

TX Sample Notice of Appearance

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For additional resources relating to the protection, enforcement, and advancement of crime victims' rights, please visit www.ncvli.org and www.navra.org, the website of our membership alliance, the National Alliance of Victims' Rights Attorneys & Advocates.

[Attorney Name] ([State] Bar # [number])
[Firm/Organization]
[Address]
[Phone]
[Email address]

Attorney for the Crime Victim

IN THE [FILL IN] JUDICIAL DISTRICT COURT
OF [FILL IN] COUNTY

PEOPLE OF THE STATE OF TEXAS,)
)
Plaintiff,)
)
vs.)
)
[NAME OF DEFENDANT],)
)
Defendant.)
_____)

Case No. [FILL IN]

**NOTICE OF APPEARANCE FOR
COUNSEL FOR CRIME VICTIM
[INSERT NAME/PSEUDONYM IF
APPROPRIATE] AND ASSERTION
OF RIGHTS**

¹ [Practitioner's Note: If the victim is a child, or an adult hoping for privacy, consider using a pseudonym. When using a pseudonym for the victim in a legal brief for the first time, consider adding the following footnote and modifying as needed: All references herein to the crime victim shall refer to [Jane Doe/John Doe] to protect [her/his] privacy in accordance with [her/his] constitutional and statutory rights. *See Whalen v. Roe*, 429 U.S. 589, 599-600 (1977) (recognizing that the United States Constitution provides a right to personal privacy, which includes an "individual interest in avoiding disclosure of personal matters"); Tex. Const., art. I, § 30(a)(1) (affording crime victims the right to be treated with "fairness and with respect for [his or her] dignity and privacy throughout the judicial process"); Tex. Crim. Proc. Code Ann. art. 57.02(b) (providing that "a victim [of a sex offense] may choose a pseudonym to be used instead of the victim's name to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings"); *id.* at art. 57A.02(b) (same for victims of stalking); *id.* at art. 57B.02(b) (same for victims of family violence); *id.* at art. 57D.02(b) (same for victims of trafficking); *see also Williams v. State*, 474 S.W.3d 850, 852 n.2 (Tex. App.—Texarkana 2015, no pet.) (explaining that "[t]o protect the privacy of the victim and a child witness, we use pseudonyms for children in this case, and we do not use surnames of witnesses"); *Andrus v. State*, 495 S.W.3d 300, 303 (Tex. App.—Beaumont 2016, no pet.) (using initials "to conceal [the victim's] actual name" and citing the victim's state constitutional "right to be treated with fairness and with respect for the victim's dignity and privacy") (quoting Tex. Const. art. 1, § 30(a)(1)).]

TO THE CLERK OF [FILL IN] AND ALL PARTIES OF RECORD:

The undersigned, [Attorney Name, Esq.], hereby notifies the clerk of this court and all parties of [his/her] appearance as counsel for crime victim [Name/Pseudonym] and requests to be notified of all proceedings and to be provided copies of all filings throughout the duration of the case. By and through counsel, the victim also formally asserts [his or her] rights pursuant to all applicable law, including, but not limited to, all rights under article I, section 30 of the Texas Constitution and Texas Code of Criminal Procedure art. 56.01 *et seq.* Those rights include:

- The “right to be treated with fairness and with respect for the victim’s dignity and privacy throughout the criminal justice process” (Tex. Const. art. I, § 30(a)(1));
- The “right to be reasonably protected from the accused throughout the criminal justice process” (*id.* at § 30(a)(2));
- The “right to notification of court proceedings” upon request (*id.* at § 30(b)(1));
- The “right to be present at all public court proceedings related to the offense” upon request “unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial” (*id.* at § 30(b)(2));
- The “right to confer with a representative of the prosecutor’s office” upon request (*id.* at § 30(b)(3));
- The “right to restitution” upon request (*id.* at § 30(b)(4)); and
- The “right to information about the conviction, sentence, imprisonment, and release of the accused” upon request (*id.* at § 30(b)(5)).

The victim has standing to assert and seek enforcement of [his/her] constitutional and statutory rights. *See, e.g., id.* at § 30(e) (providing that “[a] victim or guardian or legal

representative of a victim *has standing to enforce the rights enumerated in this section* but does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge”) (emphasis added).²

Dated this [number] day of [Month], [year].

RESPECTFULLY SUBMITTED,

/s/

[Attorney, Esq.] ([State] Bar # [number])
[Firm/Organization]
[address]
[phone number]
[email address]

Attorney for the crime victim [Name/Pseudonym]

² [Practitioner’s Note: While the Texas Constitution explicitly provides for victim standing to seek enforcement of the rights granted under article I, section 30(e), case law has largely ignored this language. Instead, courts have relied on incomplete analysis and determined that victims have no standing to seek enforcement of their rights based upon the “[victim] does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge” clause set forth in article I, section 30(e), or the identical no-party standing clause set forth in Tex. Code Crim. Proc. Ann. art. 56.02(d). *See, e.g., State ex rel. Sistrunk*, 142 S.W.3d 497, 502-03 (Tex. App. 2004) (relying on Tex. Code Crim. Proc. Ann. art. 56.02(d)’s no-party standing clause and concluding the family members of deceased victim—who asserted that their rights to be treated with fairness and to present victim impact statements at sentencing had been violated—had no standing to “appeal” defendant’s sentence or to seek a new sentencing hearing). Such determination is contrary to established law recognizing that “party” status is not necessary in the standing analysis, and an “appeal” is not the only procedure for appellate relief. *See, e.g., In re Houston Chronicle Pub. Co.*, 64 S.W.3d 103, 106-07 (Tex. App.—Houston [14th Dist.] 2001, no pet.) (concluding that the Houston Chronicle has standing to challenge—via a petition for a writ of mandamus—a gag order entered in a criminal case even though “it is neither a party nor the direct subject of restraint” on the basis that it has alleged an injury caused by the gag order, the injury is protected by the First Amendment, and the court can grant redress for the injury). For assistance with establishing victim standing to seek enforcement of rights in a particular case, contact NCVLI for technical assistance via <http://tinyurl.com/NCVLI-TA>.]