WEST VIRGINIA CODE: §61-11A-6

§61-11A-6. State guidelines for fair treatment of crime victims and witnesses in the criminal justice system.

(a) No later than July 1, 1984, the Attorney General shall promulgate rules and regulations in accordance with the provisions of chapter twenty-nine-a of this code, establishing guidelines for law-enforcement agencies and prosecuting attorneys' offices consistent with the purposes of this article. The Attorney General shall seek the advice of the West Virginia State Police and Department of Human Services and the Department of Health in preparing such rules and regulations. In preparing such rules and regulations, the following objectives shall be considered:

(1) The arresting law-enforcement agency should ensure that victims routinely receive emergency social and medical services as soon as possible and are given information on the following:

(A) Availability of crime victim compensation (where applicable);

(B) Community-based victim treatment programs;

(C) The role of the victim in the criminal justice process, including what they can expect from the system as well as what the system expects from them; and

(D) Stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained.

(2) The prosecuting attorney or his or her assistant should ensure that victims and witnesses receive information on steps that law-enforcement officers and prosecuting attorneys can take to protect victims and witnesses from intimidation.

(3) All victims and witnesses who have been scheduled to attend criminal justice proceedings should be notified by the prosecuting attorneys' offices as soon as possible of any scheduling changes which will affect their appearances.

(4) Victims, witnesses, one member of the immediate family and any adult household member residing with the victim should, if such persons provide the appropriate official with a current address and telephone number, receive prompt advance notification, if possible, of judicial proceedings relating to their case, from the prosecuting attorney's office, including:

(A) The arrest of an accused;

(B) The initial appearance of an accused before a judicial officer;

(C) The release of the accused pending judicial proceedings; and

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(D) Proceedings in the prosecution of the accused including, but not limited to, the entry of a plea of guilty, trial, sentencing and, where a term of imprisonment is imposed, the release of the accused from such imprisonment.

(5) The victim of a serious crime, or in the case of a minor child or a homicide the family of the victim, shall be consulted by the prosecuting attorney in order to obtain the views of the victim or family about the disposition of any criminal case brought as a result of such crime, including the views of the victim or family about:

(A) Dismissal;

(B) Release of the accused pending judicial proceedings;

(C) Plea negotiations; and

(D) Pretrial diversion program.

(6) Victims and other prosecution witnesses should be provided a waiting area that is separate from all other witnesses prior to court appearances, if feasible.

(7) Law-enforcement agencies should promptly return victims' property held for evidentiary purposes unless there is a compelling law-enforcement reason for retaining it.

(8) A victim or witness who so requests should be assisted by law-enforcement agencies and prosecuting attorneys in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of cooperation with law-enforcement agencies or attorneys for the government, is subjected to serious financial strain should be assisted by the appropriate state agencies in dealing with creditors.

(b) Nothing in this section shall be construed as creating a cause of action against the State of West Virginia or any of its political subdivisions.

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