

Article 46.

Crime Victims' Rights Act.

§ 15A-830. Definitions.

- (a) The following definitions apply in this Article:
- (1) Accused. – A person who has been arrested and charged with committing a crime covered by this Article.
 - (2) Arresting law enforcement agency. – The law enforcement agency that makes the arrest of an accused.
 - (2a) Court proceeding. – A critical stage of the post-arrest process heard by a judge in open court involving a plea that disposes of the case or the conviction, sentencing, or release of the accused, including the hearings described in G.S. 15A-837. The term does not include the preliminary proceedings described in Article 29 of Chapter 15A of the General Statutes. If it is known by law enforcement and the district attorney's office that (i) the defendant and the victim have a personal relationship as defined in G.S. 50B-1(b) and (ii) the hearing may result in the defendant's release, efforts will be made to contact the victim.
 - (3) Custodial agency. – The agency that has legal custody of an accused or defendant arising from a charge or conviction of a crime covered by this Article including, but not limited to, local jails or detention facilities, regional jails or detention facilities, facilities designated under G.S. 122C-252 for the custody and treatment of involuntary clients, or the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
 - (3a) Family member. – A spouse, child, parent, guardian, legal custodian, sibling, or grandparent of the victim. The term does not include the accused.
 - (3b) Felony property crime. – An act which constitutes a felony violation of one of the following:
 - a. Subchapter IV of Chapter 14 of the General Statutes.
 - b. Subchapter V of Chapter 14 of the General Statutes.
 - (4) Investigating law enforcement agency. – The law enforcement agency with primary responsibility for investigating the crime committed against the victim.
 - (5) Law enforcement agency. – An arresting law enforcement agency, a custodial agency, or an investigating law enforcement agency.
 - (6) Repealed by Session Laws 2019-216, s. 2, effective August 31, 2019, and applicable to offenses and acts of delinquency committed on or after that date.
 - (6a) Offense against the person. – An offense against or involving the person of the victim which constitutes a violation of one of the following:
 - a. Subchapter III of Chapter 14 of the General Statutes.
 - b. Subchapter VII of Chapter 14 of the General Statutes.
 - c. Article 39 of Chapter 14 of the General Statutes.
 - d. Chapter 20 of the General Statutes, if an element of the offense involves impairment of the defendant, or injury or death to the victim.
 - e. A valid protective order under G.S. 50B-4.1, including, but not limited to, G.S. 14-134.3 and G.S. 14-269.8.
 - f. Article 35 of Chapter 14 of the General Statutes, if the elements of the offense involve communicating a threat or stalking.
 - g. An offense that triggers the enumerated victims' rights, as required by the North Carolina Constitution.

(7) Victim. – A person against whom there is probable cause to believe an offense against the person or a felony property crime has been committed.

(b) If the victim is a minor or is legally incapacitated, a parent, guardian, or legal custodian may assert the victim's rights under this Article. The accused may not assert the victim's rights. If the victim is deceased, then a family member, in the order set forth in the definition contained in this section, may assert the victim's rights under this Article, with the following limitations:

- (1) The guardian or legal custodian of a deceased minor has priority over a family member.
- (2) The right contained in G.S. 15A-834 may only be exercised by the personal representative of the victim's estate.

(c) An individual entitled to exercise the victim's rights as the appropriate family member in accordance with this section may designate any family member to act on behalf of the victim.

(d) An individual who, in the determination of the district attorney, would not act in the best interests of the victim shall not be entitled to assert or exercise the victim's rights. An individual may petition the court to review this determination by the district attorney. (1998-212, s. 19.4(c); 2001-433, s. 1; 2001-487, s. 120; 2001-518, s. 2A; 2006-247, s. 20(e); 2007-116, s. 2; 2007-547, s. 2; 2009-58, s. 3; 2011-145, s. 19.1(h); 2014-115, s. 2.1(a); 2017-186, s. 2(ccc); 2019-216, s. 2.)