



## Crime Victims' Right to Speedy Trial

The right to a speedy trial generally is viewed solely as a right of defendants in criminal cases. Indeed, the U.S. Constitution provides that “[i]n all criminal prosecutions, the *accused* shall enjoy the right to a speedy and public trial....”<sup>1</sup> However, victims of crime have an equally strong interest in the prompt disposition and conclusion of all criminal proceedings in which they are involved.

“One of the greatest hardships victims endure in the criminal justice process is the delay of scheduled proceedings.”<sup>2</sup> According to a 2000 study of nine trial court systems conducted by the National Center for State Courts, the American Prosecutors Research Institute, and the National Institute of Justice, only 52 percent of criminal cases were resolved within 180 days of the defendant's arrest. Eighty-nine percent were resolved within 365 days, with the average case lasting approximately 245 days.<sup>3</sup>

Repeated delays and continuances in the criminal justice process prevent victims from ever reaching emotional, physical, and financial closure to the trauma suffered as a result of the crime(s) perpetrated against them. Such delays in prosecution can also limit the ability of victims to receive justice when their memories, or those of other witnesses, fade with the passage of time or when the victim's health deteriorates. In response to these concerns, many states have enacted statutes and amended their state constitutions to recognize that victims, too, have a right to a speedy trial.

Currently, 27 states recognize this fundamental right of victims.<sup>4</sup> Of those 27 states, 12 have amended their respective constitutions to include provisions safeguarding a victim's right to a speedy trial. The remaining 15 have enacted a statutory provision recognizing this important right. The language used in these provisions varies greatly from state to state in terms of specificity and strength. However, the language used in the Arizona, Tennessee, and Utah constitutions and criminal procedure statutes is particularly well crafted and explicit.

The Arizona Constitution guarantees that victims of crime shall be entitled to "a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence."<sup>5</sup> The statute mandates that "[i]n any criminal proceeding the court, prosecutor and law enforcement officials shall take appropriate action to ensure a speedy trial for the victim."<sup>6</sup> Finally, the state rules of criminal procedure provide that "where special circumstances relating to the victim so warrant, the court may accelerate the trial to the earliest possible date that is consistent with the defendant's right to a fair trial."<sup>7</sup>

Like Arizona, Tennessee guarantees victims a right to a speedy trial both in its constitution and its statutes.<sup>8</sup> Unlike Arizona, Tennessee's statute specifically requires that all criminal proceedings shall be concluded within 180 days of the date of the defendant's indictment.<sup>9</sup> If, for any reason, the case is not tried or otherwise disposed of within that time period, the court is required to "set out in a certificate the reasons why the case is still pending before the court."<sup>10</sup>

Although it addresses the victim's right to a speedy trial through statute only, Utah's law is noteworthy for placing the victim's right on a par with that of the accused:

In determining a date for any criminal trial or other important criminal or juvenile justice hearing, the court shall consider the interests of the victim of crime to a speedy resolution of the charges under the same standards that govern the defendant's or minor's right to a speedy trial.<sup>11</sup>

Finally, a number of states—while failing to recognize a general victims' right to a speedy trial—do provide such a right for specified victims such as child victims or elderly victims. The stated purpose for these exceptions is almost uniformly to reduce or limit the length of time the given victim is subject to the emotional, physical, and psychological stress of involvement in the proceedings.<sup>12</sup> Currently, 15 states without a general victims' right to a speedy trial provide for expedited proceedings or docket priority for cases involving "special" victims.<sup>13</sup> Those states typically define "special" victims as child victims (thirteen states), elderly or disabled victims (three states), and victims of violent or sexual offenses (four states).

A victim's right to a speedy trial continues to develop and expand as more states recognize the need to protect the rights and interests of all crime victims. For more information, please contact the public policy department of the National Center for Victims of Crime at (202) 467-8700 or visit their Web site at [www.ncvc.org](http://www.ncvc.org).

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<sup>1</sup> U.S. CONST. amend. VI (emphasis added).

<sup>2</sup> U.S. DEP'T. OF JUSTICE, OFFICE FOR VICTIMS OF CRIME, *NEW DIRECTIONS FROM THE FIELD: VICTIMS' RIGHTS AND SERVICES FOR THE 21<sup>ST</sup> CENTURY* (1998).

<sup>3</sup> Brian J. Ostrom and Roger A. Hanson, National Institute of Justice, *Efficiency, Timeliness, and Quality: A New Perspective from Nine State Criminal Trial Courts* (June, 2000). The study noted that standards developed by the American Bar Association called for the disposition of 98 percent of felony cases within 180 days.

<sup>4</sup> Those states are Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, South Carolina, Tennessee, Utah, Vermont, Wisconsin, and Wyoming. Data current through 2006.

<sup>5</sup> ARIZ. CONST. art. II, § 2.1.

<sup>6</sup> ARIZ. REV. STAT. § 13-4435 (2006).

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<sup>7</sup> ARIZ. R. CRIM. P. 8.7.

<sup>8</sup> TENN. CONST. art. I, §35 (“...victims shall be entitled to...the right to a speedy trial or disposition and a prompt and final conclusion of the case after the conviction or sentence.”); TENN. CODE ANN. § 40-38-116 (2007) (requiring the court to consider the victim’s right to a speedy trial in setting trial dates and deciding whether to grant a continuance).

<sup>9</sup> TENN. CODE ANN. § 40-38-105 (2007).

<sup>10</sup> *Id.*

<sup>11</sup> UTAH CODE ANN. § 77-38-7 (2006).

<sup>12</sup> *See e.g.* ALA. CODE § 15-26-6 (2006); D.C. CODE § 23-1903 (2006); N.H. REV. STAT. ANN. 632-A:9 (2007); and, WASH. REV. CODE § 10.46.085 (2007).

<sup>13</sup> Those states are Alabama, the District of Columbia, Hawaii, Indiana, Iowa, Kentucky, Nevada, New Jersey, New York, Oklahoma, Oregon, Rhode Island, Texas, and Washington. Data current through 2006.