

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 1109

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike in their entirety lines 2 and 3 and substitute "Criminal Procedure - Witnesses - Notification of Release and Escape of Offender"; and strike beginning with "requiring" in line 4 down through "circumstances" in line 11 and substitute "authorizing a State's Attorney to provide a State's witness with a copy of certain guidelines; allowing certain witnesses to request a certain notice of a defendant's release under certain circumstances; requiring certain commitment agencies provide certain notices to witnesses and to notify certain witnesses of a defendant's release, escape, recapture, transfer, or death under certain circumstances; establishing that this Act does not create certain causes of action; establishing that certain victims and witnesses of delinquent acts should be notified of certain releases and escapes; defining a certain term; and generally relating to the notification of witnesses of certain releases of defendants from custody".

AMENDMENT NO. 2

On page 1, strike in their entirety lines 12 through 16, inclusive, and substitute:

"BY repealing and reenacting, with amendments,

Article 27 - Crimes and Punishments

Section 770(c), 789, and 851(a)(7) and (8)

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, without amendments,

Article 27 - Crimes and Punishments

Section 848(15) and (17), 849, and 851(b)

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

(Over)

BY adding to

Article 27 - Crimes and Punishments

Section 851(a)(9)

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)”.

AMENDMENT NO. 3

On pages 1 through 4, strike in their entirety the lines beginning with line 20 on page 1 through line 8 on page 4, inclusive, and substitute:

“770.

(c) (1) Within 10 days after the later of the filing or the unsealing of an indictment or information in circuit court, the State's Attorney shall:

(i) Mail or otherwise deliver to the victim a copy of the pamphlet described in § 841(8)(ii) of this article;

(ii) Mail or otherwise deliver to the victim a copy of the notification request form described in § 841(9) of this article; and

(iii) Certify to the clerk that the State's Attorney has complied with the requirements in items (i) and (ii) of this paragraph or is unable to identify the victim.

(2) On the filing of a petition alleging delinquency in a case in which the child is alleged to have committed an act that could only be tried in the circuit court if committed by an adult, the State's Attorney shall:

(i) Inform the victim of the right to request restitution under § 807 of this article;

(ii) Mail or otherwise deliver to the victim a copy of the notification request form described in § 841(9) of this article; and

(iii) Certify to the clerk that the State's Attorney has complied with the requirements in items (i) and (ii) of this paragraph or is unable to identify the victim.

(3) FOR CASES DESCRIBED UNDER THIS SUBSECTION, THE STATE'S ATTORNEY MAY PROVIDE ANY STATE'S WITNESS IN THE CASE WITH A COPY OF THE GUIDELINES FOR VICTIMS AND WITNESSES AVAILABLE UNDER §§ 847 THROUGH 850 OF THIS TITLE.

789.

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

(2) "Commitment agency" means a department or facility that has been ordered by a court to retain custody of a defendant or child and has received a notification request form under § 770(f) or (i) of this article.

(3) "Release from confinement" means work release, home detention, and any other administrative or statutorily authorized release of a defendant from a confinement facility.

(4) "Victim" means a victim who has filed a notification request form under § 770 of this article.

(5) "WITNESS" MEANS ANY PERSON WHO:

(I) HAS KNOWLEDGE OF THE EXISTENCE OF FACTS RELATING TO A CRIME OF VIOLENCE AS DEFINED UNDER § 643B OF THIS ARTICLE OR CONSPIRACY OR SOLICITATION TO COMMIT A CRIME OF VIOLENCE AS DEFINED UNDER § 643B OF THIS ARTICLE; AND

(II) 1. MAKES A DECLARATION UNDER OATH THAT IS RECEIVED AS EVIDENCE FOR ANY PURPOSE; OR

2. HAS BEEN SERVED WITH A SUBPOENA ISSUED UNDER THE AUTHORITY OF A COURT OF THE STATE, OF ANY OTHER STATE, OR OF THE UNITED STATES.

(Over)

(B) IF A WITNESS REQUESTS IN WRITING FOR A COMMITMENT AGENCY TO NOTIFY THE WITNESS IN WRITING OF A DEFENDANT'S RELEASE FROM CONFINEMENT, THE PROVISIONS OF THIS SECTION SHALL APPLY.

[(b)] (C) On receipt of a notification request form under § 770(f) or (i) of this article OR A WRITTEN REQUEST FROM A WITNESS FOR NOTIFICATION, if practicable, a commitment agency shall notify the victim OR WITNESS of:

(1) The commitment agency's receipt of the notification request form;

(2) The date on which the defendant was placed under the custody of the commitment agency;

(3) How to change the address of the [victim] WITNESS, VICTIM, or of the person to receive notice for the victim; and

(4) How to elect not to receive any future notices.

[(c)] (D) A commitment agency shall notify a victim OR WITNESS, in advance if practicable, if any of the following events occur concerning the defendant:

(1) An escape;

(2) A recapture;

(3) A transfer to another commitment agency;

(4) A release from confinement and any conditions attached to the release; and

(5) The death of the defendant.

[(d)] (E) A commitment agency may not disclose to a defendant the address or telephone number of a [victim] WITNESS, VICTIM, or person who receives notice for the victim.

(F) NOTHING IN THIS SECTION MAY BE CONSTRUED AS CREATING A CAUSE OF ACTION ON BEHALF OF ANY INDIVIDUAL AGAINST ANY PUBLIC OFFICIAL, EMPLOYEE, PUBLIC AGENCY, OR STATE OR LOCAL GOVERNMENT, OR ANY AGENCY RESPONSIBLE FOR CARRYING OUT THE PROVISIONS OF THIS SECTION.

848.

A crime victim or witness should:

(15) On written request to the parole authority, be informed any time there is to be a hearing on provisional release from custody and any time the offender is to receive such a release;

(17) On written request to the agency that has custody of the offender after sentencing, be informed by the agency any time the offender escapes or receives a mandatory supervision release.

849.

The Department of Public Safety and Correctional Services shall be responsible for making the guidelines available to the agencies involved. To the extent feasible, the guidelines shall be printed by the inmates employed by State Use Industries.

851.

(a) A victim of a delinquent act or a witness should:

(7) Be advised of the right to have stolen or other property promptly returned and, on written request, have the property promptly returned by law enforcement agencies when means can be employed to otherwise satisfy evidentiary requirements for prosecution unless there is a compelling law enforcement reason for retaining it; [and]

(8) Be informed, in appropriate cases, by the State's Attorney of the right to request restitution and, on request, be provided assistance in the preparation of the request and advice as to

(Over)

the collection of the payment of any restitution awarded; AND

(9) ON WRITTEN REQUEST TO THE APPROPRIATE AGENCY, BE INFORMED ANY TIME THAT THE CHILD IS TO BE RELEASED OR ESCAPES.

(b) The Department of Juvenile Justice shall be responsible for making the guidelines available to the agencies involved.”.