

# SENATE BILL 427

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By: **Senators Lee, Guzzone, Hough, Jennings, Ready, and Salling**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Victims of Crime – Notification Regarding DNA Profile**

3 FOR the purpose of requiring a certain law enforcement agency or unit, under certain  
4 circumstances, to give a certain victim or victim's representative timely notice as to  
5 certain matters relating to a DNA profile of a certain alleged perpetrator or  
6 perpetrators; requiring the State Board of Victim Services to develop certain  
7 pamphlets to notify victims and victims' representatives of how to request  
8 information regarding an unsolved case; defining certain terms; and generally  
9 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

22 11–104.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(2) “DNA” HAS THE MEANING STATED IN § 2-501 OF THE PUBLIC**  
2 **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**  
27 **PERPETRATOR IS RECEIVED.**

28           **(D) (1) Within 10 days after the filing or the unsealing of an indictment or**  
29 **information in circuit court, whichever is later, the prosecuting attorney shall:**

30                   (i) mail or deliver to the victim or victim’s representative the  
31 pamphlet described in § 11-914(9)(ii) of this title and the notification request form  
32 described in § 11-914(10) of this title; and

1 (ii) certify to the clerk of the court that the prosecuting attorney has  
2 complied with this paragraph or is unable to identify the victim or victim's representative.

3 (2) If the prosecuting attorney files a petition alleging that a child is  
4 delinquent for committing an act that could only be tried in the circuit court if committed  
5 by an adult, the prosecuting attorney shall:

6 (i) inform the victim or victim's representative of the right to  
7 request restitution under § 11-606 of this title;

8 (ii) mail or deliver to the victim or victim's representative the  
9 notification request form described in § 11-914(10) of this title; and

10 (iii) certify to the clerk of the juvenile court that the prosecuting  
11 attorney has complied with this paragraph or is unable to identify the victim or victim's  
12 representative.

13 (3) For cases described under this subsection, the prosecuting attorney  
14 may provide a State's witness in the case with the guidelines for victims, victims'  
15 representatives, and witnesses available under §§ 11-1001 through 11-1004 of this title.

16 **[(d)] (E)** (1) A victim or victim's representative may:

17 (i) file a completed notification request form with the prosecuting  
18 attorney; or

19 (ii) follow the MDEC system protocol to request notice.

20 (2) (i) If the jurisdiction has not implemented the MDEC system, the  
21 prosecuting attorney shall send a copy of the completed notification request form to the  
22 clerk of the circuit court or juvenile court.

23 (ii) If the jurisdiction has implemented the MDEC system and the  
24 victim or victim's representative has filed a completed notification request form, the  
25 prosecuting attorney shall electronically file the form with the clerk of the circuit court or  
26 juvenile court in the MDEC system.

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

31 (4) To keep the address and electronic mail address of a victim or victim's  
32 representative confidential, the victim or victim's representative shall:

1 (i) designate in the notification request form a person who has  
2 agreed to receive notice for the victim or victim's representative; or

3 (ii) request as part of the MDEC system protocol, without filing a  
4 motion to seal, that the address and electronic mail address remain confidential and  
5 available, as necessary to only:

- 6 1. the court;
- 7 2. the prosecuting attorney;
- 8 3. the Department of Public Safety and Correctional  
9 Services;
- 10 4. the Department of Juvenile Services;
- 11 5. the attorney of the victim or victim's representative;
- 12 6. the State's Victim Information and Notification Everyday  
13 vendor; and
- 14 7. a commitment unit that a court orders to retain custody of  
15 an individual.

16 **[(e)] (F)** (1) Unless provided by the MDEC system, the prosecuting attorney  
17 shall send a victim or victim's representative prior notice of each court proceeding in the  
18 case, of the terms of any plea agreement, and of the right of the victim or victim's  
19 representative to submit a victim impact statement to the court under § 11-402 of this title  
20 if:

- 21 (i) prior notice is practicable; and
- 22 (ii) the victim or victim's representative has filed a notification  
23 request form or followed the MDEC system protocol under subsection **[(d)](E)** of this  
24 section.

25 (2) (i) If the case is in a jurisdiction in which the office of the clerk of  
26 the circuit court or juvenile court has an automated filing system, the prosecuting attorney  
27 may ask the clerk to send the notice required by paragraph (1) of this subsection.

28 (ii) If the case is in a jurisdiction that has implemented the MDEC  
29 system, the victim may follow the MDEC system protocol to receive notice by electronic  
30 mail, to notify the prosecuting attorney, and to request additional notice available through  
31 the State's Victim Information and Notification Everyday vendor.

32 (3) As soon after a proceeding as practicable, the prosecuting attorney shall  
33 tell the victim or victim's representative of the terms of any plea agreement, judicial action,

1 and proceeding that affects the interests of the victim or victim's representative, including  
2 a bail hearing, change in the defendant's pretrial release order, dismissal, nolle prosequi,  
3 stetting of charges, trial, disposition, and postsentencing court proceeding if:

4 (i) the victim or victim's representative has filed a notification  
5 request form or followed the MDEC system protocol under subsection **[(d)](E)** of this section  
6 and prior notice to the victim or victim's representative is not practicable; or

7 (ii) the victim or victim's representative is not present at the  
8 proceeding.

9 (4) Whether or not the victim or victim's representative has filed a  
10 notification request form or followed the MDEC system protocol under subsection **[(d)](E)**  
11 of this section, the prosecuting attorney may give the victim or victim's representative  
12 information about the status of the case if the victim or victim's representative asks for the  
13 information.

14 **[(f)] (G)** If a victim or victim's representative has filed a notification request  
15 form or followed the MDEC system protocol under subsection **[(d)](E)** of this section, the  
16 clerk of the circuit court or juvenile court:

17 (1) shall include a copy of the form with any commitment order or  
18 probation order that is passed or electronically transmit the form or the registration  
19 information for the victim or the victim's representative through the MDEC system; and

20 (2) if an appeal is filed, shall send a copy of the form or electronically  
21 transmit the form or the registration information for the victim or the victim's  
22 representative through the MDEC system to the Attorney General and the court to which  
23 the case has been appealed.

24 **[(g)] (H)** This section does not prohibit a victim or victim's representative from  
25 filing a notification request form with a unit to which a defendant or child respondent has  
26 been committed.

27 **[(h)] (I)** (1) After filing a notification request form under subsection **[(d)](E)**  
28 of this section, a victim or victim's representative may discontinue further notices by filing  
29 a written request with:

30 (i) the prosecuting attorney, if the case is still in a circuit court or  
31 juvenile court; or

32 (ii) the unit to which the defendant or child respondent has been  
33 committed, if a commitment order has been issued in the case.

1 (2) After following the MDEC system protocol for electronic notices, a  
2 victim or victim's representative may discontinue further notices by following the MDEC  
3 system protocol to terminate notice.

4 11-914.

5 Subject to the authority of the Executive Director, the Board shall:

6 (1) submit to the Governor an annual written report of its activities,  
7 including its administration of the Fund;

8 (2) monitor the service needs of victims;

9 (3) advise the Governor on the needs of victims;

10 (4) recommend the appointment of the Victim Services Coordinator to the  
11 Executive Director;

12 (5) review and approve the Victim Services Coordinator's plans and annual  
13 reports, and the Victim Services Coordinator's implementation, operation, and revision of  
14 programs;

15 (6) approve or disapprove each grant application submitted by the  
16 Governor's Office of Crime Control and Prevention;

17 (7) advise the State's Attorneys' Coordination Council on the adoption of  
18 regulations governing the administration of the Victim and Witness Protection and  
19 Relocation Program established under § 11-902 of this subtitle;

20 (8) advise the State's Attorneys' Coordinator on the administration of the  
21 Victim and Witness Protection and Relocation Program;

22 (9) develop pamphlets to notify victims and victim's representatives of the  
23 rights, services, and procedures provided under Article 47 of the Maryland Declaration of  
24 Rights or State law **AND HOW TO REQUEST INFORMATION REGARDING AN UNSOLVED**  
25 **CASE**, including:

26 (i) one pamphlet relating to the MDEC system protocol registration  
27 process and the time before and after the filing of a charging document other than an  
28 indictment or information in circuit court; and

29 (ii) a second pamphlet relating to the time after the filing of an  
30 indictment or information in circuit court; and

31 (10) develop a notification request form and an MDEC system protocol in  
32 consultation with the Administrative Office of the Courts, through which a victim or  
33 victim's representative may request to be notified under § 11-104 of this title.

1 11-1002.

2 (b) A victim of a crime, victim's representative, or witness:

3 (8) on written request, should be kept reasonably informed by the police or  
4 the State's Attorney of the arrest of a suspect and closing of the case, and should be told  
5 which office to contact for information about the case;

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2015.