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Introduced and read first time: February 2, 1996

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 1996

CHAPTER ____

1 AN ACT concerning

2 **Victims' Rights - Notification Procedures**

3 FOR the purpose of establishing procedures for notifying certain victims of their rights
4 during the criminal justice process; requiring the State Board of Victim Services to
5 create and develop certain informational pamphlets notifying victims of certain
6 rights, services, and procedures provided by law; requiring the Board, in
7 consultation with the Administrative Office of the Courts, to develop a notification
8 request form through which a victim may request to be notified under this Act;
9 providing for the distribution of the pamphlets to certain victims at certain stages of
10 a criminal case; requiring the State's Attorney to mail or otherwise deliver to the
11 victim a notification request form within a certain period of time after the filing or
12 unsealing of an indictment or information in circuit court or on the filing of a
13 petition alleging delinquency in certain cases; requiring the State's Attorney to
14 certify certain information to the clerk of the circuit court; designating the State's
15 Attorney to receive a completed notification request form from a victim; requiring
16 the State's Attorney to send a copy of the completed notification request form to
17 the clerk; providing for the effect of filing a notification request form by a victim;

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1 authorizing a victim to designate a person or organization to receive notice for the
2 victim under certain circumstances; requiring the State's Attorney, under certain
3 circumstances, to send to the victim prior notice of certain proceedings; authorizing
4 the State's Attorney, under certain circumstances, to request the clerk to send the
5 notice to the victim; requiring the State's Attorney, under certain circumstances, to
6 advise the victim of certain proceedings; authorizing the State's Attorney, under
7 certain circumstances, to give the victim certain information; requiring the clerk,
8 under certain circumstances, to include certain information with a commitment
9 order; requiring the clerk, under certain circumstances, to send certain information
10 to the Attorney General and a certain court; establishing procedures by which a
11 victim may elect not to receive notice under this Act; authorizing a victim to file a
12 notification request form with a department or facility to which the defendant has
13 been committed; repealing the termination date for certain court costs; defining
14 certain terms; making certain technical changes; and generally relating to victims'
15 rights notification procedures.

16 BY repealing and reenacting, with amendments,
17 Article 26A - Criminal Injuries Compensation Act
18 Section 17
19 Annotated Code of Maryland
20 (1994 Replacement Volume and 1995 Supplement)

21 BY adding to
22 Article 27 - Crimes and Punishments
23 Section 773
24 Annotated Code of Maryland
25 (1992 Replacement Volume and 1995 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - State Government
28 Section 9-1701 through 9-1703, 9-1705, and 9-1708
29 Annotated Code of Maryland
30 (1995 Replacement Volume)

31 BY repealing and reenacting, with amendments,
32 Chapter 396 of the Acts of the General Assembly of 1995
33 Section 3

34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
35 MARYLAND, That the Laws of Maryland read as follows:

36 **Article 26A - Criminal Injuries Compensation Act**

37 17.

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

39 (2) "Crime" means an act committed by a person in the State that is:

3

1 (i) A crime under Article 27 of the Code;

2 (ii) A violation of the Transportation Article which is punishable by
3 imprisonment; or

4 (iii) A crime at common law.

5 (3) "Offense" means an act committed by a person in the State that is a
6 violation of the Transportation Article and is not punishable by imprisonment.

7 (b) In addition to any other costs required by law, a circuit court shall impose on
8 a defendant convicted of a crime an additional cost of \$40 in the case.

9 (c) In addition to any other costs required by law, the District Court shall impose
10 on a defendant convicted of a crime an additional cost of \$30 in the case.

11 (d) In addition to any other costs required by law, a court shall impose on a
12 defendant convicted of an offense an additional cost of \$3 in the case, including cases in
13 which the defendant elects to waive the right to trial and pay the fine or penalty deposit
14 established by the Chief Judge of the District Court by administrative regulation.

15 (e) (1) All money collected under this section shall be paid to the Comptroller
16 of the State.

17 (2) The Comptroller shall deposit \$20 from each fee collected under
18 subsection (b) of this section from a circuit court and \$10 from each fee collected under
19 subsection (c) of this section from the District Court into the Maryland Victims of Crime
20 Fund established under Article 27, § 764(j) of the Code.

21 (3) The Comptroller shall deposit all other moneys collected under
22 subsections (b) and (c) of this section into the Criminal Injuries Compensation Fund
23 established under § 17A of this article.

24 (4) The Comptroller shall pay out moneys from the Maryland Victims of
25 Crime Fund as approved by the Board of Victim Services under §§ 9-1701 through 9-1708
26 of the State Government Article.

27 (f) (1) From the first \$500,000 in fees collected under subsection (d) of this
28 section IN EACH FISCAL YEAR, the Comptroller shall deposit one-half of each fee into
29 the Maryland Victims of Crime Fund and one-half of each fee into the Criminal Injuries
30 Compensation Fund.

31 (2) For fees collected under subsection (d) of this section in excess of
32 \$500,000 IN EACH FISCAL YEAR, the Comptroller shall deposit the entire fee into the
33 Criminal Injuries Compensation Fund.

34 (g) A political subdivision may not be held liable under any condition for the
35 payment of sums under this section.

4

1 **Article 27 - Crimes and Punishments**

2 773.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "VICTIM" MEANS AN INDIVIDUAL WHO SUFFERS DIRECT OR
6 THREATENED PHYSICAL, EMOTIONAL, OR FINANCIAL HARM AS A DIRECT RESULT
7 OF A CRIME OR DELINQUENT ACT, INCLUDING A FAMILY MEMBER OR GUARDIAN
8 OF A MINOR, INCOMPETENT, OR HOMICIDE VICTIM.

9 (3) "CLERK" MEANS THE CLERK OF A CIRCUIT COURT OR THE CLERK OF
10 A COURT SITTING AS THE JUVENILE COURT, AS THE CONTEXT REQUIRES.

11 (4) "STATE'S ATTORNEY" INCLUDES:

12 (I) THE STATE'S ATTORNEY'S DESIGNEE; AND

13 (II) AT THE TRIAL LEVEL, THE ATTORNEY GENERAL OR THE
14 ATTORNEY GENERAL'S DESIGNEE.

15 (B) ON FIRST CONTACT WITH A VICTIM, A LAW ENFORCEMENT OFFICER,
16 DISTRICT COURT COMMISSIONER, OR JUVENILE INTAKE OFFICER SHALL GIVE THE
17 VICTIM A COPY OF THE PAMPHLET DESCRIBED IN § 9-1705(8)(I) OF THE STATE
18 GOVERNMENT ARTICLE.

19 (C) (1) WITHIN 10 DAYS AFTER THE LATER OF THE FILING OR THE
20 UNSEALING OF AN INDICTMENT OR INFORMATION IN CIRCUIT COURT, THE STATE'S
21 ATTORNEY SHALL:

22 (I) MAIL OR OTHERWISE DELIVER TO THE VICTIM A COPY OF THE
23 PAMPHLET DESCRIBED IN § 9-1705(8)(II) OF THE STATE GOVERNMENT ARTICLE;

24 (II) MAIL OR OTHERWISE DELIVER TO THE VICTIM A COPY OF THE
25 NOTIFICATION REQUEST FORM DESCRIBED IN § 9-1705(9) OF THE STATE
26 GOVERNMENT ARTICLE; AND

27 (III) CERTIFY TO THE CLERK THAT THE STATE'S ATTORNEY HAS
28 COMPLIED WITH THE REQUIREMENTS IN ITEMS (I) AND (II) OF THIS PARAGRAPH OR
29 IS UNABLE TO IDENTIFY THE VICTIM.

30 (2) ON THE FILING OF A PETITION ALLEGING DELINQUENCY IN A CASE
31 IN WHICH THE CHILD IS ALLEGED TO HAVE COMMITTED AN ACT THAT COULD ONLY
32 BE TRIED IN THE CIRCUIT COURT IF COMMITTED BY AN ADULT, THE STATE'S
33 ATTORNEY SHALL:

34 (I) INFORM THE VICTIM OF THE RIGHT TO REQUEST RESTITUTION
35 UNDER § 3-829 OF THE COURTS ARTICLE;

36 (II) MAIL OR OTHERWISE DELIVER TO THE VICTIM A COPY OF THE
37 NOTIFICATION REQUEST FORM DESCRIBED IN § 9-1705(9) OF THE STATE
38 GOVERNMENT ARTICLE; AND

5

1 (III) CERTIFY TO THE CLERK THAT THE STATE'S ATTORNEY HAS
2 COMPLIED WITH THE REQUIREMENTS IN ITEMS (I) AND (II) OF THIS PARAGRAPH OR
3 IS UNABLE TO IDENTIFY THE VICTIM.

4 (D) (1) ON COMPLETION OF A NOTIFICATION REQUEST FORM, THE VICTIM
5 MAY FILE THE FORM WITH THE STATE'S ATTORNEY.

6 (2) ON RECEIPT OF A COMPLETED NOTIFICATION REQUEST FORM BY
7 THE STATE'S ATTORNEY, THE STATE'S ATTORNEY SHALL SEND A COPY OF THE
8 FORM TO THE CLERK.

9 (3) THE FILING OF A NOTIFICATION REQUEST FORM BY A VICTIM
10 CONSTITUTES COMPLIANCE WITH ARTICLE 47 OF THE DECLARATION OF RIGHTS OR
11 ANY OTHER PROVISION OF THE CODE THAT REQUIRES A VICTIM TO REQUEST
12 NOTIFICATION.

13 (4) A VICTIM WHO FILES A NOTIFICATION REQUEST FORM AND DOES
14 NOT WANT HIS OR HER ADDRESS TO BE MADE PUBLIC SHALL DESIGNATE IN A
15 NOTIFICATION REQUEST FORM A PERSON OR ORGANIZATION WHO HAS
16 CONSENTED TO RECEIVE NOTICE FOR THE VICTIM.

17 (E) (1) IF A VICTIM HAS FILED A NOTIFICATION REQUEST FORM UNDER
18 SUBSECTION (D) OF THIS SECTION, THE STATE'S ATTORNEY SHALL SEND TO THE
19 VICTIM PRIOR NOTICE, IF PRACTICABLE, OF ALL COURT PROCEEDINGS IN THE CASE.

20 (2) IF THE CASE IS IN A JURISDICTION IN WHICH THE OFFICE OF THE
21 CLERK IS EQUIPPED WITH AN AUTOMATED FILING SYSTEM, NOTHING IN THIS
22 SUBSECTION PRECLUDES THE STATE'S ATTORNEY FROM REQUESTING THE CLERK
23 TO SEND THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

24 (3) AFTER A VICTIM HAS FILED A NOTIFICATION REQUEST FORM
25 UNDER SUBSECTION (D) OF THIS SECTION AND IF PRIOR NOTICE TO THE VICTIM IS
26 NOT PRACTICABLE, OR IF THE VICTIM IS NOT PRESENT AT THE PROCEEDING, THE
27 STATE'S ATTORNEY SHALL, AS SOON AFTER THE PROCEEDING AS PRACTICABLE,
28 ADVISE THE VICTIM OF ALL PROCEEDINGS THAT AFFECT THE VICTIM'S INTERESTS,
29 INCLUDING A BAIL HEARING OR CHANGE IN THE DEFENDANT'S PRETRIAL RELEASE
30 ORDER, DISMISSAL, ~~NOL PROS~~ NOLLE PROSEQUI OR STETTING OF CHARGES, TRIAL,
31 DISPOSITION, OR POST-SENTENCING COURT PROCEEDING.

32 (4) WHETHER OR NOT THE VICTIM HAS FILED A NOTIFICATION
33 REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, IF THE VICTIM
34 REQUESTS SUCH INFORMATION, NOTHING MAY PRECLUDE THE STATE'S ATTORNEY
35 FROM GIVING THE VICTIM INFORMATION CONCERNING THE CURRENT STATUS OF
36 THE CASE.

37 (F) IF A COMMITMENT ORDER IS ISSUED AFTER A VICTIM HAS FILED A
38 NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, THE
39 CLERK SHALL INCLUDE A COPY OF THE NOTIFICATION REQUEST FORM WITH THE
40 COMMITMENT ORDER.

41 (G) IF AN APPEAL IS FILED IN A CASE IN WHICH A VICTIM HAS FILED A
42 NOTIFICATION REQUEST FORM UNDER SUBSECTION (D) OF THIS SECTION, THE

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1 CLERK SHALL SEND A COPY OF THE NOTIFICATION REQUEST FORM TO THE
2 ATTORNEY GENERAL AND THE COURT TO WHICH THE CASE HAS BEEN APPEALED.

3 (H) AT ANY TIME AFTER FILING A NOTIFICATION REQUEST FORM UNDER
4 SUBSECTION (D) OF THIS SECTION, A VICTIM MAY ELECT NOT TO RECEIVE ANY
5 FURTHER NOTICES BY FILING A WRITTEN REQUEST WITH:

6 (1) IF THE CASE IS STILL IN THE CIRCUIT COURT OR THE JUVENILE
7 COURT, THE STATE'S ATTORNEY; OR

8 (2) IF A COMMITMENT ORDER HAS BEEN ISSUED IN THE CASE, THE
9 DEPARTMENT OR FACILITY SPECIFIED IN THE COMMITMENT ORDER TO WHICH THE
10 DEFENDANT HAS BEEN COMMITTED.

11 (I) THIS SECTION DOES NOT PROHIBIT A VICTIM FROM FILING A
12 NOTIFICATION REQUEST FORM WITH A DEPARTMENT OR FACILITY TO WHICH A
13 DEFENDANT HAS BEEN COMMITTED.

14 **Article - State Government**

15 9-1701.

16 (a) In this subtitle the following words have the meanings indicated.

17 (b) "Board" means the State Board of Victim Services.

18 (c) [(1)] "Crime" means an act that is committed by any person in the State that
19 would constitute a crime under Article 27 of the Code or at common law.

20 [(2) "Crime" does not include any act that involves the operation of a vessel
21 or motor vehicle that results in injury, unless the injuries were intentionally inflicted
22 through the use of the vessel or motor vehicle.]

23 (d) "Executive Director" means the Executive Director of the Governor's Office
24 of [Justice Administration] CRIME CONTROL AND PREVENTION.

25 (e) "Fund" means the Maryland Victims of Crime Fund established under Article
26 27, § 764 of the Code.

27 (f) "Victim" means an individual who suffers [personal injury or death] DIRECT
28 OR THREATENED PHYSICAL, EMOTIONAL, OR FINANCIAL HARM as a direct result of a
29 crime, INCLUDING A FAMILY MEMBER OF A MINOR, INCOMPETENT, OR HOMICIDE
30 VICTIM.

31 (g) "Victim Services Coordinator" means the person who is appointed under the
32 provisions of § 9-1708 of this subtitle.

33 9-1702.

34 In recognition that State and local law, programs, and procedures must be
35 continually updated to meet the unique needs of crime victims, the General Assembly
36 finds that:

7

1 (1) there is a need for the State Board of Victim Services and the position of
2 "Victim Services Coordinator" for the purpose of monitoring, assessing, coordinating, and
3 making recommendations concerning State and local efforts to assist victims of crimes;

4 (2) the Victim Services Program should be transferred to be under the
5 authority of the Governor's Office of [Justice Administration] CRIME CONTROL AND
6 PREVENTION; and

7 (3) the administrative consolidation effected by this transfer will minimize
8 fragmentation of functions that the State government performs on behalf of crime victims
9 and assist in the coordination, efficiency, and greater effectiveness of State assistance to
10 victims of crime.

11 9-1703.

12 There is in the Governor's Office of [Justice Administration,] CRIME CONTROL
13 AND PREVENTION, created by Executive Order [01.01.1992.02,] 01.01.1995.18, or in any
14 successor unit, a State Board of Victim Services.

15 9-1705.

16 Subject to the authority of the Executive Director, the Board shall have the
17 following powers and duties:

18 (1) to render each year to the Governor a written report of its activities,
19 including the administration of the Fund;

20 (2) to monitor service needs of victims;

21 (3) to advise the Governor on the needs of victims;

22 (4) (i) to recommend the appointment of the Victim Services Coordinator
23 to the Executive Director; and

24 (ii) to review and approve Victim Services Coordinator plans, annual
25 reports, and the implementation, operation, and revision of programs by the Victim
26 Services Coordinator;

27 (5) to approve or disapprove the grant applications submitted by the Office
28 of [Justice Administration] CRIME CONTROL AND PREVENTION;

29 (6) to advise the State's Attorneys' Coordination Council on the adoption of
30 regulations governing the administration of the Victim and Witness Protection and
31 Relocation Program established under Article 27, § 770 of the Code; [and]

32 (7) to advise the State's Attorneys' Coordinator on the administration of the
33 Victim and Witness Protection and Relocation Program;

34 (8) TO CREATE AND DEVELOP AT LEAST TWO SEPARATE
35 INFORMATIONAL PAMPHLETS NOTIFYING VICTIMS OF THE RIGHTS, SERVICES, AND
36 PROCEDURES PROVIDED UNDER ARTICLE 47 OF THE DECLARATION OF RIGHTS OR
37 ANY OTHER PROVISION OF THE CODE AS FOLLOWS:

8

1 (I) ONE PAMPHLET SHALL CONCERN THE RIGHTS, SERVICES AND
2 PROCEDURES RELATING TO THE PERIOD OF TIME BEFORE AND AFTER THE FILING
3 OF A CHARGING DOCUMENT OTHER THAN AN INDICTMENT OR INFORMATION IN
4 CIRCUIT COURT; AND

5 (II) A SECOND PAMPHLET SHALL CONCERN THE RIGHTS,
6 SERVICES, AND PROCEDURES RELATING TO THE PERIOD OF TIME AFTER THE
7 FILING OF AN INDICTMENT OR INFORMATION IN CIRCUIT COURT; AND

8 (9) IN CONSULTATION WITH THE ADMINISTRATIVE OFFICE OF THE
9 COURTS, TO DEVELOP A NOTIFICATION REQUEST FORM THROUGH WHICH A VICTIM
10 MAY REQUEST TO BE NOTIFIED UNDER ARTICLE 27, § 773 OF THE CODE.

11 9-1708.

12 (a) The Office of [Justice Administration] CRIME CONTROL AND PREVENTION
13 shall adopt regulations that provide for the administration and award of grants under this
14 title.

15 (b) Grant applications that are approved by the Office of [Justice
16 Administration] CRIME CONTROL AND PREVENTION shall be submitted to the Board
17 for final approval before the release of any moneys from the Fund.

18 **Chapter 396 of the Acts of 1995**

19 SECTION 3. AND BE IT FURTHER ENACTED, That the changes made to
20 Article 26A, § 17 of the Code by Section 1 of this Act shall take effect October 1, 1995
21 [and shall remain effective for a period of one year and, at the end of September 30,
22 1996, with no further action required by the General Assembly, shall be abrogated and of
23 no further force and effect].

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 1996.