

UNO/UNMC GENDER AND SEXUALITY RESOURCE CENTER VICTIM AND SURVIVOR BILL OF RIGHTS

Below is a summary of the basic rights for victim and survivors of sexual assault, domestic violence, dating violence, and stalking crimes. The rights below are afforded to survivors by law through the Sexual Assault Victim's Bill of Rights Act (Neb. Rev. Stat. § 29-4308 - 29-4315) and Crime Victim's Rights (Neb. Rev Stat. § 81-1848). A survivor has these rights regardless of their participation in the criminal legal process. Survivors have specific rights during the medical examination process, collection of forensic evidence, interviews, depositions, and court proceedings.

For the purpose of the UNO/UNMC Gender and Sexuality Resource Center Victim and Survivor Bill of Rights:

1. Advocates serve the needs of victims and survivors of sexual assault, dating/domestic violence, and stalking. This includes those who are directly experiencing violence or friends or family members trying to offer the survivor support. Advocates provide affirming, empowering, and confidential support for survivors and bring a nonjudgmental, caring approach to exploring all options and resources.
2. Health care provider is an individual or business that provides health care services.
3. Peace officer is a law enforcement officer.
4. Forensic examination is an examination performed by a health care provider after a sexual assault in order to collect evidence that can later be used in court.
5. Restitution refers to a judge ordering a defendant to return property or money to a victim in the event of a conviction or any loss of income, property, etc.
6. Conviction is a decision made in a court of law, either by a judge or jury, that an individual is guilty of a crime.
7. Medical evidentiary procedure is an examination performed by a health care provider after a sexual assault in order to collect evidence that can later be used court.
8. Best practices are professional procedures that are deemed as being correct and/or effective.
9. Legal process is the procedure followed in a criminal case or civil lawsuit.
10. Impact statement is a statement given by a crime victim during a court proceeding discussing how the crime committed by the defendant has harmed them and/or their family.
13. Case disposition refers to a case being settled or resolved, often by the defendant being found either guilty or not guilty.

14. Sequestered refers to a witness not being present in the courtroom, so that they cannot hear the testimony of other witnesses in order to prevent their own testimony from being impacted by that of another witness.
15. Conditional release refers to a period of time after an individual has been released from prison or custody, in which they are still monitored by law enforcement.
17. Presentence investigation report assists a judge in the sentencing of a crime.
18. Board of Parole is a panel that determines parole eligibility, sets conditions of release, and revokes parole when conditions are violated.
19. A writ of subpoena requires an individual to appear in court and face a penalty if they refuse to appear.
20. Employer intercession services ensure that employers of victims, survivors of victims, and witnesses of crime will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearance.

You have the right:

A survivor shall be notified of these rights upon initial interaction with a health care provider or peace officer and prior to any medical examination or participation in the legal process. These rights shall be relayed through information that is easy to understand, accessible to persons with visual disabilities and available in all major languages spoken in the state. These rights shall be relayed to the survivor throughout the entirety of their legal and/or medical process. Should you have questions, concerns, or feel one of these rights has been violated, please speak with your UNO/UNMC Advocate.

(* Indicates a right that is already a guaranteed right to all victims of crime)

The following are the rights of which a survivor should be made aware of and resources they should be provided:

1. A survivor is not required to participate in the criminal justice process, have a medical evidentiary exam, or forensic exam. A survivor still has the same rights even without participation in the criminal justice process.
2. A survivor shall be provided with the contact information of relevant services provided by professionals within the fields of domestic violence and sexual assault, including advocates.
3. A survivor has a right to know the state and federal relief available to victims of crimes.
4. A survivor shall be provided with details regarding how to request information regarding their forensic evidence.
5. A survivor has the right to state and federal compensation funds for medical and other costs associated with sexual assault, such as restitution, or compensation for injury, in the event of a conviction. More information can be found through the Nebraska Crime Victim's Reparations Program.

1. Rights to Medical Care

- A survivor has the right to consult with and have an advocate present during a medical evidentiary procedure. The health care provider shall contact an advocate prior to the beginning of the exam.
- A survivor may choose to ask for an advocate at any point in the process, even if they have declined one previously.
- A survivor has the right to health care and medical examinations that are age-appropriate and in accordance with best practices.
- A survivor has the right to a free forensic medical examination whether they choose to move forward with the legal process.
- A survivor has a right to shower at no cost after an exam should the facilities have that the resources.
- A survivor has the right to confidential communication throughout the medical forensic exam.
- A survivor has a right to report anonymously.
- A survivor has a right to not be discouraged by a peace officer, prosecutor, or defense attorney from seeking a medical examination.
- A survivor between the ages of three and eighteen has the right to a forensic interview with a child advocacy center.

2. Rights to Forensic Evidence

- A survivor has the right to the timely analysis of their sexual assault forensic evidence.
- A survivor has the right for their health care provider to contact law enforcement within a timely manner to pick up forensic evidence.
- A survivor has the right to have their forensic evidence retained for the longest amount of time established by law.
- If a survivor did not report the assault anonymously, then they have a right to contact the investigating law enforcement agency and to be provided with information on the status of the processing and analysis of their sexual assault forensic evidence.
- Upon request, a survivor has the right to be informed by the investigating law enforcement agency if the results of analysis of forensic evidence yielded a DNA profile and whether the analysis yielded a DNA match, so long as such information would not interfere with the investigation or prosecution of the case.
- A survivor has the right to inspect or request copies of law enforcement reports regarding their sexual assault at the case's conclusion.
- A survivor has the right to have the results of their sexual assault forensic evidence uploaded to the appropriate DNA data bases as the law allows.
- A survivor has the right to not have their evidence used for the prosecution of any misdemeanor or any crime under the Uniform Controlled Substances Act.

3. Rights for Interviews Law Enforcement, Prosecutors or Defense Attorneys

- A survivor has a right to have an advocate present during an interview or deposition unless one cannot appear in a timely manner.

- A survivor has the right to be informed of their rights throughout the process.
- A survivor has a right to be interviewed by a peace officer of the gender that they choose if that request can be reasonably accommodated.
- A survivor has a right to be interviewed by a peace officer that speaks their preferred language or be provided with an interpreter if that request can be reasonably accommodated.
- A survivor has a right to counsel. This does not mean that counsel will be appointed to them or paid for by the state. However, the treatment of a survivor should not be altered in any way if they choose to not exercise their right to counsel.
- A survivor has a right to have an attorney present throughout all stages of an interview, deposition, investigation, or other interaction with representatives from the legal or criminal justice systems.

4. Rights in Court

- A survivor has the right to be protected from harm or threats that arise from their cooperation with law enforcement and be provided with information as to the level of protection available. *
- A survivor has the right to submit a written impact statement at the sentencing proceeding or to read their impact statement. *
- A survivor has a right to be provided with a safe waiting area, whenever possible, away from defendants or family and friends of defendants. *
- A survivor has the right to a speedy disposition of the case. *
- A survivor has the right to be present throughout the entire trial of the defendant, unless the survivor is to be called as a witness or needs to be sequestered for purposes of the trial. *
- A survivor has the right to submit a written statement for consideration at any conditional release proceedings. *

5. Rights to Public Information

- A survivor has the right to examine information that is a matter of public record and collected by criminal justice agencies on individuals. This consists of identifiable descriptions and notations of issuance of arrest warrants, arrests, detentions, indictments, charges by information, and other formal criminal charges. *
- A survivor has the right to not have any personal identifying information, other than the victim's name, be disclosed in documents that may appear to the public. *

6. Rights to Notification

- A survivor has the right to be notified about the crimes for which the defendant is charged and convicted, the defendant's bond, the time and place of any scheduled court proceedings, and final decision of the case. *
- A survivor has a right to receive reasonable notice of any scheduled court proceedings and notice of any schedule changes. *

- A survivor has the right to be notified that the presentence investigation report and any statement by the survivor included in the report will be made available to the defendant, unless made exempt from disclosure by order of the court.*
- A survivor has the right to be notified in order to testify before the Board of Parole or submit a written statement for consideration by the board, and to be notified of the decision of and any action made by the board. *
- A survivor has the right to be notified of any further judicial proceedings if the defendant is cleared on the grounds of insanity. *
- A survivor has a right to be informed of any writs of subpoena or notices to appear that they are entitled to apply for and may receive a witness fee. *
- A survivor has that right to be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled. *
- A survivor has the right to be informed of the requirements to apply for and receive any witness fee to which they are entitled. *
- A survivor has the right to be informed of the final disposition of a felony case in which they were involved and to be notified whenever the defendant, in the case, is released from custody. *
- A survivor has a right to make a written or oral impact statement to be used in the probation officer's investigation report. A victim has the right to be provided with the address and telephone number of the probation office that prepares the investigation report. *

7. Right to Services

- A survivor has the right to be informed of financial assistance and other social services available as a result of being a witness or victim of a crime. *
- A survivor has the right to have any stolen or other personal property returned by law enforcement when it is no longer needed for evidence. Exclusions include weapons, currency, contraband, and items subject to evidentiary analysis. *
- A survivor has the right to be provided with appropriate employer intercession services. *

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