

CHAPTER 950

RIGHTS OF VICTIMS AND WITNESSES OF CRIME

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Cross Reference: See definitions in s. 939.22.

Cross Reference: See also ch. Jus 12, Wis. adm. code.

950.01 Legislative intent. In recognition of the civic and moral duty of victims and witnesses of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent, in this chapter, to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy and sensitivity; and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors and judges in a manner no less vigorous than the protections afforded criminal defendants.

History: 1979 c. 219.

950.02 Definitions. In this chapter:

(1) Except in sub. (3), "child" means a person who is less than 18 years of age.

(1m) "Crime" means an act committed in this state which, if committed by a competent adult, would constitute a crime, as defined in s. 939.12.

(1t) "Custodial agency" means any person authorized to arrest or take into actual physical custody an individual who is alleged to have committed a crime. "Custodial agency" includes a law enforcement agency, a sheriff, superintendent or other keeper of a jail and a person authorized to take custody of a juvenile under s. 938.19 or 938.20 (4).

(2) "Department" means the department of justice.

(2m) "District attorney" means any of the following:

(a) The district attorney or other person authorized to prosecute a criminal case or a delinquency proceeding under ch. 938.

(b) A person designated by a person specified in par. (a) to perform the district attorney's duties under this chapter.

(3) "Family member" means spouse, minor child, adult child, sibling, parent, or legal guardian.

(3m) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

(4) (a) "Victim" means any of the following:

1. A person against whom a crime has been committed.

2. If the person specified in subd. 1. is a child, a parent, guardian or legal custodian of the child.

3. If a person specified in subd. 1. is physically or emotionally unable to exercise the rights granted under s. 950.04 or article I, section 9m, of the Wisconsin constitution, a person designated by the person specified in subd. 1. or a family member of the person specified in subd. 1.

4. If a person specified in subd. 1. is deceased, any of the following:

a. A family member of the person who is deceased.

b. A person who resided with the person who is deceased.

5. If a person specified in subd. 1. has been adjudicated incompetent in this state, the guardian of the person appointed for him or her.

(b) "Victim" does not include the person charged with or alleged to have committed the crime.

(4m) "Victim and witness office" means an organization or program that provides services for which the county receives reimbursement under this chapter.

(5) "Witness" means any person who has been or is expected to be summoned to testify for the prosecution, or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet been commenced.

History: 1979 c. 219; 1983 a. 197; 1985 a. 311; 1995 a. 77, 310; 1997 a. 35, 181; 1999 a. 32; 2005 a. 387, 419.

950.03 Eligibility of victims. A victim has the rights and is eligible for the services under this chapter only if the crime has been reported to law enforcement authorities.

History: 1979 c. 219; 1991 a. 159.

950.04 Basic bill of rights for victims and witnesses.

(1v) RIGHTS OF VICTIMS. Victims of crimes have the following rights:

(a) To have his or her interest considered when the court is deciding whether to grant a continuance in the case, as provided under ss. 938.315 (2) and 971.10 (3) (b) 3.

(b) To attend court proceedings in the case, subject to ss. 906.15 and 938.299 (1). The court may require the victim to exercise his or her right under this paragraph using telephone or live audiovisual means, if available, if the victim is under arrest, incarcerated, imprisoned or otherwise detained by any law enforcement agency or is admitted or committed on an inpatient basis to a treatment facility under ch. 51, 971 or 980, and the victim does not have a person specified in s. 950.02 (4) (a) 3. to exercise the victim's right under this paragraph.

(bm) To be provided with appropriate intercession services to ensure that employers of victims will cooperate with the criminal justice process and the juvenile justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances.

(c) To be accompanied by a service representative, as provided under s. 895.45.

(d) To request an order for, and to be given the results of, testing to determine the presence of a communicable disease, as provided under ss. 938.296 or 968.38.

(dL) To not be the subject of a law enforcement officer's or district attorney's order, request, or suggestion that he or she submit to a test using a lie detector, as defined in s. 111.37 (1) (b), if he or she claims to have been the victim of a sexual assault under s. 940.22 (2), 940.225, 948.02 (1) or (2), or 948.085, except as permitted under s. 968.265.

(e) To be provided a waiting area under ss. 938.2965 and 967.10.

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- (em) To have his or her interests considered by the court in determining whether to exclude persons from a preliminary hearing, as provided under s. 970.03 (4).
- (f) To have the earned release review commission make a reasonable attempt to notify the victim of applications for parole or release to extended supervision, as provided under s. 304.06 (1).
- (g) To have reasonable attempts made to notify the victim of hearings or court proceedings, as provided under ss. 302.114 (6), 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and 972.14 (3) (b).
- (gm) To have reasonable attempts made to notify the victim of an offender who submits a petition for sentence adjustment as provided under s. 973.195 (1r) (d), an offender who applies for release to extended supervision under s. 302.113 (2) (b), 302.1135, or 304.06 (1), or an offender who applies for a reduction under s. 973.01 (4m).
- (i) To have, at his or her request, the opportunity to consult with intake workers, district attorneys and corporation counsel in cases under ch. 938, as provided under ss. 938.245 (1m), 938.265 and 938.32 (1) (am).
- (j) To have, at his or her request, the opportunity to consult with the prosecution in a case brought in a court of criminal jurisdiction, as provided under s. 971.095 (2).
- (k) To a speedy disposition of the case in which they are involved as a victim in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter.
- (L) To have the district attorney or corporation counsel, whichever is applicable, make a reasonable attempt to contact the victim concerning the victim's right to make a statement, as provided under ss. 938.32 (1) (b) 2., 938.335 (3m) (b) and 972.14 (3) (b).
- (m) To provide statements concerning sentencing, disposition, or parole, as provided under ss. 304.06 (1) (e), 938.32 (1) (b) 1g., 938.335 (3m) (ag), and 972.14 (3) (a).
- (n) To have direct input in the parole decision-making process, as provided by the rules promulgated under s. 304.06 (1) (em).
- (nm) To attend parole interviews or hearings and make statements as provided under s. 304.06 (1) (eg).
- (nt) To attend a hearing on a petition for modification of a sentence and provide a statement concerning modification of the sentence, as provided under s. 302.1135 (4).
- (o) To have information concerning the impact of a delinquent act on the victim included in a court report under s. 938.33 and to have the person preparing the court report attempt to contact the victim, as provided under s. 938.331.
- (p) To have the person preparing a presentence investigation under s. 972.15 make a reasonable attempt to contact the victim, as provided in s. 972.15 (2m).
- (pm) To have the court provided with information pertaining to the economic, physical and psychological effect of the crime upon the victim and have the information considered by the court.
- (q) To restitution, as provided under ss. 938.245 (2) (a) 5., 938.32 (1t), 938.34 (5), 938.345, 943.212, 943.23 (6), 943.245, 943.51 and 973.20.
- (qm) To recompense as provided under s. 969.13 (5) (a).
- (r) To a judgment for unpaid restitution, as provided under ss. 895.035 (2m) and 973.09 (3) (b).
- (rm) To compensation, as provided under subch. I of ch. 949.
- (s) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence, subject to s. 968.205. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, property subject to preservation under s. 968.205, and property the ownership of which is disputed, shall be returned to the person within 10 days of being taken.
- (t) To receive information from law enforcement agencies, as provided under s. 950.08 (2g).
- (u) To receive information from district attorneys, as provided under s. 950.08 (2r).
- (um) To have district attorneys make a reasonable attempt to notify the victim under s. 971.17 (4m) regarding conditional releases under s. 971.17.
- (v) To have the department of corrections make a reasonable attempt to notify the victim under s. 301.046 (4) regarding community residential confinements, under s. 301.048 (4m) regarding participation in the intensive sanctions program, under s. 301.38 regarding escapes from a Type 1 prison, under s. 301.46 (3) regarding persons registered under s. 301.45, under s. 302.105 regarding release upon expiration of certain sentences, under s. 304.063 regarding extended supervision and parole releases, and under s. 938.51 regarding release or escape of a juvenile from correctional custody.
- (vm) To have the appropriate clerk of court send the victim a copy of an inmate's petition for extended supervision and notification of the hearing on that petition under s. 302.114 (6).
- (w) To have the department of corrections make a reasonable attempt to notify the victim under s. 303.068 (4m) regarding leave granted to qualified inmates under s. 303.068.
- (x) To have the department of health services make a reasonable attempt to notify the victim under s. 971.17 (6m) regarding termination or discharge under s. 971.17 and under s. 51.37 (10) regarding home visits under s. 51.37 (10).
- (xm) To have the department of health services make a reasonable attempt to notify the victim under s. 980.11 regarding supervised release under s. 980.08 and discharge under s. 980.09 (4).
- (y) To have reasonable attempts made to notify the victim concerning actions taken in a juvenile proceeding, as provided under ss. 938.24 (5m), 938.25 (2m), 938.312 and 938.346.
- (yd) To have the appropriate clerk of court make a reasonable attempt to send the victim a copy of a motion made under s. 974.07 (2) for postconviction deoxyribonucleic acid testing of certain evidence and notification of any hearing on that motion, as provided under s. 974.07 (4).
- (ym) To have the governor make a reasonable attempt to notify the victim of a pardon application, as provided under s. 304.09 (2) and (3).
- (z) To make a written statement concerning pardon applications, as provided under s. 304.10 (2).
- (zm) To request information from a district attorney concerning the disposition of a case involving a crime of which he or she was a victim, as provided under s. 971.095 (6).
- (zx) To complain to the department of justice concerning the treatment of crime victims, as provided under s. 950.08 (3), and to request review by the crime victims rights board of the complaint, as provided under s. 950.09 (2).
- (2w) RIGHTS OF WITNESSES.** Witnesses of crimes have the following rights:
- (a) To request information from the district attorney about the final disposition of the case.
- (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 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 a waiting area under ss. 938.2965 and 967.10.

(fm) 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 10 days of being taken.

(g) To be provided with appropriate intercession services to ensure that employers of witnesses will cooperate with the criminal justice process and the juvenile justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances.

(h) To be entitled to a speedy disposition of the case in which they are involved as a witness in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter.

History: 1979 c. 219; 1983 a. 102, 364; 1985 a. 311; 1987 a. 332 s. 64; 1989 a. 31; 1997 a. 181, 237, 283; 1999 a. 9, 32, 188; 2001 a. 16, 109; 2003 a. 224; 2005 a. 155, 277, 434, 447; 2007 a. 20 ss. 3863, 9121 (6) (a); 2007 a. 97; 2009 a. 28.

A sentencing court does not abuse its discretion by considering a victim's statements and recommendations. *State v. Johnson*, 158 Wis. 2d 458, 463 N.W.2d 352 (Ct. App. 1990).

950.055 Child victims and witnesses; rights and services. (1) **LEGISLATIVE INTENT.** The legislature finds that it is necessary to provide child victims and witnesses with additional consideration and different treatment than that usually afforded to adults. The legislature intends, in this section, to provide these children with additional rights and protections during their involvement with the criminal justice or juvenile justice system. The legislature urges the news media to use restraint in revealing the identity of child victims or witnesses, especially in sensitive cases.

(2) **ADDITIONAL SERVICES.** In addition to all rights afforded to victims and witnesses under s. 950.04 and services provided under s. 950.06 (1m), counties are encouraged to provide the following additional services on behalf of children who are involved in criminal or delinquency proceedings as victims or witnesses:

(a) Explanations, in language understood by the child, of all legal proceedings in which the child will be involved.

(b) Advice to the judge, when appropriate and as a friend of the court, regarding the child's ability to understand proceedings and questions. The services may include providing assistance in determinations concerning the taking of depositions by audiovisual means under s. 908.08 or 967.04 (7) and (8) and the duty to expedite proceedings under s. 971.105.

(c) Advice to the district attorney concerning the ability of a child witness to cooperate with the prosecution and the potential effects of the proceedings on the child.

(d) Information about and referrals to appropriate social services programs to assist the child and the child's family in coping with the emotional impact of the crime and the subsequent proceedings in which the child is involved.

(3) **PROGRAM RESPONSIBILITY.** In each county, the county board is responsible for the provision of services under this section. A county may seek reimbursement for services provided under this section as part of its program plan submitted to the department under s. 950.06. To the extent possible, counties shall utilize volunteers and existing public resources for the provision of these services.

History: 1983 a. 197; 1985 a. 262 s. 8; 1985 a. 311; 1997 a. 181; 2005 a. 42.
Cross Reference: See also ch. Jus 12, Wis. adm. code.

950.06 Reimbursement for services. (1m) To be eligible for reimbursement under this section for the provision of services to victims and witnesses, a county shall provide all of the following services to victims and witnesses:

(a) Court appearance notification services, including cancellation of appearances.

(b) Victim compensation and social services referrals, including witness fee collection, case-by-case referrals and public information.

(c) Escort and other transportation services related to the investigation or prosecution of the case, if necessary or advisable.

(d) Case progress notification services which may be combined with services under par. (a).

(dm) Assistance in providing the court with information pertaining to the economic, physical and psychological effect of the crime upon the victim of a felony.

(e) Employer intercession services.

(f) Expedited return of property services.

(g) Protection services.

(h) Family support services, including child and other dependent care services.

(i) Waiting facilities.

(2) The costs of providing services under sub. (1m) shall be paid for by the county, but the county is eligible to receive reimbursement from the state for not more than 90% of the costs incurred in providing those services. The department shall determine the level of services for which a county may be reimbursed. The county board shall file a claim for reimbursement with the department. The department shall reimburse counties under this subsection from the appropriation under s. 20.455 (5) (k), (kk) and (kp) and, on a semiannual basis, from the appropriations under s. 20.455 (5) (c) and (g).

(3) The county board shall provide for the implementation of the county's plan under sub. (4). Two or more counties may submit a joint plan under sub. (4).

(4) If the county seeks reimbursement under sub. (2), the county board shall submit a program plan to the department for its approval. The county is eligible for reimbursement under sub. (2) only if the department has approved the plan. The program plan shall describe the level of services to victims and witnesses that the county intends to provide; the personnel or agencies responsible for related administrative programs and individual services; proposed staffing for the program; proposed education, training and experience requirements for program staff and the staff of agencies providing related administrative programs and individual services; the county's budget for implementing the program and other information the department determines to be necessary for its review. The plan shall provide that the district attorney, local law enforcement agencies and the courts shall make available to the person or agency responsible for administering the program all reports or files, except reports or files which are required by statute to be kept confidential, if the reports or files are required by the person or agency to carry out program responsibilities. Each year, the county board shall submit a report to the department on the operation of the plan, including the provision of services under sub. (1m).

(5) The department shall review and approve the implementation and operation of programs and the annual reports under this section. The department may suspend or terminate reimbursement under sub. (2) if the county fails to comply with its duties under this section. The department shall promulgate rules under ch. 227 for implementing and administering county programs approved under this section.

History: 1979 c. 219; 1981 c. 20; 1983 a. 27, 364; 1987 a. 244; 1991 a. 159; 1997 a. 181, 237; 1999 a. 9.

Cross Reference: See also ch. Jus 12, Wis. adm. code.

950.07 Intergovernmental cooperation. The county board, district attorney, local law enforcement agencies, local social service agencies, victim and witness offices and courts shall all cooperate with each other to ensure that victims and witnesses of crimes receive the rights and services to which they are entitled under this chapter.

History: 1979 c. 219; 1995 a. 310.

950.08 Information and mediation services. (1) DUTIES OF DEPARTMENT; TOLL-FREE TELEPHONE NUMBER. The department shall maintain a toll-free telephone number to provide crime victims and witnesses with all of the following services:

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- (a) Information and referral to available services.
- (b) Crisis counseling and emotional support.
- (c) Assistance in securing resources and protection.

(2) DUTIES OF DEPARTMENT; GENERAL INFORMATIONAL PROGRAM. The department shall provide an informational program to inform crime victims, the general public, criminal justice officials and related professionals about crime victim rights and services.

(2g) INFORMATION TO BE PROVIDED BY LAW ENFORCEMENT AGENCIES. No later than 24 hours after a law enforcement agency has initial contact with a victim of a crime that the law enforcement agency is responsible for investigating, the law enforcement agency shall make a reasonable attempt to provide to the victim written information on all of the following:

- (a) A list of the rights of victims under s. 950.04 (1v).
- (b) The availability of compensation under subch. I of ch. 949 and the address and telephone number at which to contact the department for information concerning compensation under subch. I of ch. 949.
- (c) The address and telephone number of the intake worker, corporation counsel or district attorney whom the victim may contact to obtain information concerning the rights of victims and to request notice of court proceedings under ss. 938.27 (4m) and (6), 938.273 (2), 938.299 (1) (am) and 938.335 (3m) (b) or ss. 971.095 (3) and 972.14 (3) (b), whichever is applicable, and to request the opportunity to confer under ss. 938.245 (1m), 938.265 or 938.32 (1) (am) or s. 971.095 (2), whichever is applicable.
- (d) The address and telephone number of the custodial agency that the victim may contact to obtain information concerning the taking into custody or arrest of a suspect in connection with the crime of which he or she is a victim.
- (e) The address and telephone number of the custodial agency that the victim may contact for information concerning release under s. 938.20 or 938.21 or ch. 969, whichever is appropriate, of a person arrested or taken into custody for the crime of which he or she is a victim.

(f) Suggested procedures for the victim to follow if he or she is subject to threats or intimidation arising out of his or her cooperation with law enforcement and prosecution efforts relating to a crime of which he or she is a victim.

(g) The address and telephone number at which the victim may contact the department or any local agency that provides victim assistance in order to obtain further information about services available for victims, including medical services.

(2r) INFORMATION TO BE PROVIDED BY A DISTRICT ATTORNEY IN CRIMINAL CASES. AS SOON AS PRACTICABLE, but in no event later than 10 days after the initial appearance under s. 970.01 or 24 hours before a preliminary examination under s. 970.03, whichever is earlier, of a person charged with a crime in a court of criminal jurisdiction, a district attorney shall make a reasonable attempt to provide to each victim of the crime written information on all of the following:

- (a) A brief statement of the procedure for prosecuting a crime.
- (b) A list of the rights of victims under s. 950.04 (1v) and information about how to exercise those rights.
- (c) The person or agency to notify if the victim changes his or her address and wants to continue to receive notices and services under s. 950.04 or 971.095 (3).
- (d) The availability of compensation under subch. I of ch. 949, including information concerning eligibility for compensation and the procedure for applying for compensation.
- (e) The person to contact for further information about a case involving the prosecution of a crime of which he or she is a victim.

(2s) INFORMATION CONCERNING JUVENILE CASES. Notification of a victim of an act committed by a juvenile concerning the rights of victims under ch. 938 shall be provided as specified in s. 938.346.

(3) DUTIES OF DEPARTMENT; MEDIATION. The department may receive complaints, seek to mediate complaints and, with the con-

sent of the involved parties, actually mediate complaints regarding the treatment of crime victims and witnesses by public officials, employees or agencies or under crime victim and witness assistance programs. The department may act as a liaison between crime victims or witnesses and others when seeking to mediate these complaints and may request a written response regarding the complaint from the subject of a complaint. If asked by the department to provide a written response regarding a complaint, the subject of a complaint shall respond to the department's request within a reasonable time.

History: 1991 a. 39; 1997 a. 181; 2007 a. 20.

950.09 Crime victims rights board. (1) In this section, "board" means the crime victims rights board.

(2) At the request of one of the involved parties, the board may review a complaint made to the department under s. 950.08 (3) regarding a violation of the rights of a crime victim. A party may not request the board to review a complaint under this subsection until the department has completed its action on the complaint under s. 950.08 (3). In reviewing a complaint under this subsection, the board may not begin any investigation or take any action specified in pars. (a) to (d) until the board first determines that there is probable cause to believe that the subject of the complaint violated the rights of a crime victim. Based on its review of a complaint under this subsection, the board may do any of the following:

(a) Issue private and public reprimands of public officials, employees or agencies that violate the rights of crime victims provided under this chapter, ch. 938 and article I, section 9m, of the Wisconsin constitution.

(b) Refer to the judicial commission a violation or alleged violation by a judge of the rights of crime victims provided under this chapter, ch. 938 and article I, section 9m, of the Wisconsin constitution.

(c) Seek appropriate equitable relief on behalf of a victim if such relief is necessary to protect the rights of the victim. The board may not seek to appeal, reverse or modify a judgment of conviction or a sentence in a criminal case.

(d) Bring civil actions to assess a forfeiture under s. 950.11. Notwithstanding s. 778.06, an action or proposed action authorized under this paragraph may be settled for such sum as may be agreed upon between the parties. In settling actions or proposed actions, the board shall treat comparable situations in a comparable manner and shall assure that any settlement bears a reasonable relationship to the severity of the offense or alleged offense. Forfeiture actions brought by the board shall be brought in the circuit court for the county in which the violation is alleged to have occurred.

(3) In addition to its powers under sub. (2), the board may issue reports and recommendations concerning the securing and provision of crime victims rights and services.

(4) Actions of the board are not subject to approval or review by the attorney general.

(5) The board shall promulgate rules establishing procedures for the exercise of its powers under this section.

History: 1997 a. 181.

Cross Reference: See also s. CVRB 1.01, Wis. adm. code.

950.095 Confidentiality of complaints. (1) (a) The records of the department relating to a complaint made under s. 950.08 (3) are confidential unless the subject of the complaint waives the right to confidentiality in writing to the department.

(am) Before a finding of probable cause under s. 950.09 (2), a complaint referred to the crime victims rights board under s. 950.09 (2) is confidential unless the subject of the complaint waives the right to confidentiality in writing to the crime victims rights board.

(b) If a complaint becomes known to the public before the completion of action by the department under s. 950.08 (3) or a finding of probable cause by the crime victims rights board under

s. 950.09 (2), the department or the crime victims rights board, whichever is applicable, may issue statements in order to confirm that a complaint has been made or is being reviewed, to clarify the procedural aspects of actions taken under ss. 950.08 (3) and 950.09 (2), to explain the right of the subject of the complaint to respond to the complaint, to state that the subject of the complaint denies the allegations, if applicable, to state that action under ss. 950.08 (3) and 950.09 (2) has been completed and no basis for the complaint was found or to correct public misinformation.

(1m) In investigating a complaint made under s. 950.08 (3) or being reviewed under s. 950.09 (2), the department or the crime victims rights board, whichever is applicable, shall do all of the following:

(a) Act to avoid unnecessary embarrassment to and publicity for the subject of the complaint.

(b) Request any person contacted for information not to disclose that an investigation is being conducted or the nature of any inquiries made by the department or the crime victims rights board.

(2) This section does not preclude the department or the crime victims rights board from doing any of the following:

(a) Informing the person who made the complaint of the outcome of any action by the department or review by the crime victims rights board.

(b) Referring to the judicial commission information relating to alleged misconduct by or an alleged disability of a judge or court commissioner.

(c) Referring to an appropriate law enforcement authority information relating to possible criminal conduct or otherwise cooperating with a law enforcement authority in matters of mutual interest.

(d) Referring to an attorney disciplinary agency information relating to the possible misconduct or incapacity of an attorney or otherwise cooperating with an attorney disciplinary agency in matters of mutual interest.

(e) Disclosing to the chief justice or director of state courts information relating to matters affecting the administration of the courts.

History: 1997 a. 181.

Cross Reference: See also s. CVRB 1.01, Wis. adm. code.

950.10 Limitation on liability; grounds for appeal.

(1) No cause of action for money damages may arise against the state, any political subdivision of the state or any employee or agent of the state or a political subdivision of the state for any act or omission in the performance of any power or duty under this chapter or under article I, section 9m, of the Wisconsin constitution or for any act or omission in the performance of any power or duty under ch. 938 relating to the rights of, services for or notices to victims.

(2) A failure to provide a right, service or notice to a victim under this chapter or ch. 938 or under article I, section 9m, of the Wisconsin constitution is not a ground for an appeal of a judgment of conviction or sentence and is not grounds for any court to reverse or modify a judgment of conviction or sentence.

History: 1997 a. 181.

950.11 Penalties. A public official, employee or agency that intentionally fails to provide a right specified under s. 950.04 (1v) to a victim of a crime may be subject to a forfeiture of not more than \$1,000.

History: 1997 a. 181.

938.346 Notice to victims of juveniles' acts. (1) INFORMATION

TO VICTIMS. Each known victim of a juvenile's act shall receive timely notice of the following information:

(a) The procedures under s. 938.396 (1) (c) 5. and 6. for obtaining the identity of the juvenile and the juvenile's parents.

(b) The procedure under s. 938.396 (1) (c) 5. for obtaining the juvenile's police records.

(c) The potential liability of the juvenile's parents under s.

895.035. (d) Either of the following:

1. Information regarding any decision to close a case under s. 938.24 (5m), any deferred prosecution agreement under s. 938.245, any decision not to file a petition under s. 938.25 (2m), any consent decree under s. 938.32 or any dispositional order under ss. 938.34 to 938.345. The information may not include reports under s. 938.295 or 938.33 or any other information that deals with sensitive personal matters of the juvenile and the juvenile's family and that does not directly relate to the act or alleged act committed against the victim. This subdivision does not affect the right of a victim to attend any hearing that the victim is permitted to attend under s. 938.299 (1) (am).

2. The procedure for obtaining the information in subd. 1.

(e) The procedure under s. 938.296 under which the victim, if an adult, or the parent, guardian or legal custodian of the victim, if the victim is a child, may request an order requiring a juvenile who is alleged to have violated s. 940.225, 948.02, 948.025, 948.05, 948.06, or 948.085 (2) to submit to a test or a series of tests to detect the presence of HIV, as defined in s. 252.01 (1m), antigen or nonantigenic products of HIV, an antibody to HIV or a sexually transmitted disease, as defined in s. 252.11 (1), and to have the results of that test or series of tests disclosed as provided in s. 938.296 (4) (a) to (e).

(ec) The procedure under s. 938.296 under which the victim, if an adult, or the parent, guardian or legal custodian of the victim, if the victim is a child, may request an order requiring a juvenile who is alleged to have violated s. 946.43 (2m) to submit to a test or a series of tests to detect the presence of communicable diseases and to have the results of that test or series of tests disclosed as provided in s. 938.296 (5) (a) to (e).

(em) The right to confer, if requested, with an intake worker regarding deferred prosecution agreements under s. 938.245 (1m) or with a district attorney or corporation counsel under s. 938.265 regarding the possible outcomes of the proceedings and under s. 938.32 (1) (am) regarding consent decrees.

(f) The right to request and receive notice of the time and place of any hearing that the victim may attend under s. 938.299 (1) (am).

(fm) All of the following:

1. The right to a separate waiting area as provided under s. 938.2965.

2. The right to have his or her interest considered concerning continuances in the case under s. 938.315 (2)

3. The right to have victim impact information included in a court report under s. 938.33 and to have the person preparing the court report attempt to contact the victim, as provided under s. 938.331.
4. The right to employer intercession services under s. 950.04 (1v) (bm).
- (g) The right to make a statement to the court as provided in ss. 938.32 (1) (b) and 938.335 (3m).
- (h) All of the following:
 1. The right to be accompanied by a service representative, as provided under s. 895.45.
 2. The right to restitution, as provided under ss. 938.245, 938.32 (1t) and 938.34 (5).
 3. The right to compensation, as provided under subch. I of ch. 949.
 4. The right to a speedy disposition of the case under s. 950.04 (1v) (k).
 5. The right to have personal property returned, as provided under s. 950.04 (1v) (s).
 6. The right to complain to the department of justice concerning the treatment of crime victims, as provided under s. 950.08 (3), and to request review by the crime victims rights board of the complaint, as provided under s. 950.09 (2).

(1m) DUTIES OF INTAKE WORKERS AND DISTRICT ATTORNEYS.

The intake worker shall make a reasonable attempt to provide notice of the information under sub. (1) (a), (b), (c), and (h), the information under sub. (1) (d) relating to a deferred prosecution agreement under s. 938.245, the information under sub. (1) (em) relating to the right to confer, if requested, on deferred prosecution agreements and the information under sub. (3) if the juvenile's case is closed. The district attorney or corporation counsel shall make a reasonable attempt to provide notice of the information under sub. (1) (e), (ec), (f), (fm), and (g), the information under sub. (1) (d) relating to a consent decree under s. 938.32 or a dispositional order under ss. 938.34 to 938.345, the information under sub. (1) (em) relating to the right to request an opportunity to confer, if requested, on amendment of petitions, consent decrees and disposition recommendations and the information under sub. (3) if he or she decides not to file a petition or the proceeding is terminated without a consent decree or dispositional order after the filing of a petition.

(2) RESTRICTIONS ON DISCLOSURE OF INFORMATION. The notice under sub. (1) shall include an explanation of the restrictions on disclosing information obtained under this chapter and the penalties for violating the restrictions.

(3) CLOSED CASES. If an inquiry is closed by an intake worker or otherwise does not result in a deferred prosecution agreement, the intake worker shall make a reasonable attempt to inform each known victim of the juvenile's alleged act as provided in s. 938.24 (5m). If a district attorney or corporation counsel decides not to

file a petition or if, after a petition is filed, a proceeding is dismissed or otherwise does not result in a consent decree or dispositional order, a district attorney or corporation counsel shall make a reasonable attempt to inform each known victim of the juvenile's alleged act as provided in s. 938.25 (2m) or 938.312, whichever is applicable.

(4) CHILD VICTIMS. If the victim, as defined in s. 938.02 (20m) (a) 1., is a child, the notice under this section shall be given to the child's parents, guardian or legal custodian.

(5) COURT POLICIES AND RULES. Chief judges and circuit judges shall establish by policy and rule procedures for the implementation of this section. Subject to subs. (1m) and (3), the policies and rules shall specify when, how and by whom the notice under this section shall be provided to victims and with whom victims may confer regarding deferred prosecution agreements, amendment of petitions, consent decrees and disposition recommendations.

History: 1995 a. 77; 1997 a. 181, 205; 1999 a. 188; 2005 a. 155, 277, 344; 2007 a. 20.

938.265 Consultation with victims. In a case in which the juvenile is alleged to be delinquent under s. 938.12 or to be in need of protection or services under s. 938.13 (12), the district attorney or corporation counsel shall, as soon as practicable but before the plea hearing under s. 938.30, offer all of the victims of the juvenile's alleged act who have so requested an opportunity to confer with the district attorney or corporation counsel concerning the possible outcomes of the proceeding against the juvenile, including potential plea agreements and recommendations that the district attorney or corporation counsel may make concerning dispositions under s. 938.34 or 938.345. The duty to offer an opportunity to confer under this section does not limit the obligation of the district attorney or corporation counsel to exercise his or her discretion concerning the handling of the proceeding against the juvenile.

History: 1997 a. 181; 2005 a. 344.

938.331 Court reports; effect on victim. If the delinquent act would constitute a felony if committed by an adult, the person preparing the report under s. 938.33 (1) shall attempt to determine the economic, physical and psychological effect of the delinquent act on the victim, as defined in s. 938.02 (20m) (a) 1. and 4. The person preparing the report may ask any appropriate person for information. This section does not preclude the person who prepares the report from including any information for the court concerning the impact of a delinquent act on the victim. If the delinquent act would not constitute a felony but a victim, as defined in s. 938.02 (20m) (a) 1., has suffered bodily harm or the act involved theft or damage to property, the person preparing the report is encouraged to seek the information described in this section.

History: 1995 a. 77; 1997 a. 181.