evidence, and then decides if the youth did or did not commit the act alleged in the petition.

Victim Impact Statement - A written paper that is given to the court at dispositional hearing the physical, psychological and economical effects the crime has had on the victim and family.

(Information provided by James Mooney, Jackson County Family Court)