



# VICTIMS RIGHTS

In California victims of crime have state constitutional standing and rights, guaranteeing that their voices will be heard. Victims of crimes also have statutory rights.

## **Constitutional Rights: Victims' Bill of Rights Act of 2008 – Marsy's Law**

On November 4, 2008, the People of the State of California approved Proposition 9, the Victim's Bill of Rights Act of 2008 known as Marsy's Law, a measure that amended the California Constitution to include a Bill of Rights for crime victims in California. The amendment provides victims with rights and access to justice. These constitutional rights are:

1. To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.
2. To be reasonably protected from the defendant and persons acting on behalf of the defendant.
3. To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.
4. To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.
5. To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.
6. To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.
7. To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.
8. To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.
9. To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.

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10. To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.
11. To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.
12. To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.
13. To restitution.
  - a. It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.
  - b. Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.
  - c. All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.
14. To the prompt return of property when no longer needed as evidence.
15. To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.
16. To have the safety of the victim, the victim's family, and the general public considered before any parole or other post- judgment release decision is made.
17. To be informed of the rights enumerated in paragraphs (1) through (16).



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## Statutory Rights of Victims and Witnesses

Victims and witnesses of crime are entitled to statutory rights under Penal Code, section 679.02. They include:

1. To be notified as soon as feasible that a court proceeding to which they have been subpoenaed will not proceed as scheduled;
2. To request to be informed by the prosecuting attorney about the final disposition of the case;
3. To be notified of all sentencing proceedings juvenile disposition hearings, including their right to express their views;
4. To request to be notified of parole eligibility hearings and the right to appear and express their views;
5. To request to be notified about an inmate's placement in a reentry or work furlough program or the inmate's escape;
6. To be notified that a witness may be entitled to witness fees and mileage;
7. For a victim, to be provided with information about a victim's right to civil recovery and the opportunity to be compensated from the Restitution Fund;
8. To the expeditious return of stolen or embezzled property when it is no longer needed;
9. To the expeditious disposition of the criminal action;
10. To be notified in accordance with the law if the defendant is to be placed on parole;
11. Upon request, to be notified of any pretrial disposition of the case;
12. To request to be notified if a defendant is convicted of enumerated sex offenses;
13. When a victim has requested notification of a defendant's conviction of enumerated sex offenses, the sheriff shall inform the victim if the defendant has been placed on probation and must give the victim notice of the proposed date of release;
14. To be notified of the availability of community-based restorative justice programs and processes available to them.

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