

120 CMR: PAROLE BOARD

120 CMR 401.00: VICTIM ACCESS HEARINGS

Section

- 401.01: Purpose
- 401.02: Definitions
- 401.03: General Provisions
- 401.04: Victim Impact Statements Before Parole Board Members
- 401.05: Notification of Decision

401.01: Purpose

In addition to parole hearings for persons serving life sentences pursuant to M.G.L. c. 127, § 133A, parole release hearings for:

- (a) Inmates serving state sentences for crimes which resulted in death will also be accessible to victims as defined in 120 CMR 401.02. Such crimes shall include, but not be limited to, voluntary and involuntary manslaughter and vehicular homicide. Parole release hearings for inmates serving state sentences, who also have as part of the sentence structure a county sentence for a crime which resulted in death will also be accessible to victims as defined in 120 CMR 401.02. *See* M.G.L. c. 127, § 133C.
- (b) Inmates serving state sentences for violent crimes or a sex offense, as defined in M.G.L. c. 127, § 133E, will be accessible to victims as defined in 120 CMR 401.02. Parole release hearings for inmates serving state sentences, who also have as part of the sentence structure a county sentence for a crime defined in M.G.L. c. 127, § 133E, will also be accessible to victims as defined in 120 CMR 401.02

401.02: Definitions

For the purposes of 120 CMR 401.00 only:

Hearing. An inmate's initial eligibility, annual review, special consideration, reconsideration, and/or appeal hearings for those inmates who are serving sentences as described in 120 CMR 401.01. Hearing also refers to final revocation hearings under 120 CMR 303.16: *Withdrawal, Service, or Vacating of the Parole Violation Warrant* and rescission hearings under 120 CMR 302.08: *Procedure at Rescission Hearing*, where the conduct forming the basis of the revocation or rescission was directed at or involved the victim or a member of the victim's family.

Victim.

- (a) Surviving victim(s) of crime. Persons who are victims of violent crimes or sex offenses, as those terms are defined in M.G.L. c. 127, § 133E.
- (b) The surviving family members of a person who is deceased as a result of the commission of a crime as defined in 120 CMR 401.01. Surviving family members shall include, but not be limited to, parent, stepparent or guardian of the deceased; spouse or person with whom the deceased lived with in a relationship similar to marriage; child, stepchild, grandchild of the deceased who has attained 18 years of age; grandparent, aunt, uncle, sibling, cousin, niece, nephew, or in-law of the deceased who has attained the age of 18; grandparent, sibling, aunt, uncle, niece, nephew, and/or guardian of a minor child or stepchild of the deceased. M.G.L. c. 127, § 133C. The Parole Board, in its discretion, may allow other relations of the deceased to testify. Surviving family members, as that term is used in 120 CMR 401.00, shall not include those persons who have been charged in relation to the crime against the victim. M.G.L. c. 258B, § 1.
- (c) Parents or legal guardians of minor victims of violent crimes or sex offenses, as those terms are defined in M.G.L. c. 127, § 133E. The Parole Board, in its discretion, may allow other relations of the victim to testify. Parents, legal guardians, or other relations, as those terms are used in 120 CMR 401.00, shall not include those persons who have been charged in relation to the crime against the victim. M.G.L. c. 258B, § 1.

In order to testify in any parole hearing pursuant to 120 CMR 401, victim(s), as that term is defined in 120 CMR 401.02, must be CORI registered by the Department of Criminal Justice Information Services pursuant to M.G.L. c. 6, § 172 and 803 CMR 9.00: *Victim Notification Registry (VNR)*.

120 CMR: PAROLE BOARD

401.03: General Provisions

- (1) The Parole Board may, in its discretion, adopt procedures to promote safety and security at the hearing and to ensure the orderly conduct of the hearing. For example, the Parole Board may limit the number of persons who attend or testify at a hearing.
- (2) Victims must comply with all rules and requests by the Parole Board pertaining to safety and security and to the orderly conduct of the hearing. Failure to comply with such rules or requests may result in exclusion from the hearing room or from Parole Board premises.

401.04: Victim Impact Statements Before Parole Board Members

- (1) A victim shall be afforded the opportunity to inform Parole Board members of the crime, the impact of the crime, and the victim's opinion and recommendation regarding parole release prior to the hearing, in written submissions or verbal communications to Parole Board members, or to attend and testify at the hearing in accordance with the procedures set forth in 120 CMR 401.04. The inmate will be notified that a victim or victims may attend or testify at the hearing.
- (2) A victim may attend and offer testimony at the hearing. A victim may also attend the hearing and provide written submissions to Parole Board members regarding the impact of the crime and the victim's opinion regarding parole release.
- (3) A victim must notify the Parole Board's Victims Service Unit of their intent to attend a hearing at least 30 days prior to the hearing in writing or by telephone to the Victims Service Unit. A victim who testifies at a hearing must do so in the presence of the inmate. Parole Board members may, in their discretion, exclude victims who fail to provide timely notice of their intent to testify at a hearing.
- (4) Statements submitted by a victim, whether oral, written, or electronically recorded, may be considered evaluative or intelligence information according to 120 CMR 500.00: *Dissemination of CORI, Evaluative Information, and Intelligence Information*, and may be kept confidential if necessary to protect anyone from harm or to protect the source of information. See M.G.L. c. 127, § 130 and c. 4, § 7(26).

401.05: Notification of Decision

The Parole Board will notify victims of its decision on the next business day after the decision is rendered.

REGULATORY AUTHORITY

120 CMR 401.00: M.G.L. c. 27, § 5; c. 127, §§ 130, 133A.