

The victim, the retained attorney of the victim, a lawful representative of the victim, or the office of the state attorney upon request of the victim, may assert and seek enforcement of the rights enumerated in this section 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 with Jurisdiction shall act promptly on such a request, affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding the disposition of a victim's right shall be clearly stated on the record. (*Fla. Const., art. I, §16(c)*)

The granting of the rights enumerated in this section to victims may not be construed to deny or impair any other rights possessed by victims. The provisions of this section apply throughout criminal and juvenile justice processes, are self-executing, and do not require implementing legislation. This section may not be construed to create any cause of action for damages against the state or a political subdivision of the state, or any officer, employee, or agent of the state or its political subdivisions. (*Fla. Const., art. I, §16(d)*)

A “**victim**” is 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. The term “victim” includes the victim's lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim, except upon a showing that the interest of such individual would be in actual or potential conflict with the interests of the victim. The term “victim” does not include the accused. The terms “crime” and “criminal” include delinquent acts and conduct. (*Fla. Const., art. I, §16(e)*)

#### FIRST APPEARANCE:

**FIRST APPEARANCES ARE HELD AT THE MIAMI-DADE COUNTY CRIMINAL COURTHOUSE located at 1351 NW 12TH STREET, MIAMI, FLORIDA 33125 TYPICALLY BEGINNING AT 9:00A.M. EVERY DAY.**

When a person is arrested and is not able to bond out, they have to be brought before a Judge within 24 hours of his/her arrest. This is called “First Appearance”. At First Appearance the Court will consider what conditions of release will be set including a bond amount, if any, “no contact” with victims or witnesses provisions and whether any type of counseling or other condition of release is appropriate. If you wish to address the Court regarding your case, you can attend the First Appearance hearing and the Court will allow you to address any concerns you have about the conditions of release. You can also inform the Court as to whether you wish to have your personal information kept private. You may also be able to *briefly* talk to a member of the State Attorney's Office there.

#### CASE INFORMATION

Case Number: \_\_\_\_\_

Incident Type: \_\_\_\_\_

Report Date: \_\_\_\_\_ Time: \_\_\_\_\_

Incident Date: \_\_\_\_\_ Time: \_\_\_\_\_

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

Officer: \_\_\_\_\_ ID: \_\_\_\_\_

No incident details will be provided over the telephone.

Clerk of Courts only makes confidential (per statute) portions of own internal reports and crime victim's information. It is the responsibility of the crime victim to notify other agencies (i.e. Police, State Attorney's Office etc.) if they wish to protect their identity elsewhere.

## MIAMI-DADE COUNTY CLERK OF THE COURT AND COMPTROLLER

### MARSY'S LAW INFORMATION

State of Florida Constitution, Article 1, §16(b)-(e)



# Marsy's Law

Every victim is entitled to the following rights, beginning at the time of his or her 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, within the judicial process, to be reasonably protected from the accused and any person acting on behalf of the accused. However, nothing contained herein is intended to create a special relationship between the crime victim and any state agency or clerk of courts office absent a special relationship or duty as defined by Florida law.
  - (4) The right to have the safety and welfare of the victim and the victim's family considered when setting bail, including setting pretrial release conditions that protect the safety and welfare of the victim and the victim's family.
  - (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 of the victim.
  - (6) A victim shall have the following specific rights upon request:
    - a. The right to reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving criminal conduct including, but not limited to, trial, plea, sentencing, or adjudication, even if the victim will be a witness at the proceeding, notwithstanding any rule to the contrary. A victim shall also be provided reasonable, accurate, and timely notice of any release or escape of the defendant or delinquent, and any proceeding during which a right of the victim is implicated.
    - b. The right to be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.
  - c. The right to confer with the prosecuting attorney concerning any plea agreements, participation in pretrial diversion programs, release, restitution, sentencing, or any other disposition of the case.
  - d. 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 presentence investigation or compiling any presentence investigation report, and to have any such information considered in any sentencing recommendations submitted to the court.
  - e. The right to receive a copy of any presentence report, and any other report or record relevant to the exercise of a victim's right, except for such portions made confidential or exempt by law.
  - f. The right to be informed of the conviction sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.
  - g. The right to be informed of all post-conviction 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. The parole or early release authority shall extend the right to be heard to any person harmed by the offender.
  - h. The right to be informed 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.
- (7) The rights of the victim, as provided in subparagraph (6)a., subparagraph (6)b., or subparagraph (6)c., that apply to any first appearance proceeding are satisfied by a reasonable attempt by the appropriate agency to notify the victim and convey the victim's views to the court.
  - (8) The right to the prompt return of the victim's property when no longer needed as evidence in the case.
  - (9) The right to full and timely restitution in every case and from each convicted offender for all losses suffered, both directly and indirectly, by the victim as a result of the criminal conduct.
  - (10) The right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related post judgment proceedings.
    - a. The state attorney may file a good faith demand for a speedy trial and the trial court shall hold a calendar call, with notice, within fifteen days of the filing demand, to schedule a trial to commence on a date at least five days but no more than sixty days after the date of the calendar call unless the trial judge enters an order with specific findings of fact justifying a trial date more than sixty days after the calendar call.
    - b. All state-level appeals and collateral attacks on any judgment must be complete within two years from the date of appeal in non-capital cases and within five years from the date of appeal in capital cases, unless a court enters an order with specific findings as to why the court was unable to comply with this subparagraph and the circumstances causing the delay. Each year, the Chief Judge of any District Court of Appeal or the Chief Justice of the Supreme Court shall report on a case-by-case basis to the Speaker of the House of Representatives and the President of the Senate all cases where the court entered an order regarding inability to comply with this subparagraph. The legislature may enact legislation to implement this subparagraph.
  - (11) The right to be informed of these rights, and to be informed that victims can seek the advice of an attorney with respect to their rights. This information shall be made available to the general public and provided to all crime victims in the form of a card or by other means intended to effectively advise the victim of their rights under this section.