

Summary of Act 141

Delineation of Victim Service Requirements

Section 16-3-1505 LEGISLATIVE INTENT

Section 16-3-1510 DEFINITIONS

Victim

Person

Criminal Offense

Witness

Prosecuting Agencies

Summary Court

Initial Offense Incident Report

In Writing

Section 16-3-1520 RESPONSIBILITIES OF VICTIMS AND PROSECUTION WITNESSES:

- Keep agencies apprised of legal name, address, and telephone number
- In order to receive restitution, provide details of financial impact
- Notify appropriate authority of desire to be present for hearings
- If Victim Impact Statement is to be considered, submit it in a timely manner.
- Notify appropriate authority of desire to make oral statement

Section 16-3-1520 UPON REPORT OF CRIME, LAW ENFORCEMENT HAS THE FOLLOWING DUTIES TO VICTIMS:

- Provide a free copy of incident report
- Provide a description of rights, services and procedures if victim or witness is harassed or threatened
- Assist with compensation and other social service applications
- Assist with creditors, employers, etc.
- Inform of status and progress of case and investigation

Section 16-3-1525 UPON ARREST OR PICK UP, THE APPROPRIATE AGENCY HAS THE

FOLLOWING DUTIES TO VICTIMS:

- Notify of arrest or pick up of defendant
- Notify in advance of pretrial release proceedings
- Provide victim information to appropriate allied agencies
- Verify victims' notification before proceeding with bail/bond/detention hearings
- Impose measures to protect victim as a condition of defendants' pretrial release
- Notify in advance of preliminary hearings

Section 16-3-1530 UPON RELEASE, TRANSFER OR ESCAPE, A DEPARTMENT OR AGENCY HAVING CUSTODY OF A DEFENDANT MUST:

- Notify the victim of any release, transfer or escape

Section 16-3-1535 UPON REFERRAL OF CASE TO SUMMARY COURT FOR DISPOSITION, THE SUMMARY COURT HAS THE FOLLOWING DUTIES TO VICTIMS

- Notify of rights and practice and procedures of the Court
- Provide Victim Impact Statement form
- Notify in advance of all hearings
- Return personal property in a timely manner
- Recognize and protect the victims' rights

Section 16-3-1540 UPON REFERRAL OF OFFENDER TO DEPARTMENT OF JUVENILE JUSTICE, DJJ HAS THE FOLLOWING DUTIES TO VICTIMS:

- Inform and confer before taking action
- Inform of status and progress of case

Section 16-3-1545 UPON REFERRAL OF CASE FOR DISPOSITION IN GENERAL SESSIONS OR FAMILY COURT, THE APPROPRIATE AGENCY (USUALLY THE PROSECUTING AGENCY) HAS THE FOLLOWING DUTIES TO VICTIMS:

- Provide Victim Impact Statement form and assist in completing it
- Inform of practices and procedures of the court
- Inform of right to legal counsel
- Return personal property in a timely manner
- Inform of compensation, fees, financial assistance and assist with application
- Inform of status and progress of case
- Confer regarding decisions on handling and disposition
- Notify in advance of each hearing
- Assist with creditors, employers, etc.
- Respond actively to threats and intimidation
- Minimize inconvenience, provide orientation
- Refer to appropriate services and assistance

Section 16-3-1550 Upon circuit or family court hearings or proceedings, the appropriate agency (usually

the prosecuting agency) has the following duties to victims:

- Protection from employer retribution
- Immunity from witness sequestration
- Separate waiting areas for victims, prosecutions witnesses and defense parties
- Protect victims' rights, verify advance notification
- Ensure sensitive treatment for "special" witnesses (very young, elderly, physically handicapped)
- Address restitution as provided by statute

Section 16-3-1555 UPON DISPOSITION IN CIRCUIT OR FAMILY COURT, THE APPROPRIATE AGENCY (USUALLY THE PROSECUTING AGENCY) HAS THE FOLLOWING DUTIES TO VICTIMS:

- Provide witness fees and reimbursement of a victims' out-of-pocket expenses
- Forward written Victim Impact Statements to appropriate agencies
- File Victim Impact Statement with indictment
- Inform of duty to keep agencies apprised of current contact information
- Inform victims regarding the collection of restitution, fees and property

Section 16-3-1560 UPON APPEAL OR POST CONVICTION ACTION, THE APPROPRIATE AGENCY HAS THE FOLLOWING DUTIES TO A VICTIM:

- Notify in advance of all hearings and proceedings affecting release
- Notify in advance of all appeal and post conviction hearings
- Confer regarding appeal and post conviction hearings
- Inform of status and progress of appeal or post conviction process

Section 16-3-1565 CAUSE OF ACTION: GROUNDS FOR DISMISSAL

- No cause of action against public agency or employee is created by the provisions of this article
- No sentence invalidated due to the failure to comply with the provisions of this article
- No cause of action to seek monetary damages is created by the provisions of this article

Section 14-1-206 ASSESSMENTS ON GENERAL SESSIONS CONVICTION

- Assessment on General Sessions Court fines increases from 62% to 100%
- The amount of the increase (38%) is to be retained by the County and used for victim services, provided however that the amounts distributed previously under this section must not be reduced.

Section 14-1-207 ASSESSMENT ON MAGISTRATES COURT CONVICTION

- Assessment on Magistrates' Court fines increases from 88% to 100%
- The amount of the increase (12%) is to be retained by the county and used for victim services, provided however that the amounts distributed previously under this section must not be reduced

Section 14-1-208 ASSESSMENTS ON MUNICIPAL COURT FINES

- Assessment on Municipal Court fines increases from 52% to 64%
- The amount of the increase (12%) is to be retained by the municipality and used for victim services, provided however that the amount distributed previously under this section must not be reduced

Section 14-1-211 SURCHARGE ON SOME CONVICTIONS

- A \$100.00 surcharge is levied on every General Sessions conviction, no part of which may be waived, reduced or suspended
- A \$25.00 surcharge is levied on every Summary court conviction other than misdemeanor traffic offense. No part of the surcharge may be waived, reduced, or suspended.

Sample Law Enforcement Victim Advocate Position Criteria

Generic Criteria For Law Enforcement Victim Advocate Position Description

This document outlines suggested function, duties and responsibilities, and minimum training and experience. The function of the victim advocate is a determination to be made by an employer; minimum training and experience is also a recommended standard, not a mandatory requirement outlined in Act 141. The only duties and responsibilities required by Act 141 are those first five duties appearing in bold italic script. However, the following document serves as a recommended tool for employers to use in hiring quality victim advocates.

FUNCTION:

Under limited supervision operates and coordinates a victim assistance program by providing crisis intervention and necessary support services to victims of crime. Provides educational material to law enforcement staff and the community in response to criminal victimization.

DUTIES AND RESPONSIBILITIES:

- *Refer victims to appropriate service agencies/providers*
- *Ensure victims' legal rights are protected*
- *Advise victims of case status and progress, maintain contact with and provide support to victims and/or family members throughout the criminal justice process as needed*
- *Provide applications and information to victims concerning South Carolina Crime Victims Compensation; explain purpose, procedures, and policies, and assist in completion of forms*
- *Upon request, may intervene on behalf of victims with creditors, employers, etc.*
- Establish contact with victims of crime and identify their needs
- Provide crisis-intervention and support to victims of crime
- Provide educational materials concerning victims' rights, adult and child victimization
- Increase the community awareness of the victim assistance program to encourage timely reporting and assistance
- Ability to intervene in a crisis situation using tact, discretion, compassion, and good judgment
- Effective interpersonal communication skills, e.g., the ability to exchange information clearly
- Organizational and office skills
- Coordinate with other agencies

MINIMUM EXPERIENCE AND TRAINING: a bachelors degree in an appropriate field such as criminal justice, psychology or social work; or bachelors degree in any other field and two (2) years experience in the field of victim services and certification; or associate degree in an appropriate field such as criminal justice, psychology or social work, paralegalism and three (3) years experience in victim services or social services and certification; or certification plus six (6) years of experience in victim services.