

SENATE BILL 241

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1998 Regular Session
(8r1588)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senator Stone (Task Force to Examine Maryland's Crime
Victims' Rights Laws)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Parole Hearings - Oral Testimony by Victims**

3 FOR the purpose of requiring the clerk of the court to include a certain worksheet
4 with a certain commitment order under certain circumstances; requiring the
5 Parole Commission to review a certain worksheet under certain circumstances;
6 altering the circumstances under which the Department of Public Safety and
7 Correctional Services is required to notify a victim of certain proceedings;
8 expanding the category of victims or designated representatives who are
9 entitled to present oral testimony at certain parole release hearings; requiring
10 certain victims to make a written request to the Parole Commission to have
11 certain parole release hearings open to the public; expanding the category of
12 defendants for which a victim may request certain notifications, meetings,
13 conditions, and open parole hearings; altering a certain definition; providing for
14 a delayed effective date; and generally relating to parole release hearings.

15 BY repealing and reenacting, without amendments,

1 Article 27 - Crimes and Punishments
 2 Section 786(a)
 3 Annotated Code of Maryland
 4 (1996 Replacement Volume and 1997 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article 27 - Crimes and Punishments
 7 Section 643C and 786(b) and (d)
 8 Annotated Code of Maryland
 9 (1996 Replacement Volume and 1997 Supplement)

10 BY repealing and reenacting, with amendments,
 11 Article 41 - Governor - Executive and Administrative Departments
 12 Section 4-504(d) and 4-507
 13 Annotated Code of Maryland
 14 (1997 Replacement Volume and 1997 Supplement)

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

17 **Article 27 - Crimes and Punishments**

18 643C.

19 (a) Nothing in this article may be construed to prohibit the use of judicial
 20 guidelines in setting sentences.

21 (b) However, the guidelines may not:

22 (1) Prescribe a sentence exceeding the maximum sentence provided by
 23 law; or

24 (2) Be used in violation of any mandatory minimum sentence prescribed
 25 by law.

26 ~~(C) IF A COMMITMENT ORDER IS ISSUED BY A COURT, THE CLERK OF THE~~
 27 ~~COURT SHALL INCLUDE A COPY OF THE MARYLAND SENTENCING GUIDELINES~~
 28 ~~WORKSHEET WITH THE COMMITMENT ORDER.~~

29 (C) (1) IF A COURT PREPARES A MARYLAND SENTENCING GUIDELINES
 30 WORKSHEET, THE CLERK OF THE COURT SHALL DELIVER TO THE AGENCY THAT HAS
 31 BEEN ORDERED BY THE COURT TO RETAIN CUSTODY OF THE DEFENDANT A COPY OF
 32 THE MARYLAND SENTENCING GUIDELINES WORKSHEET WITH THE COMMITMENT
 33 ORDER OR AS SOON AS PRACTICABLE AFTER ISSUANCE OF THE COMMITMENT
 34 ORDER.

1 (2) THE PAROLE COMMISSION SHALL REVIEW A MARYLAND
 2 SENTENCING GUIDELINES WORKSHEET FOR PURPOSES OF COMPLYING WITH THE
 3 REQUIREMENTS OF ARTICLE 41, TITLE 4, SUBTITLE 5 OF THE CODE.

4 786.

5 (a) This section applies to a victim who has made a written request to the
 6 Department of Public Safety and Correctional Services for notification or filed a
 7 notification request form under § 770 of this article.

8 (b) (1) If a parole release hearing is scheduled for a person who has been
 9 convicted and sentenced [to the Division of Correction] for a crime, the victim has the
 10 rights provided under Article 41, § 4-504(d) of the Code.

11 (2) At a parole release hearing, a victim has the rights provided under
 12 Article 41, § 4-507(c) and (d) of the Code.

13 (d) (1) If a person who is sentenced [to the Division of Correction] is being
 14 considered for a commutation, pardon, or remission of sentence, the Department of
 15 Public Safety and Correctional Services shall notify the victim as provided under
 16 Article 41, § 4-511A(b)(1), (4), (5), and (6) of the Code.

17 (2) In addition to the right of notification referred to in paragraph (1) of
 18 this subsection, if the person described in paragraph (1) of this subsection was
 19 convicted of a violent crime, a victim has the rights regarding submission and
 20 consideration of a victim impact statement provided under Article 41, § 4-511A(b)(2)
 21 and (3) of the Code.

22 **Article 41 - Governor - Executive and Administrative Departments**

23 4-504.

24 (d) (1) In this subsection, "victim" means a:

25 (I) A person who suffers personal physical injury, ~~CHILD ABUSE~~, or
 26 death as a direct result of a crime ~~or, if,~~

27 (II) A VICTIM OF CHILD ABUSE UNDER ARTICLE 27, § 35C OF THE
 28 CODE;

29 (III) A VICTIM OF A VIOLENT CRIME; OR

30 (IV) IF the victim is deceased ~~OR~~, DISABLED, OR A MINOR, a
 31 designated family member OR DESIGNATED REPRESENTATIVE of the victim; ~~OR~~

32 ~~(IV)~~ ANY OTHER PERSON SPECIFIED IN REGULATIONS ADOPTED BY
 33 THE COMMISSION.

34 (2) (i) ~~In cases where a defendant is sentenced to the Division of~~
 35 ~~Correction, if~~ IF the victim filed a notification request form under Article 27, § 770 of

1 the Code or if the victim makes a written request to the Department for notification
2 and maintains a current address on file with the Department, the Department, at
3 least 90 days before the parole release hearing, shall notify the victim or designated
4 representative in writing, directed to the most current address on file, that a parole
5 release hearing has been scheduled for the inmate convicted of the commission of the
6 ~~violent~~ crime.

7 (ii) If the inmate was convicted of a violent crime:

8 1. The victim may submit to the Department, in writing, not
9 later than 30 days from the date of the Department's notice, a request to require the
10 Division of Parole and Probation to complete an updated victim impact statement.

11 2. The Division of Parole and Probation shall complete the
12 updated statement at least 30 days prior to the parole release hearing.

13 3. The Division of Parole and Probation shall promptly send
14 the updated victim impact statement to the Commission.

15 (iii) At least 30 days before the parole release hearing, the victim
16 may:

17 1. Make a written recommendation to the Commission on the
18 advisability of releasing the inmate on parole; and

19 2. Request that an inmate be prohibited from having any
20 contact with a victim as a condition of parole, mandatory supervision, work release, or
21 other administrative release.

22 (iv) The Commission shall make the updated victim impact
23 statement or recommendation available for the inmate's review under § 4-505 of this
24 subtitle.

25 (v) If an updated victim impact statement or recommendation is
26 prepared under this subsection, the Commission shall consider the updated victim
27 impact statement or recommendation at the parole release hearing.

28 (vi) The victim may designate, in writing to the Department, the
29 name and address of a representative who is a resident of this State to receive notice
30 for the victim.

31 (3) The victim may request a meeting with a Commission member.

32 (4) At the parole release hearing for an inmate convicted of the ~~violent~~
33 crime, OR A CRIME FOR WHICH A VICTIM HAS FILED A NOTIFICATION REQUEST FORM
34 UNDER ARTICLE 27, § 770 OF THE CODE, the victim or a designated representative may
35 present oral testimony in a manner established in regulations adopted by the
36 Commission, IF THE VICTIM REQUESTS AN OPEN HEARING UNDER § 4-507(C) OF THIS
37 SUBTITLE.

1 (5) The Department shall promptly notify the victim or the victim's
2 designated representative of the decision of the Commission regarding parole for the
3 inmate convicted of the ~~violent~~ crime.

4 4-507.

5 (a) The Commission or its hearing examiners shall hear cases for parole
6 release at least once each month at penal institutions under the Division of Correction
7 and as often as necessary at other places of penal confinement within this State at
8 which inmates eligible for parole consideration are confined.

9 (b) The Commission may adopt rules and regulations for the conduct of
10 proceedings before it and the hearing examiners.

11 (c) (1) If a victim [of a violent crime] AS DEFINED IN § 4-504(D) OF THIS
12 SUBTITLE makes a written request for notification under § 4-504 of this subtitle OR
13 ARTICLE 27, § 770 OF THE CODE and also makes a written request within a reasonable
14 amount of time before a scheduled hearing for the inmate convicted of the [violent]
15 crime that the hearing before the Commission or the hearing examiners be open to
16 the public, the hearing shall be open to the public.

17 (2) The vote of each member of the Commission when acting collectively
18 or in panels or the decision of an individual commissioner or hearing examiner on a
19 formal action, including an action to close or restrict access to a parole hearing under
20 subsection (e) of this section, shall be made available to the public.

21 (3) Nothing in this section limits the ability of the Commission to hold a
22 parole hearing through the use of video conferences or other means of electronic
23 transmission.

24 (d) Subject to the provisions of subsection (e) of this section, the victim or
25 victim's representative has the right to attend the hearing.

26 (e) The Commission, a panel of commissioners, an individual commissioner, or
27 a hearing examiner, may:

28 (1) Restrict the number of individuals allowed to attend a parole hearing
29 in accordance with physical limitations or security requirements of the facility where
30 the hearing is held;

31 (2) Deny admission or continued attendance at a parole hearing to an
32 individual who:

33 (i) Threatens or presents a danger to the security of the institution
34 in which the hearing is being held;

35 (ii) Threatens or presents a danger to other attendees or
36 participants; or

37 (iii) Disrupts the hearing;

1 (3) Close a parole hearing on formal action to deliberate upon the oral
2 testimony and any other relevant information received at the hearing; or

3 (4) After formal action, hold a closed parole hearing on written request of
4 the chief law enforcement official responsible for an ongoing criminal investigation
5 related to the inmate, if the ongoing investigation could be compromised.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 ~~October 1, 1998~~ January 1, 1999.