

## New Mexico Victims' Rights Pro Se Questionnaire, Instructions and Court Form.

### **Disclaimer**

The DWI Resource Center (Center) provides legal information that should not be considered legal advice. The Center informs you of the law and your rights as a victim, but does not advise you what course of action to take for your particular situation.

If you need legal advice for your specific problem, or if your specific problem is too complex to be addressed by our form, you should consult a licensed attorney.

By using this form, no attorney-client relationship will be created with the Center. Instead, you are representing yourself (pro se) in the criminal court proceeding through the use of this document at your discretion.

### **NM Constitution and Laws**

Years ago, crime victims had no rights in the criminal justice system. They could be, and often were, kept out of criminal proceedings. More often than not, victims learned about their own cases through the media, right along with the general public. The demand for a remedy grew strong and in 1987 the first New Mexico Victims' Rights laws were enacted. In 1992, the citizens voted to adopt a Constitutional Amendment giving certain crime victims Constitutional Rights and enabling laws were passed 1994.

New Mexico's Victims' Rights include:

- the right to be treated with fairness and respect for the victim's dignity and privacy throughout the criminal justice process;
- the right to timely disposition of the case;
- the right to be reasonably protected from the accused throughout the criminal justice process;
- the right to notification of court proceedings;
- the right to attend all public court proceedings the accused has the right to attend;
- the right to confer with the prosecution;
- the right to make a statement to the court at sentencing and at any post-sentencing hearings for the accused;
- the right to restitution from the person convicted of the criminal conduct that caused the victim's loss or injury;
- the right to information about the conviction, sentencing, imprisonment, escape or release of the accused;

- the right to have the prosecuting attorney notify the victim's employer, if requested by the victim, of the necessity of the victim's cooperation and testimony in a court proceeding that may necessitate the absence of the victim from work for good cause;
- the right to promptly receive any property belonging to the victim that is being held for evidentiary purposes by a law enforcement agency or the prosecuting attorney, unless there are compelling evidentiary reasons for retention of the victim's property;
- The right to be informed by the court (at sentencing) of meritorious deductions from an offender's sentence.

To learn more about your rights under the current law in New Mexico, we invite you to read the New Mexico Constitution and Statutes:

[Constitution of the State of New Mexico](#), Adopted January 21, 1911  
Article II Bill of Rights: Sec 24. [Victims' Rights] (1992)

[Statutory Chapters in New Mexico Statutes Annotated 1978:](#)  
Chapter 31 Criminal Procedure: Article 26 Victims of Crime: 31-26-4. Victims' Rights. (2005)

## Questionnaire

In order to determine if you can use the pro se form you need to answer the following questions. If you can answer all of the questions "yes" you may use the form to let the criminal court know that you are a victim of crime and want to assert your constitutional and statutory rights.

**Question #1:** Have you been a victim of crime?

OR

Has your minor child been a victim of a crime?

OR

Are you the spouse, child, sibling, parent or grandparent of a minor victim, a homicide victim, or a victim who is incompetent?

**Question #2:** Has someone been charged with the crime?

If yes, is the crime charged on this list?

- Arson resulting in death or great bodily injury
- Aggravated arson
- Aggravated assault
- Aggravated battery
- Dangerous use of explosives
- Negligent use of a deadly weapon
- Murder
- Voluntary manslaughter

- Involuntary manslaughter
- Kidnapping
- Criminal sexual penetration
- Criminal sexual contact of a minor
- Armed robbery
- Homicide by vehicle
- Great bodily injury by vehicle
- Abandonment of a child
- Abuse of a child
- Stalking
- Aggravated stalking
- Aggravated assault against a household member
- Assault against a household member
- Battery against a household member
- Aggravated battery against a household member

**Question #3** Do you want the prosecutor, judge and defense attorney to be on notice that you know your rights and wish to assert them?

**\*Question #4** Do you think you can safely participate in this process?

For example, you will need to provide your contact phone and address information on the form. You might be at risk if this information becomes known by the defendant or someone else with access to the form.

\*If you have concerns for your safety you should contact us or an attorney to discuss the best way to proceed.

If you answered **yes** to all **four** questions, you may use the pro se notice form to assert certain rights you may have under New Mexico law. If you wish to file such a Notice in the criminal proceedings that involve the crime against you, please proceed to the pro se form instructions and form (see below).

**NOTE:** The law in New Mexico does not protect all victims of crime. We, at the Center, believe that every crime victim should have these rights, and support legislative change to the Victims' of Crime Act (N.M.S.A. §§ 31-26-1 et seq.) to include protections for all victims. Even if you were not a victim of one of the listed crimes, please contact our office or other service providers listed on our website under "resources" to seek support while you are dealing with the criminal justice process, or any other matter happening as a result of the crime.

If you do not have internet access and wish to receive this information via the USPS (mail) please call us at 505-881-1084.

## Instructions for pro se form asserting victims' rights

### **DISCLAIMER: This form in no way is intended to be legal advice**

1. Fill in the name of the court that will hear the criminal prosecution. You may be able to locate the court name on information given to you by the District Attorney's office. Prosecutions for crimes against victims with rights occur either in Magistrate Court or District Court.
2. Fill in the county where the crime is being prosecuted.
3. Fill in the defendant's name.
4. Fill in the case number on the designated line. You can look up the case number at [www.nmcourts.gov](http://www.nmcourts.gov) under "Case Lookup." If you know the name of the defendant, that is one way to find the case number. You can also contact the court clerk. Clerk contact information can be found either at [www.nmcourts.gov](http://www.nmcourts.gov) or through the phone listing. If you don't have a computer, most public libraries have computers with internet access where you can get this information.
5. Sign your name on the notice form just below "Respectfully submitted." Print your name, address, and telephone number where indicated.

**IMPORTANT NOTE: Your phone number and address will be public record when filed with the court. This means that anyone can access the information, including the defendant. If you think you might be at risk if you complete this information, you should find another way to file the notice.**

One resource for some victims is New Mexico's Confidential Address Program (CAP). CAP provides services to residents of NM that are victims of domestic violence, sexual assault and stalking. Laws governing CAP are in Statutory Chapter 40-13-11. CAP only provides address confidentiality – it does not provide confidential phone numbers.

6. Take four copies of the completed form to the clerk of the court where the case is being prosecuted. You can usually find the court clerk in the same building where the courtrooms are. If you are unsure where to find the court clerk, you can look the clerk's location up on [www.nmcourts.gov](http://www.nmcourts.gov) or through the phone listings.
7. After the court clerk date stamps ALL of the copies, the clerk will keep one copy for the judge in the case. At that point, you can ask if the District Attorney has a mailbox at the court clerk's office (many do) and the court clerk can give one copy to the prosecutor in that manner. If there is no mailbox at the court, you MUST deliver a copy of the date

stamped Notice to the address for the District Attorney AND the defense attorney. You can find the location information for the District Attorney at <http://www.nmdas.com/>

8. The name of the defense attorney can also be found at [www.nmcourts.gov](http://www.nmcourts.gov), or you can ask the court clerk if you are having trouble figuring out who the defense attorney is on your case.
9. Keep one date stamped copy for your records.
10. If you are uncertain about any of these steps, you may contact the New Mexico Victims' Rights Center and our staff will help you to the extent we are able to without providing legal advice.

**REMEMBER** – as a victim of crime you may have constitutional and statutory rights under New Mexico law! You don't have to be an attorney to put the criminal justice system on notice that you know your rights and you want to make sure they are not violated.

\_\_\_\_\_ JUDICIAL DISTRICT COURT  
COUNTY OF \_\_\_\_\_  
STATE OF NEW MEXICO

STATE OF NEW MEXICO

vs.

Case Number \_\_\_\_\_

\_\_\_\_\_,  
Defendant

NOTICE ASSERTING THE CRIME VICTIM'S  
CONSTITUTIONAL AND STATUTORY RIGHTS

\_\_\_\_\_ respectfully asserts her or his status as a victim under N.M. Const. Art. II, sec. 24 and N.M. Stat. §§ 31-26-1 *et seq.*, and asserts her or his constitutional and statutory rights, including, but not limited to, the right to be treated with fairness and respect for her or his dignity and privacy, the right to be reasonably protected from the accused, the right to timely disposition of the case, the right to notification of all court proceedings, and the right to confer with the prosecution throughout the criminal justice process, in the above captioned matter.

The victim hereby notifies the Court of her or his intent to be present at any proceedings that will result in the resolution of this case, pursuant to the New Mexico Constitution and the Victims of Crime Act. The victim asks to assert her or his right to be heard prior to the Court accepting any plea and/or disposition agreement. If the defendant is convicted either by plea or trial, the victim asserts her or his right to make a statement prior to the Court imposing sentence.

This Notice also alerts this Court and the parties that the victim has a right to restitution. In order to make the protection of all the victim's rights meaningful, victim may request translation of all victim-specific documents and an interpreter for all court proceedings as needed when the victim's primary language is not English.

Respectfully submitted,

\_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

I hereby certify that a copy of the foregoing  
was sent to defense counsel and to the District

Attorney's Office on \_\_\_\_\_

Signed \_\_\_\_\_ Date \_\_\_\_\_