

Superseded 3/28/2014

77-37-4 Additional rights -- Children.

In addition to all rights afforded to victims and witnesses under this chapter, child victims and witnesses shall be afforded these rights:

- (1) Children have the right to protection from physical and emotional abuse during their involvement with the criminal justice process.
- (2) Children are not responsible for inappropriate behavior adults commit against them and have the right not to be questioned, in any manner, nor to have allegations made, implying this responsibility. Those who interview children have the responsibility to consider the interests of the child in this regard.
- (3) Child victims and witnesses have the right to have interviews relating to a criminal prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they are conducted by persons sensitive to the needs of children.
- (4) Child victims have the right to be informed of available community resources that might assist them and how to gain access to those resources. Law enforcement and prosecutors have the duty to ensure that child victims are informed of community resources, including counseling prior to the court proceeding, and have those services available throughout the criminal justice process.
- (5) Child victims have the right, once an investigation has been initiated by law enforcement or the Division of Child and Family Services, to have their investigative interviews that are conducted at a Children's Justice Center, including both video and audio recordings, protected. Except as provided in Subsection (5)(b) and (c), interviews may not be distributed, released, or displayed to anyone without a court order.
 - (a) The court order:
 - (i) shall describe with particularity to whom the interview may be released and prohibit further distribution or viewing by anyone not named in the order; and
 - (ii) may impose restrictions on access to the materials considered reasonable to protect the privacy of the child victim.
 - (b) Following the conclusion of any legal proceedings in which the recordings or transcripts are used, the court shall order the recordings and transcripts in the court's file sealed and preserved.
 - (c)
 - (i) The Division of Child and Family Services or law enforcement may distribute a copy of the interview:
 - (A) to the prosecutor's office;
 - (B) the Attorney General's child protection division;
 - (C) to another law enforcement agency; and
 - (D) to the attorney for the child who is the subject of the interview.
 - (ii) Any further distribution, release, or display is subject to this Subsection (5).
 - (d) In a criminal case, the prosecutor may distribute a copy of the interview to the attorney for the defendant or a pro se defendant pursuant to a valid request for discovery. The attorney for the defendant in a criminal case may permit the defendant to view the interview, but may not distribute or release the interview to their client. Any further distribution, release, or display is subject to this Subsection (5).
 - (e) Pro se defendants shall be advised by the court that an interview received as part of discovery is confidential and may not be distributed, released, or displayed without prior authorization from the court. A court's failure to give this notice may not be used as a defense to prosecution for a violation of the disclosure rule.

- (f) Multidisciplinary teams or other state agencies that provide services to children and families may view interviews of children, and families for whom they are providing services, but may not receive copies.
- (g) Violation of this section is:
 - (i) punishable by contempt if distribution, release, or display occurs before the resolution of the case and the court still has jurisdiction over the defendant; or
 - (ii) a class B misdemeanor if the case has been resolved and the court no longer has jurisdiction over the defendant.