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**CH. 160 CRIME VICTIM'S RIGHTS ACT OF 2004**

**CHAPTER 160**  
**CRIME VICTIM'S RIGHTS ACT OF 2004**

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**§ 160.10. Short Title.**

This Chapter shall be known as the *Crime Victim's Rights Act of 2004*.

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**SOURCE:** Added by P.L. 21-096 (Mar. 30, 1996). Amended by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.20. Legislative Intent.**

In recognition of the civic and moral duty of victims and witnesses of crimes to cooperate fully and voluntarily with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation in Guam law enforcement efforts and in the general effectiveness and well-being of the criminal justice system of Guam, *I Liheslatura* declares its intent in this Chapter to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy and sensitivity, and that the rights extended in this Chapter to victims and witnesses of crime be honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants.

**SOURCE:** Added by P.L. 21-096 (Mar. 30, 1996). Amended by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.30. Definitions.**

As used in this Chapter:

(a) '*Crime*' means an act or omission committed by an adult or juvenile that would constitute an offense against a person under all existing Guam statutes.

(b) '*Homicide Victim*' means a person whose death was caused by another person under the provisions of Chapter 16 of Title 9, Guam Code Annotated.

(c) '*Surviving immediate family members*' means surviving grandparents, parents, siblings, spouse, children, any legal guardian of the victim who requests notification.

(d) '*Victim*' means a person against whom a crime has been committed by either an adult or a juvenile and who requests notification.

(e) '*Witness*' means a person whose testimony or knowledge is desired in any proceeding or investigation by a grand jury, or in a criminal investigation, action, prosecution or proceeding.

(f) '*Final disposition*' means the ultimate termination of the criminal prosecution of a defendant, including, *but not limited to*, dismissal, acquittal, or imposition of sentence by the court.

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(g) *Juvenile* means a person within the court's jurisdiction under Title 19, Guam Code Annotated, Chapter 5, Family Court Act.

(h) *Juvenile facility* means the Department of Youth Affairs, as described in 19 GCA, Division 2, Chapter 20, the Youth Affairs Act of 1978, to which a juvenile has been committed or in which a juvenile is detained.

(i) *Person* means an individual, organization, partnership, corporation, or governmental entity against whom the crime was perpetrated.

(j) *Prisoner* means a person who has been convicted and sentenced to imprisonment, or placement in a juvenile facility, for having committed a crime or an act that would be a crime if committed by an adult against a victim.

(k) *Prosecuting attorney* means any attorney, by whatever title designated, having by law the right of duty to prosecute any offense on behalf of Guam.

**SOURCE:** Added by P.L. 21-096 (Mar. 30, 1996). Amended by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.40. Eligibility of Victims.**

A victim has the rights afforded by this Chapter and is eligible for the services provided under this Chapter.

**SOURCE:** Added by P.L. 21-096 (Mar. 30, 1996). Amended by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.45. Victim's Right to Receive Notices.**

Victims and surviving immediate family members shall be informed of their right to receive notices and the procedure to receive notices pursuant to this Chapter. Victims and/or surviving immediate family members shall have the right to request to receive notices provided for under this Chapter by filing a request with the Office of the Attorney General, at any time. After a request has been filed, the Office of the Attorney General shall be responsible for informing other departments or agencies of the government to provide further notices as may be provided in this Chapter to the victim and/or surviving immediate family members, as the case may be.

**SOURCE:** Added by P.L. 26-045 (Oct. 5, 2001). Amended by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.50. Basic Bill of Rights for Victims.**

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Victims and/or surviving immediate family members shall have the following rights:

(a) To be immediately informed by the Office of the Attorney General of the final disposition of the case. *If* the crime charged is a felony, the victim or a surviving immediate family member shall be notified of major developments in the case, whenever appropriate, in order to avoid jeopardizing an investigation. The victim or surviving immediate family member shall be immediately notified whenever the defendant or perpetrator is released from custody. The victim or the surviving immediate family member shall also be consulted and advised about plea-bargaining.

(b) To be notified by the prosecuting attorney *if* a court proceeding to which they have been subpoenaed will not proceed as scheduled in a timely manner.

(c) To receive protection from threats or harm in accordance with local witness and victim protection program guidelines.

(d) To be promptly informed by the victim witness counselor and the probation officer when the defendant has violated a criminal restraining order, a court-imposed stay-away order, terms or condition of release, terms of probation, or terms of a plea agreement.

(e) To be informed by the police, victim witness, or other criminal justice personnel of financial assistance and other social services available as a result of being a victim of crime, including information on how to apply for the assistance and services.

(f) The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with defendant, defendant's relatives, and defense witnesses during court proceedings.

(g) To have any stolen property or other personal property expeditiously returned by law enforcement agencies when such property is no longer needed for evidence, and the court or the Attorney General has approved its release. *If* feasible, all such property, except weapons; currency; contraband; property subject to evidentiary analysis; and property, the ownership of which is disputed,

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shall be returned to the person within ten (10) days of being taken, and the court or Attorney General has approved its release.

(h) To be informed as provided in this Chapter of escapes and changes planned in the custodial status of the offender that allow or result in the release of the offender into the community, including furlough, work release, placement on supervised release, release on parole, and final discharge at the end of a prison term; and to be informed by the Office of the Attorney General of changes in the custodial status of the offender as a result of release on bail bond, or release on appeal bond.

(i) To be informed by the Parole Board through the Department of Correction's Parole Services Division when the offender is seeking early release and/or parole, and to be afforded a right to submit letters, and to appear and testify at a release hearing subject to the provisions of § 160.92 herein.

(j) To be promptly informed by the Department of Correction's Parole Services Division when the offender has violated that person's parole subject to the provisions of § 160.92 herein.

(k) In cases charged and pled to as a felony, to be informed by the prosecutor, by telephone, facsimile or mail, of all trials, changes of pleas, sentencing and other major developments at least three (3) working days in advance.

(l) To testify as to the actions of the defendant and their effect upon the victim and the victim's family, to be represented by retained counsel, and to call witnesses at sentencing, reduction of sentence or parole hearing, subject to relevance; and at the discretion of the court, to testify at any change of plea or hearing to consider acceptance of a plea agreement.

(m) To be notified by *I Maga'lahaen Guâhan* upon submission of request relative to the pardon of the defendant or the perpetrator, subject to the provisions of § 160.92 herein.

(n) Upon written request, witnesses of crime shall be provided the same protections afforded in this Section.

(o) The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.

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(p) The Office of the Attorney General shall provide post-conviction information to victim's, to include information concerning availability social services, counseling programs, and financial assistance programs.

(q) The Office of the Attorney General is to provide a special hotline for victims to assist them in obtaining notification and information before and after conviction.

**SOURCE:** Added by P.L. 21-096 (Mar. 30, 1996); repealed and reenacted by P.L. 26-045:2 (Oct. 5, 2001); amended by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.60. Responsibility for Rights and Services.**

(a) The courts shall fashion all decisions and orders to enhance the recognition of the rights and the provision of the services set out in this Chapter, to the extent that they will not conflict with the constitutional rights of the defendant.

(b) Neither the failure of any government employee to carry out the requirements of this Section, nor compliance with it, shall subject any territorial officer or employee to liability in any civil action. However, such failure may provide a basis for such disciplinary action as may be deemed by appropriate authority.

**SOURCE:** Added by P.L. 21-096 (Mar. 30, 1996). Amended by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.70. Intergovernmental Cooperation.**

The office of the prosecutor, the police, local social service agencies, the courts, and all other agencies involved in the criminal justice system shall all cooperate with each other to ensure that victims and witnesses of crime receive the rights and services to which they are entitled under this Chapter.

**SOURCE:** Added by P.L. 21-096 (Mar. 30, 1996). Amended by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.80. Chapter to Benefit Victim not Offenders.**

The rights set out in this Chapter are strictly for the benefit of victims and witnesses and not defendants or perpetrators. A defendant shall have no standing to raise any objections to the applicability of the provisions of this Chapter other than to request a continuance at hearing or trial; provided, however, that the violation of any provision of this Chapter or the failure of the court or a prosecutor to comply with such provisions shall not be

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grounds for appeal or for reconsideration by the court.

**SOURCE:** Added by P.L. 21-096 (Mar. 30, 1996). Amended by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.90. Conversion of Community Service to Fines.**

**[Repealed.]**

**SOURCE:** Added by P.L. 21-096 (Mar. 30, 1996). Repealed by P.L. 24-077 (Sept. 30, 1997).

**§ 160.91. Address and Phone Number of Crime Victim not to be in Court File or Documents; Exemption from Disclosure; Exemption.**

The work address and address of the crime victim shall *not* be in the court file or ordinary court documents unless contained in a transcript of the trial or it is used to identify the place of the crime. The work telephone number and telephone number of the victim shall *not* be in the court file or ordinary court documents except as contained in a transcript of the trial or witness lists.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.92. Right of Victim to Address or Submit Statement to Parole Board; Notice of Pending Review and Victim's Rights; Representation of Counsel; Notice, Objection to Pardons.**

(a) A victim shall have the right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole.

(b) *Not less than* thirty (30) days before a review of the prisoner's release, a victim who has requested notice under § 160.110(1)(f) shall be given written notice by the Department of Corrections, informing the victim of the pending review and of victims' rights under this Section. The victim, at his or her own expense, may be represented by counsel at the review.

(c) A victim shall receive notice of the decision of the parole board, *if* applicable, notice of the date of the prisoner's release on parole. Notice shall be mailed within a reasonable time after the board reaches its decision, and *but not later than* fourteen (14) days after the board or panel has reached its decision.

(d) A victim shall receive notice of any request made for a pardon and may file an objection to said pardon with the parole board.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.93. Discharge or Discipline of Victim by Employer or Employer's Agent as Violation; Penalty.**

An employer or the employer's agent, who threatens to discharge or discipline, or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a violation punishable by a fine of *not more than* Seven Hundred Fifty Dollars (\$750.00), and may be punished for contempt of court, *if* applicable.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.94. Local Witness and Victim Protection Program Guidelines.**

The Supreme Court of Guam shall promulgate witness and victim protection program guidelines within ninety (90) days of the passage of this Act into law.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.95. Plea Agreement Provisions for Victims.**

(a) Victims or their surviving immediate family members have the right to be notified of any potential plea agreement and to express their views on any proposed plea agreements *prior* to a plea agreement being reached between the prosecutor and the defendant. The prosecutor shall consider the views of the victim or the surviving immediate family members in deciding whether to negotiate or conclude a plea agreement with a defendant.

(b) Victims or their surviving immediate family members have the right to be notified when a plea agreement is to be presented to the court, and to express their views on the plea agreement to the court *prior* to the court accepting or rejecting the plea agreement. The court shall consider the views of the victim or the surviving immediate family members in deciding whether to accept or reject the negotiated plea agreement.

(c) Before a plea agreement is allowed in any aggravated murder case where a defendant has, or is alleged to have, with a premeditated intent caused the death of another person, caused the death of such person or of a third person, and there was more than one victim, and the murders were part of a common scheme or plan, or the result of a single act of the defendant, a prosecutor shall:

- (1) explain to victims or their surviving immediate family



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members of the case, the rights of victims;

(2) explain to victims or their surviving immediate family members of the case, how the plea agreement process works and the circumstances that might lead to a plea agreement;

(3) explain to victims or their surviving immediate family members of the case, how victim advocates can help victims prepare and submit impact statements that are useful to both the prosecutor and the court throughout the plea agreement process;

(4) ensure victims or their surviving immediate family members are notified of any potential plea agreement and have the opportunity to express their views on any proposed plea agreements *prior* to any plea agreement being reached with the defendant; and

(5) ensure victims or their surviving immediate family members are notified when a plea agreement is to be presented to the court and have the opportunity to express their views on the plea agreement to the court *prior* to the court accepting the plea agreement.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.100. Notice to Victims of Crimes; Explanation of Appeal Process; Rights of Victim if Conviction Reversed.**

(a) Upon the request of a victim or surviving immediate family members, the prosecuting attorney shall notify the victim of the following:

(1) That the defendant filed an appeal of his or her conviction or sentence or that the prosecuting attorney filed an appeal.

(2) Whether the defendant has been ordered released on bail or other recognizance pending the disposition of the appeal. *If* the prosecuting attorney is notified that the defendant has been ordered released on bail or other recognizance pending disposition of the appeal, the prosecuting attorney shall use any means reasonably calculated to give the victim notice of that order within twenty-four (24) hours after the prosecuting attorney is notified of the order.

(3) The time and place of any appellate court proceedings and any changes in the time or place of those proceedings.

(4) The result of the appeal, and *if* the conviction is ordered reversed, the sentence is vacated, the case is remanded for a new trial, or the prosecuting attorney's appeal is denied, and *if* the prosecuting

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attorney has filed the appropriate notice with the appellate court. The prosecuting attorney shall use any means reasonably calculated to give the victim notice of that order within twenty-four (24) hours after the prosecuting attorney is notified of the order.

(b) *If* the prosecuting attorney is not successful in notifying the victim or surviving immediate family members of an event described in Subsection (a) within the period set forth in that Subsection, the prosecuting attorney shall notify the victim of that event as soon as possible by any means reasonably calculated to give the victim prompt actual notice.

(c) Upon the request of the victim, the prosecuting attorney shall provide the victim with a brief explanation in plain English of the appeal process, including the possible dispositions.

(d) *If* the case is returned to the trial court for further proceedings or a new trial, the victim has the same rights as previously requested during the proceedings that led to the appeal.

**SOURCE:** Added by P.L. 21-096 (Mar. 30, 1996). Amended by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.110. Request for Notice by Victim; Exemption of Victim's Address and Telephone Number from Disclosure.**

(a) Upon the victim's written request, the Guam Police Department or the Department of Corrections shall mail to the victim the following, as applicable, about the prisoner who has been sentenced to imprisonment:

(1) Notice of the prisoner's transfer or pending transfer to a minimum security facility and the facility's address.

(2) Notice of the prisoner's release or pending release in a community residential program or under furlough; any other transfer to community status; any transfer from one (1) community residential program or electronic monitoring program to another; or any transfer from a community residential program or electronic monitoring program to a Guam correctional facility.

(3) Notice of the escape of the person accused, convicted, or imprisoned for committing a crime against the victim, as provided in § 160.120 herein.

(4) Notice of the victim's right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole,

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as provided in § 160.140 herein.

(5) Notice of the decision of the parole board, or any other panel having authority over the prisoner's release on parole, after a parole review, as provided in § 160.140(3).

(6) Notice of the release of a prisoner ninety (90) days before the date of the prisoner's discharge from prison, unless the notice has been otherwise provided under this Article.

(7) Notice of a request regarding a reprieve, commutation, or pardon of the prisoner's sentence by *I Maga'lahren Guåhan*.

(8) Notice that a reprieve, commutation, or pardon has been granted.

(9) Notice that a prisoner has had his or her name legally changed while on parole.

(10) Notice that a prisoner has been convicted of a new crime.

(11) Notice that a prisoner has been returned from parole status to a correctional facility due to an alleged violation of the conditions of his or her parole.

(b) A victim's address and telephone number maintained by the Guam Police Department or the Department of Corrections upon a request for notice under Subsection (a) is exempt from disclosure under the Sunshine Reform Act of 1999, Title 5, Guam Code Annotated, Chapter 10.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.120. Notice of Escape.**

(a) As provided in Subsection (b) or (c), a victim who requests notice of the escape and the prosecuting attorney who is prosecuting or has prosecuted the crime for which the person is detained or under sentence shall be given immediate notice of the escape of the person accused, convicted, or imprisoned for committing a crime against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice.

(b) *If* the escape occurs before the sentence is executed or before the defendant is delivered to the Department of Corrections, the chief law enforcement officer of the agency in charge of the person's detention shall give notice of the escape to the prosecuting attorney, who shall then give notice of the escape to a victim who requested notice.

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(c) *If* the defendant is confined pursuant to a sentence, the notice shall be given by the chief administrator of the place in which the prisoner is confined.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.130. Notice to Victim by Juvenile Agency; Escape by Juvenile.**

(a) Upon a victim's written request, the juvenile agency, as applicable, shall make a good faith effort to notify the victim before either of the following occurs:

(1) A juvenile is dismissed from court jurisdiction or discharged from commitment to the juvenile agency.

(2) A juvenile is transferred from a secure juvenile facility to a nonsecure juvenile facility.

(b) *If* the juvenile agency is not successful in notifying the victim before an event described in Subsection (a) occurs, it shall notify the victim as soon as possible after that event occurs by any means reasonably calculated to give prompt actual notice.

(c) Upon the victim's written request, the juvenile agency, as applicable, shall give to the victim notice of a juvenile's escape. A victim who requests notice of an escape shall be given immediate notice of the escape by any means reasonably calculated to give prompt actual notice. *If* the escape occurs before the juvenile is delivered to the juvenile agency, the agency in charge of the juvenile's detention shall give notice of the escape to the juvenile agency, which shall then give notice of the escape to the victim who requested notice.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.140. Right of Victim to Address or Submit Statement to Parole Board; Notice of Pending Review and Victim's Rights; Representation of Counsel; Notice, Objection to Pardons.**

(a) A victim shall have the right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole.

(b) *Not less than* thirty (30) days before a review of the prisoner's release, a victim who has requested notice under § 160.110(a)(6) shall be given written notice by the Department of Corrections informing the victim

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of the pending review and of victims' rights under this Section. The victim, at his or her own expense, may be represented by counsel at the review.

(c) A victim shall receive notice of the decision of the parole board, and *if* applicable, notice of the date of the prisoner's release on parole. Notice shall be mailed within a reasonable time after the board reaches its decision, *but not later than* fourteen (14) days after the board or panel has reached its decision.

(d) A victim shall receive notice of any request made for a pardon and may file an objection to said pardon with the parole board.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.150. Notice of Final Disposition of Case.**

Upon the request of a victim, the prosecuting attorney shall, within thirty (30) days of the final disposition of the case, notify the victim, in writing, of the final disposition of the case.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.160. Cause of Action Not Created.**

Nothing in this Article shall be construed as creating a cause of action for monetary damages against the government of Guam or any of its agencies, entities, or instrumentalities, or employees.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.170. Failure to Provide Right, Privilege, or Notice to Victim.**

The failure to provide a right, privilege, or notice to a victim under this Article shall *not* be grounds for the defendant to seek to have the conviction or sentence set aside.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.200. Effective Date of Chapter; Applicability.**

This Chapter shall take effect upon enactment.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

**§ 160.201. Severability.**

*If* any of the provisions of this Chapter, or the application thereof to any person or circumstance, are held invalid, such invalidity shall *not* affect any other provision or application of this Chapter which can be given effect

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without the invalid provision or application, and to this end the provisions of this Chapter are severable.

**SOURCE:** Added by P.L. 27-138:2 (Dec. 30, 2004).

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