

EXHIBIT 1
DATE 1-18-05
SB 208

GALLATIN COUNTY VICTIM WITNESS ASSISTANCE PROGRAM
Testimony on SB 208

Explanation of Victim Witness Assistance Program:

In 1985 the Montana Legislature adopted laws providing for services to victims and witnesses. In Section 46-24-101, MCA, the Legislature declared that the purposes of these laws are to:

- protect the role of crime victims and witnesses in the criminal justice process;
- assure that victims and witnesses of crime receive fair and proper treatment from law enforcement agencies and prosecutors; and
- provide a standard of conduct governing the treatment of victims and witnesses in criminal cases.

Prior to August of 1993, the Gallatin County Attorney's Office provided assistance to victims and witnesses on a personal basis through the prosecutors assigned to the cases. Due to ever increasing workloads, it became apparent to County Attorney Mike Salvagni that victims and witnesses were not receiving the quality of services that they should. Mike Salvagni wrote a grant to the Montana Board of Crime Control to begin a victim witness program. In August 1993 a half-time Victim Witness Coordinator was hired to assist victims and witnesses of violent crime through the criminal justice system. At that time, there were a total of 5 victim witness programs in the state of Montana. Now nearly every county has some type of program, with all relying heavily on yearly grant funding.

Since that time our Victim Assistance Program has expanded to include 2 full-time advocates for victims of violent crime and the County Attorney has recently hired a victim advocate for felony property crimes. Last year we served 674 victims of violent crime in Gallatin County. We are still grant-funded through the Montana Board of Crime Control with a yearly increasing match by Gallatin County and the City of Bozeman. Last year Gallatin County collected \$39,366 from the Victim Witness surcharge. This money comes directly from offenders who have been convicted of crimes.

Victim Legislation: (all unfunded)

In 1995 HB 69 was passed and significantly enhanced crime victims' rights in the state of Montana. There were four primary considerations in the 1995 legislation. These were:

- increasing victim's access to information,
- consideration of victim's interest at critical stages,
- making payment of restitution a priority, and
- increasing benefits allowed in Crime Victim Compensation.

Protection of the victim and restoration of the victim's losses are now recognized as part of the correctional policy of the state.

House Bill 69 was effective October 1, 1995. There are numerous unfunded mandates involved. Law enforcement must provide the following:

- give victims written notice, in the form supplied by the attorney general, of the availability of crime victim compensation, access by the victim to information about the case, the role of the victim in the criminal justice process and stages in the criminal justice process of significance to the victim.
- provide victims with written notice on community based victim programs
- give victims the name, office address and telephone number of the prosecutor
- provide victims or witnesses information on the availability of services to protect them, including the process for obtaining a protective order.

SENATE JUDICIARY
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Prosecution must provide the following:

Any victim or witness of a felony offense or a misdemeanor offense involving actual, threatened, or potential bodily injury has the right to prompt advance notification of proceedings related to the person's case if the person provides a current address or telephone number to the appropriate official. This includes:

- notification of the arrest,
- notification of escape or release from confinement,
- the crime with which the accused has been charged,
- an explanation of the elements of the crime,
- prompt, advance notification of the entry of a plea,
- setting of the trial date,
- sentencing date and time,
- presentence investigation explanation and assistance with writing a victim impact statement
- appeals, sentence reviews and any post conviction relief.

Victims of felony offenses have the right to be kept informed of parole hearings, work release, escape, death of the prisoner, etc. Victims can obtain this information from VINE, as long as they are made aware of this service. VINE's automated system is great; however, the legislature needs to remember that it cannot provide direct services. For example, the victim advocate still needs to be available to attend the parole hearing with the victim, if desired.

One of the problems is that most people have no understanding of the complexity of the court system or how difficult it is for victims and witnesses of crime. Some people still blame victims for abuse. Although these services have been mandated since 1995, (and actually some since 1985), many counties are not providing the mandated services. To my knowledge, there is only one Victim Advocate in the entire state (right here in Gallatin County) that provides services to victims of felony property crimes, although under the law all felony property crime victims are covered. In my eleven plus years of providing these services, I've received many, many calls from victims and witnesses of other counties who are not receiving the services mandated by the law. Other states are now dealing with victims' litigating against states for not providing the services that are mandated.

Prepared by Gloria Edwards, Gallatin County Victim Witness Program Director
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Why SB 208 Should Be Passed

1. Victims have basic rights under state law regarding their role in the criminal justice process. In order to ensure their rights, and provide them with the services they are entitled to, counties need victim assistance programs.
2. Programs cost money.

3. Most victim assistance programs are funded primarily with federal grant monies. These funds vary year to year, and are not a stable funding source for a mandated service. Presently federal funds are being diverted from victim services to Homeland Security.

4. We have 2 choices: all taxpayers can pay for these services or we can place a larger surcharge on offenders and make the people that create the need for the service pay for it. It's your choice.