**Rights for Victims in Indiana**

**§ 35-40-4-8 – “Victim”**

"Victim" means a person that has suffered harm as a result of a crime that was perpetrated directly against the person. The term does not include a person that has been charged with a crime arising out of the same occurrence.

**§ 35-40-5-1 Right to fairness, dignity, and respect; freedom from intimidation, harassment, and abuse**

Sec. 1. A victim has the right to be:

(1) treated with fairness, dignity, and respect; and

(2) free from intimidation, harassment, and abuse;

throughout the criminal justice process.

**§ 35-40-5-2 – Release or escape from custody of perpetrator**

(a) A victim has the right to be informed, upon request, when a person who is:

(1) accused of committing; or

(2) convicted of committing; a crime perpetrated directly against the victim is released from custody or has escaped.

(b) Whenever a person accused or convicted of committing a crime is released or escapes from the custody of a mental health treatment agency or a hospital that is not operated by a county sheriff or the department of correction, the court committing the accused or convicted person to the mental health treatment agency or hospital shall carry out this section to inform the victim of the release or escape. The mental health treatment agency or hospital shall provide the court with sufficient information about the release or escape to allow the court to carry out this section.

**§ 35-40-5-3 – Right to confer with prosecutor's office**

(a) This section applies if either of the following has occurred:

(1) The alleged felony or delinquent act that would have been a felony if committed by an adult was directly perpetrated against the victim.

(2) The alleged felony, misdemeanor, or delinquent act that would have been a felony or misdemeanor if committed by an adult was:

(A) a violation of IC 35-42-2 (offenses against the person), IC 35-45-2- 1 (intimidation), IC 35-45-2-2 (harassment), IC 35-46-1-15.1 (invasion of privacy), or IC 35-47-4-3 (pointing a firearm); and

(B) directly perpetrated against the victim by a person who:

(i) is or was a spouse of the victim;

(ii) is or was living as if a spouse of the victim; or

(iii) has a child in common with the victim.

(3) The alleged misdemeanor or delinquent act that would have been a misdemeanor if committed by an adult, other than a misdemeanor described in subdivision (2), was directly perpetrated against the victim, and the victim has complied with the notice requirements under IC 35-40-10.

(b) A victim has the right to confer with a representative of the prosecuting attorney's office:

(1) after a crime allegedly committed against the victim has been charged;

(2) before the trial of a crime allegedly committed against the victim; and

(3) before any disposition of a criminal case involving the victim.

**§ 35-40-5-4 – Consideration of victim's safety**

A victim has the right to have the victim's safety considered in determining release from custody of a person accused of committing a crime against the victim.

**§ 35-40-5-5 – Right to be heard at sentencing or release**

A victim has the right to be heard at any proceeding involving sentencing, a postconviction release decision, or a pre-conviction release decision under a forensic diversion program.

**§ 35-40-5-6 – Presentence reports**

(a) A victim has the right to make a written or oral statement for use in preparation of the presentence report.

(b) Notwithstanding IC 35-38-1-13, the victim has the right to read presentence reports relating to the crime committed against the victim, except those parts of the reports containing the following:

(1) The source of confidential information.

(2) Information about another victim.

(3) Other information determined confidential or privileged by the judge in a proceeding.

The information given to the victim must afford the victim a fair opportunity to respond to the material included in the presentence report.

**§ 35-40-5-7 – Order of restitution**

A victim has the right to pursue an order of restitution and other civil remedies against the person convicted of a crime against the victim.

**§ 35-40-5-8 – Right to information about criminal case or perpetrator**

A victim has the right to information, upon request, about the disposition of the criminal case involving the victim or the conviction, sentence, and release of a person accused of committing a crime against the victim.

**§ 35-40-5-9 – Right to be informed of victim's rights**

A victim has the right to be informed of the victim's constitutional and statutory rights.

**§ 35-40-5-11 Defense counsel interviews; rights of certain child victims of a sex offense**

Sec. 11. (a) This section applies only to a child less than sixteen (16) years of age who is the victim or alleged victim of a sex offense (as defined in IC 11-8-8-5.2).

(b) As used in this section, “defense counsel” includes an agent of:

(1) the defense counsel; or

(2) the defendant.

(c) After charges are filed against a defendant, if defense counsel would like to interview a child described in subsection (a), the defendant or defense counsel must contact the prosecuting attorney. The child has the right under section 3 of this chapter to confer with the prosecuting attorney before the interview occurs. The prosecuting attorney may not instruct the child not to speak with defense counsel.

(d) If the parties are unable to agree to the terms of the interview, the parties may petition the court for a hearing on the terms of the interview prior to the interview taking place. The court shall review the terms suggested by the parties and consider the age of the child, any special considerations, and the rights of victims provided by IC 35-40-5-1 in setting reasonable terms for the interview.

**§ 35-40-6-2 – Victims to be treated with dignity**

A prosecuting attorney shall provide that:

(1) victims are treated with dignity, respect, and sensitivity at all stages of the criminal justice process; and

(2) the rights of victims are protected.

**§ 35-40-6-6 – Threat of harm to victim**

If:

(1) a victim submits to the prosecuting attorney an affidavit asserting:

(A) that an act or threat of physical violence or intimidation has been made against the victim or the immediate family of the victim; and

(B) that the act or threat described in clause (A) has been made by the defendant or at the direction of the defendant; and

(2) the prosecuting attorney has reason to believe the allegations in the affidavit are true and warrant the filing of a motion for bond revocation; the prosecuting attorney shall file a motion under IC 35-33-8-5 requesting the court to revoke the defendant's bond or order for personal recognizance.

**§ 35-40-6-7 – Notification requested by victim**

If the defendant is convicted, and upon the victim's request, the victim shall be notified, if applicable, of the following:

(1) The function of the presentence report.

(2) The name and telephone number of the probation department that is preparing the presentence report.

(3) The right to make a victim impact statement under IC 35-38-1-8.5.

(4) The defendant's right to review the presentence report.

(5) The victim's right to review the presentence report, except those parts excised by the court or made confidential by IC 35-40-5-6.

(6) The victim's right to be present and heard at any sentencing procedure under IC 35-40-5-5.

(7) The time, place, and date of the sentencing proceeding.

**§ 35-40-6-8 – Request form for revocation of bond**

The prosecuting attorney or a victim assistance program shall advise a victim on how the request form completed under section 6 of this chapter may be filed with the appropriate agencies and departments.

**§ 35-40-6-9 – Contract between victim and probation department**

(a) Notice provided under this chapter does not relieve a probation department of responsibility under IC 35-38-1-8.5 to initiate the contact between a victim and the probation department concerning the consequences suffered by the victim as a result of the crime. (b) At the time of contact with a victim, a probation department shall advise the victim of the date, time, and place of sentencing and of the victim's right to be present and to be heard at the proceeding.

**§ 35-40-6-10 – Victim to be informed of status of case**

If a person convicted of a crime against the victim seeks appellate review or attacks the person's conviction or sentence, the prosecuting attorney or the office of the attorney general, whichever is appropriate, shall inform the victim, upon request, of the status of the case and of the decision of the court.

**§ 35-40-7-1 – Responsibility of law enforcement agency with custody**

The law enforcement agency having custody of a person accused of committing a crime against a victim shall notify the victim if the accused person escapes from the custody of the law enforcement agency.

**§ 35-40-7-2 – Notice of bond hearing, escape, or release upon victim’s request**

Upon request of a victim, the office of the prosecuting attorney having jurisdiction or a law enforcement agency having custody of a person accused of a crime against the victim shall notify the victim of the scheduling of a bond hearing, the escape or death of a person accused of committing a crime against the victim, release of a person convicted of a crime against the victim to a work release program, or any other type of postarrest release of a person convicted of a crime against the victim.

**§ 35-40-7-3 – Notice; timing**

A notice under this chapter must be given by a law enforcement agency that has custody of the person at the time of the escape or release to a victim:

(1) before the person is released by the law enforcement agency, if possible; or

(2) as soon as practicable after the person escapes or has been released by the law enforcement agency.