5lr1050CF SB 427

By: Delegates Valentino-Smith, Campos, C. Howard, Proctor, Smith, Valderrama, Vallario, Waldstreicher, C. Wilson, and Zucker

Introduced and read first time: February 11, 2015

Assigned to: Judiciary

## A BILL ENTITLED

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## 2 Criminal Procedure - Victims of Crime - Notification Regarding DNA Profile

- FOR the purpose of requiring a certain law enforcement agency or unit, under certain circumstances, to give a certain victim or victim's representative timely notice as to certain matters relating to a DNA profile of a certain alleged perpetrator or perpetrators; requiring the State Board of Victim Services to develop certain pamphlets to notify victims and victims' representatives of how to request information regarding an unsolved case; defining certain terms; and generally relating to victims of crime.
- 10 BY repealing and reenacting, with amendments,
- 11 Article Criminal Procedure
- 12 Section 11–104 and 11–914
- 13 Annotated Code of Maryland
- 14 (2008 Replacement Volume and 2014 Supplement)
- 15 BY repealing and reenacting, without amendments,
- 16 Article Criminal Procedure
- 17 Section 11–1002(b)(8)
- 18 Annotated Code of Maryland
- 19 (2008 Replacement Volume and 2014 Supplement)
- 20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 21 That the Laws of Maryland read as follows:

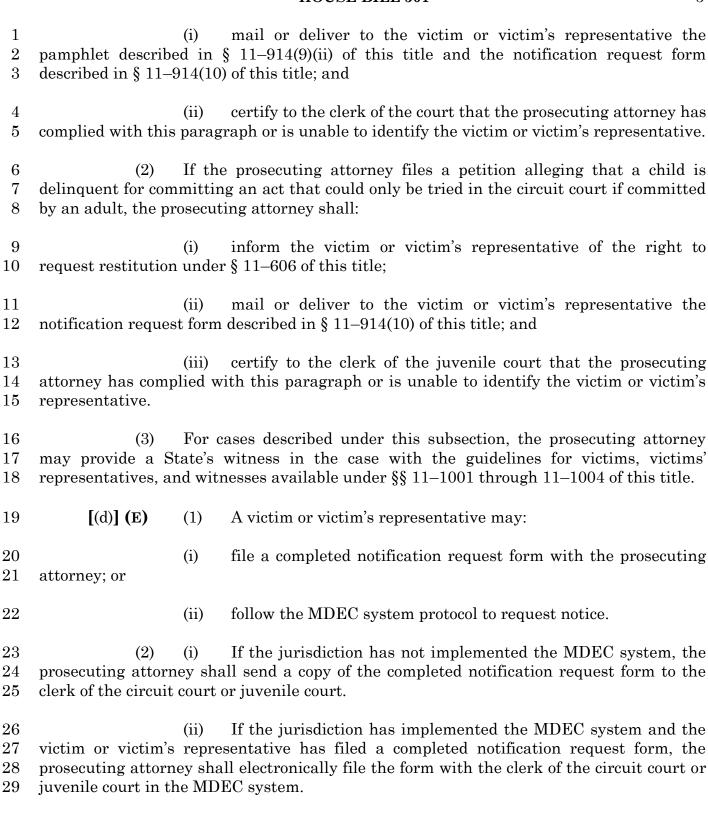
## Article - Criminal Procedure

23 11–104.

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24 (a) (1) In this section the following words have the meanings indicated.

- 1 (2) "DNA" HAS THE MEANING STATED IN § 2-501 OF THE PUBLIC SAFETY ARTICLE.
- 3 (3) "STATEWIDE DNA DATABASE SYSTEM" HAS THE MEANING 4 STATED IN § 2–501 OF THE PUBLIC SAFETY ARTICLE.
- 5 **[**(2)**] (4)** "Victim" means a person who suffers actual or threatened 6 physical, emotional, or financial harm as a direct result of a crime or delinquent act.
- 7 **[**(3)**] (5)** "Victim's representative" includes a family member or guardian 8 of a victim who is:
- 9 (i) a minor;
- 10 (ii) deceased; or
- 11 (iii) disabled.
- 12 (b) On first contact with a victim or victim's representative, a law enforcement 13 officer, District Court commissioner, or juvenile intake officer shall give the victim or the 14 victim's representative the pamphlet described in § 11–914(9)(i) of this title.
- 15 (c) Unless to do so would impede or compromise an ongoing 16 investigation, on written request of a victim of a crime of violence as 17 defined in § 14–101 of the Criminal Law Article or the victim's 18 representative, a law enforcement agency or unit with jurisdiction 19 over the crime shall give the victim or the victim's representative 20 timely notice as to:
- 21 (1) WHETHER A DNA PROFILE OF THE ALLEGED PERPETRATOR OR 22 PERPETRATORS WAS OBTAINED FROM EVIDENCE IN THE CASE;
- 23 (2) WHEN ANY DNA PROFILE OF AN ALLEGED PERPETRATOR
  24 DEVELOPED IN THE CASE WAS ENTERED INTO THE STATEWIDE DNA DATABASE
  25 SYSTEM; AND
- 26 (3) WHEN ANY MATCH OF THE DNA PROFILE OF AN ALLEGED PERPETRATOR IS RECEIVED.
- 28 **(D)** (1) Within 10 days after the filing or the unsealing of an indictment or information in circuit court, whichever is later, the prosecuting attorney shall:



30 (3) By filing a completed notification request form or completing the MDEC system protocol, a victim or victim's representative complies with Article 47 of the Maryland Declaration of Rights and each provision of the Code that requires a victim or victim's representative to request notice.

- 1 To keep the address and electronic mail address of a victim or victim's **(4)** 2 representative confidential, the victim or victim's representative shall: 3 designate in the notification request form a person who has agreed to receive notice for the victim or victim's representative; or 4 5 request as part of the MDEC system protocol, without filing a 6 motion to seal, that the address and electronic mail address remain confidential and 7 available, as necessary to only: 8 1. the court: 2. 9 the prosecuting attorney; 10 3. the Department of Public Safety and Correctional 11 Services; 124. the Department of Juvenile Services; 13 5. the attorney of the victim or victim's representative; 14 6. the State's Victim Information and Notification Everyday 15 vendor; and 16 7. a commitment unit that a court orders to retain custody of 17 an individual. 18 [(e)] **(F)** (1) Unless provided by the MDEC system, the prosecuting attorney shall send a victim or victim's representative prior notice of each court proceeding in the 19 20 case, of the terms of any plea agreement, and of the right of the victim or victim's 21representative to submit a victim impact statement to the court under § 11–402 of this title 22 if: 23 (i) prior notice is practicable; and 24 (ii) the victim or victim's representative has filed a notification request form or followed the MDEC system protocol under subsection [(d)](E) of this 2526section. 27 (2) (i) If the case is in a jurisdiction in which the office of the clerk of 28 the circuit court or juvenile court has an automated filing system, the prosecuting attorney 29 may ask the clerk to send the notice required by paragraph (1) of this subsection.
- 30 (ii) If the case is in a jurisdiction that has implemented the MDEC system, the victim may follow the MDEC system protocol to receive notice by electronic mail, to notify the prosecuting attorney, and to request additional notice available through the State's Victim Information and Notification Everyday vendor.

- 1 (3) As soon after a proceeding as practicable, the prosecuting attorney shall tell the victim or victim's representative of the terms of any plea agreement, judicial action, and proceeding that affects the interests of the victim or victim's representative, including a bail hearing, change in the defendant's pretrial release order, dismissal, nolle prosequi, stetting of charges, trial, disposition, and postsentencing court proceeding if:
- 6 (i) the victim or victim's representative has filed a notification 7 request form or followed the MDEC system protocol under subsection [(d)](E) of this section 8 and prior notice to the victim or victim's representative is not practicable; or
- 9 (ii) the victim or victim's representative is not present at the 10 proceeding.

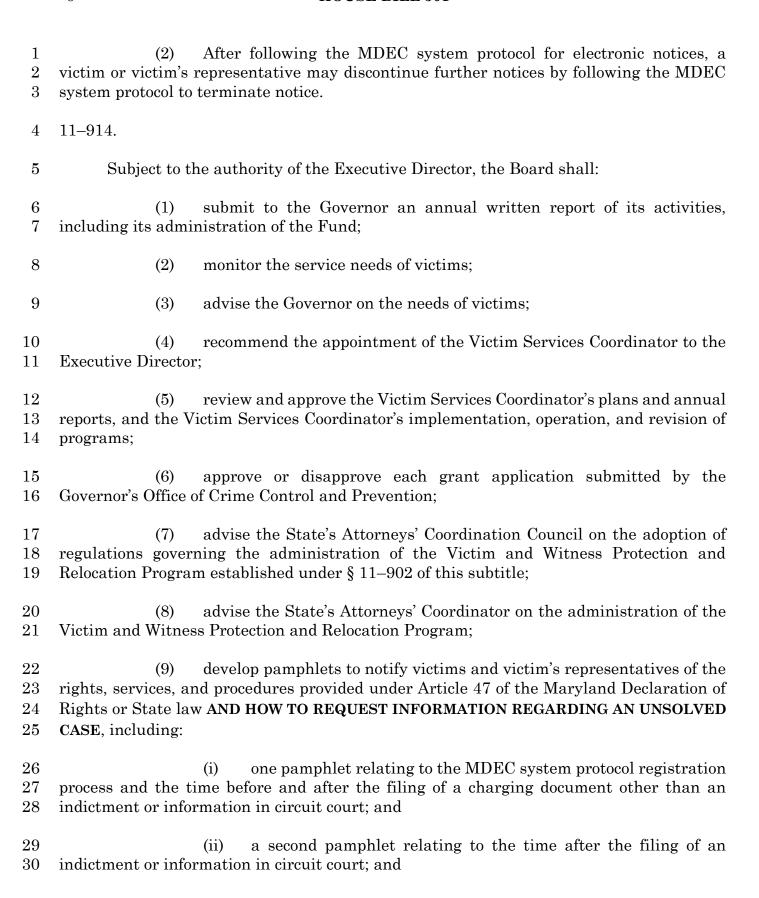
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- (4) Whether or not the victim or victim's representative has filed a notification request form or followed the MDEC system protocol under subsection **[(d)](E)** of this section, the prosecuting attorney may give the victim or victim's representative information about the status of the case if the victim or victim's representative asks for the information.
- [(f)] (G) If a victim or victim's representative has filed a notification request form or followed the MDEC system protocol under subsection [(d)](E) of this section, the clerk of the circuit court or juvenile court:
- 19 (1) shall include a copy of the form with any commitment order or 20 probation order that is passed or electronically transmit the form or the registration 21 information for the victim or the victim's representative through the MDEC system; and
- 22 (2) if an appeal is filed, shall send a copy of the form or electronically 23 transmit the form or the registration information for the victim or the victim's 24 representative through the MDEC system to the Attorney General and the court to which 25 the case has been appealed.
- [(g)] (H) This section does not prohibit a victim or victim's representative from filing a notification request form with a unit to which a defendant or child respondent has been committed.
- [(h)] (I) (1) After filing a notification request form under subsection [(d)](E) of this section, a victim or victim's representative may discontinue further notices by filing a written request with:
- 32 (i) the prosecuting attorney, if the case is still in a circuit court or 33 juvenile court; or
- 34 (ii) the unit to which the defendant or child respondent has been 35 committed, if a commitment order has been issued in the case.



- 1 (10) develop a notification request form and an MDEC system protocol in 2 consultation with the Administrative Office of the Courts, through which a victim or 3 victim's representative may request to be notified under § 11–104 of this title.
- 4 11–1002.
- 5 (b) A victim of a crime, victim's representative, or witness:
- 6 (8) on written request, should be kept reasonably informed by the police or 7 the State's Attorney of the arrest of a suspect and closing of the case, and should be told 8 which office to contact for information about the case;
- 9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 10 October 1, 2015.