

SENATE BILL 427

E2

5lr1955
CF HB 501

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

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 4, 2015

CHAPTER _____

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 certain 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:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Criminal Procedure**

2 11–104.

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

4 (2) **“DNA” HAS THE MEANING STATED IN § 2–501 OF THE PUBLIC**
5 **SAFETY ARTICLE.**

6 (3) **“STATEWIDE DNA DATABASE SYSTEM” HAS THE MEANING**
7 **STATED IN § 2–501 OF THE PUBLIC SAFETY ARTICLE.**

8 [(2)] (4) **“Victim” means a person who suffers actual or threatened**
9 **physical, emotional, or financial harm as a direct result of a crime or delinquent act.**

10 [(3)] (5) **“Victim’s representative” includes a family member or guardian**
11 **of a victim who is:**

12 (i) a minor;

13 (ii) deceased; or

14 (iii) disabled.

15 (b) On first contact with a victim or victim’s representative, a law enforcement
16 officer, District Court commissioner, or juvenile intake officer shall give the victim or the
17 victim’s representative the pamphlet described in § 11–914(9)(i) of this title.

18 (c) **UNLESS TO DO SO WOULD IMPEDE OR COMPROMISE AN ONGOING**
19 **INVESTIGATION OR THE VICTIM’S REPRESENTATIVE IS A SUSPECT OR A PERSON OF**
20 **INTEREST IN THE CRIMINAL INVESTIGATION OF THE CRIME INVOLVING THE VICTIM,**
21 **ON WRITTEN REQUEST OF A VICTIM OF A CRIME OF VIOLENCE AS DEFINED IN §**
22 **14–101 OF THE CRIMINAL LAW ARTICLE OR THE VICTIM’S REPRESENTATIVE, ~~A THE~~**
23 **INVESTIGATING LAW ENFORCEMENT AGENCY OR UNIT WITH JURISDICTION OVER**
24 **~~THE CRIME~~ SHALL GIVE THE VICTIM OR THE VICTIM’S REPRESENTATIVE TIMELY**
25 **NOTICE AS TO:**

26 (1) **WHETHER ~~A DNA PROFILE OF THE ALLEGED PERPETRATOR OR~~**
27 **PERPETRATORS AN EVIDENTIARY DNA PROFILE WAS OBTAINED FROM EVIDENCE**
28 **IN THE CASE;**

29 (2) **WHEN ANY EVIDENTIARY DNA PROFILE ~~OF AN ALLEGED~~**
30 **PERPETRATOR DEVELOPED IN THE CASE WAS ENTERED INTO THE ~~STATEWIDE~~ DNA**
31 **DATABASE SYSTEM; AND**

1 **(3) WHEN ANY CONFIRMED MATCH OF THE DNA PROFILE OF AN**
2 **ALLEGED PERPETRATOR, OFFICIAL DNA CASE REPORT, OR DNA HIT REPORT IS**
3 **RECEIVED.**

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

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

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

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

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

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

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

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

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

25 (i) file a completed notification request form with the prosecuting
26 attorney; or

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

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

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

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

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

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

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

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

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

27 (i) prior notice is practicable; and

28 (ii) the victim or victim's representative has filed a notification
29 request form or followed the MDEC system protocol under subsection **[(d)](E)** of this
30 section.

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

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

8 (3) As soon after a proceeding as practicable, the prosecuting attorney shall
9 tell the victim or victim's representative of the terms of any plea agreement, judicial action,
10 and proceeding that affects the interests of the victim or victim's representative, including
11 a bail hearing, change in the defendant's pretrial release order, dismissal, nolle prosequi,
12 stetting of charges, trial, disposition, and postsentencing court proceeding if:

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

16 (ii) the victim or victim's representative is not present at the
17 proceeding.

18 (4) Whether or not the victim or victim's representative has filed a
19 notification request form or followed the MDEC system protocol under subsection [(d)](E)
20 of this section, the prosecuting attorney may give the victim or victim's representative
21 information about the status of the case if the victim or victim's representative asks for the
22 information.

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

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

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

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

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

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

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

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

11 11-914.

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

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

15 (2) monitor the service needs of victims;

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

17 (4) recommend the appointment of the Victim Services Coordinator to the
18 Executive Director;

19 (5) review and approve the Victim Services Coordinator's plans and annual
20 reports, and the Victim Services Coordinator's implementation, operation, and revision of
21 programs;

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

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

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

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

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

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

6 (10) develop a notification request form and an MDEC system protocol in
7 consultation with the Administrative Office of the Courts, through which a victim or
8 victim’s representative may request to be notified under § 11–104 of this title.

9 11–1002.

10 (b) A victim of a crime, victim’s representative, or witness:

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.