
By: **Delegates Genn, Comeau, R. Baker, Goldwater, Kopp, Preis, and Grosfeld**

Introduced and read first time: February 13, 1998
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 23, 1998

CHAPTER _____

1 AN ACT concerning

2 ~~Criminal Offenders—Notice of Escape to Victims and Local Law~~
3 ~~Enforcement Agencies~~
4 Criminal Procedure - Witnesses - Notification of Release and Escape of
5 Offender

6 FOR the purpose of ~~requiring a supervising authority to provide certain notice if a~~
7 ~~person convicted of a certain crime of violence escapes from a facility or the~~
8 ~~custody of a supervising authority; requiring that certain persons receive~~
9 ~~notification; requiring notice information to be confidential; requiring notice of~~
10 ~~recapture of an offender; requiring the Secretary of Public Safety and~~
11 ~~Correctional Services to adopt certain regulations; defining certain terms; and~~
12 ~~generally relating to notice of escape of certain criminal offenders under certain~~
13 ~~circumstances authorizing a State's Attorney to provide a State's witness with a~~
14 ~~copy of certain guidelines; allowing certain witnesses to request a certain notice~~
15 ~~of a defendant's release under certain circumstances; requiring certain~~
16 ~~commitment agencies provide certain notices to witnesses and to notify certain~~
17 ~~witnesses of a defendant's release, escape, recapture, transfer, or death under~~
18 ~~certain circumstances; establishing that this Act does not create certain causes~~
19 ~~of action; establishing that certain victims and witnesses of delinquent acts~~
20 ~~should be notified of certain releases and escapes; defining a certain term; and~~
21 ~~generally relating to the notification of witnesses of certain releases of~~
22 ~~defendants from custody.~~

23 ~~BY adding to~~
24 ~~Article 27—Crimes and Punishments~~
25 ~~Section 789A~~

1 Annotated Code of Maryland
 2 (1996 Replacement Volume and 1997 Supplement)

3 BY repealing and reenacting, with amendments,
 4 Article 27 - Crimes and Punishments
 5 Section 770(c), 789, and 851(a)(7) and (8)
 6 Annotated Code of Maryland
 7 (1996 Replacement Volume and 1997 Supplement)

8 BY repealing and reenacting, without amendments,
 9 Article 27 - Crimes and Punishments
 10 Section 848(15) and (17), 849, and 851(b)
 11 Annotated Code of Maryland
 12 (1996 Replacement Volume and 1997 Supplement)

13 BY adding to
 14 Article 27 - Crimes and Punishments
 15 Section 851(a)(9)
 16 Annotated Code of Maryland
 17 (1996 Replacement Volume and 1997 Supplement)

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

20 **Article 27 - Crimes and Punishments**

21 ~~789A:~~

22 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
 23 ~~INDICATED.~~

24 ~~(2) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY AND~~
 25 ~~CORRECTIONAL SERVICES.~~

26 ~~(3) "LOCAL LAW ENFORCEMENT AGENCY" MEANS THE LAW~~
 27 ~~ENFORCEMENT AGENCY IN A COUNTY THAT HAS BEEN DESIGNATED BY THE~~
 28 ~~COUNTY GOVERNING BODY AS THE PRIMARY LAW ENFORCEMENT UNIT IN THE~~
 29 ~~COUNTY.~~

30 ~~(4) "OFFENDER" MEANS A PERSON WHO HAS BEEN CONVICTED OF A~~
 31 ~~CRIME OF VIOLENCE AS DEFINED IN § 643B(A) OF THIS ARTICLE.~~

32 ~~(5) "SECRETARY" MEANS THE SECRETARY OF THE DEPARTMENT OF~~
 33 ~~PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

34 ~~(6) "SUPERVISING AUTHORITY" MEANS:~~

1 (I) IF THE OFFENDER IS IN THE CUSTODY OF A FACILITY
2 OPERATED BY THE DEPARTMENT;

3 (II) IF THE OFFENDER IS IN THE CUSTODY OF A LOCAL OR
4 REGIONAL DETENTION CENTER, INCLUDING AN OFFENDER WHO IS PARTICIPATING
5 IN A HOME DETENTION PROGRAM, THE MANAGING OFFICIAL OF THE FACILITY;

6 (III) EXCEPT AS PROVIDED IN ITEM (VII) OF THIS PARAGRAPH, IF
7 THE OFFENDER IS GRANTED PROBATION BEFORE JUDGMENT, PROBATION AFTER
8 JUDGMENT, OR A SUSPENDED SENTENCE, THE COURT THAT GRANTED THE
9 PROBATION OR SUSPENDED SENTENCE;

10 (IV) IF THE OFFENDER IS IN THE CUSTODY OF THE PATUXENT
11 INSTITUTION, THE SECRETARY;

12 (V) IF THE OFFENDER IS IN THE CUSTODY OF A FACILITY
13 OPERATED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, THE
14 SECRETARY OF HEALTH AND MENTAL HYGIENE;

15 (VI) IF THE OFFENDER IS IN THE STATE UNDER THE TERMS AND
16 CONDITIONS OF THE INTERSTATE COMPACTS UNDER ARTICLE 41, §§ 4-801 AND 4-1201
17 THROUGH 4-1211 OF THE CODE, THE SECRETARY; OR

18 (VII) IF THE OFFENDER IS UNDER THE SUPERVISION OF THE
19 DIVISION OF PAROLE AND PROBATION, THE SECRETARY.

20 (B) (I) IF AN OFFENDER ESCAPES FROM A FACILITY OR THE CUSTODY OF A
21 SUPERVISING AUTHORITY, THE SUPERVISING AUTHORITY SHALL IMMEDIATELY
22 NOTIFY, BY THE MOST REASONABLE AND EXPEDIENT MEANS AVAILABLE:

23 (I) IN ACCORDANCE WITH § 789 OF THIS ARTICLE, ANY VICTIM OR
24 VICTIM'S REPRESENTATIVE OF THE CRIME FOR WHICH THE OFFENDER WAS
25 CONVICTED, IF THE VICTIM OR VICTIM'S REPRESENTATIVE HAS FILED A
26 NOTIFICATION REQUEST FORM UNDER § 770 OF THIS ARTICLE OR MADE A WRITTEN
27 REQUEST TO A SUPERVISING AUTHORITY;

28 (II) ANY OF THE FOLLOWING INDIVIDUALS WHO HAVE REQUESTED
29 IN WRITING NOTIFICATION OF ESCAPE ABOUT A SPECIFIC OFFENDER:

30 1. ANY WITNESS WHO TESTIFIED AGAINST THE REGISTRANT
31 IN ANY COURT PROCEEDING INVOLVING THE OFFENSE; AND

32 2. ANY INDIVIDUAL SPECIFIED IN WRITING BY THE STATE'S
33 ATTORNEY;

34 (III) THE LOCAL LAW ENFORCEMENT AGENCY IN THE
35 JURISDICTION IN WHICH:

36 1. THE OFFENDER RESIDED BEFORE THE OFFENDER WAS
37 COMMITTED TO THE CUSTODY OF THE SUPERVISING AUTHORITY; AND

1 770.

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

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

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

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

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

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

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

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

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

25 789.

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

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

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

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

35 (5) "WITNESS" MEANS ANY PERSON WHO:

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

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

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

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

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

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

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

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

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

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

24 (1) An escape;

25 (2) A recapture;

26 (3) A transfer to another commitment agency;

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

29 (5) The death of the defendant.

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

33 (F) NOTHING IN THIS SECTION MAY BE CONSTRUED AS CREATING A CAUSE
34 OF ACTION ON BEHALF OF ANY INDIVIDUAL AGAINST ANY PUBLIC OFFICIAL.

1 EMPLOYEE, PUBLIC AGENCY, OR STATE OR LOCAL GOVERNMENT, OR ANY AGENCY
2 RESPONSIBLE FOR CARRYING OUT THE PROVISIONS OF THIS SECTION.

3 848.

4 A crime victim or witness should:

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

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

11 849.

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

15 851.

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

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

22 (8) Be informed, in appropriate cases, by the State's Attorney of the right
23 to request restitution and, on request, be provided assistance in the preparation of the
24 request and advice as to the collection of the payment of any restitution awarded; AND

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

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

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 1998.

