

SENATE BILL 241

Unofficial Copy
E2

1998 Regular Session
8r1588
CF 8r1142

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

Introduced and read first time: January 30, 1998
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 25, 1998

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; altering the circumstances under which the
5 Department of Public Safety and Correctional Services is required to notify a
6 victim of certain proceedings; expanding the category of victims or designated
7 representatives who are entitled to present oral testimony at certain parole
8 release hearings; requiring certain victims to make a written request to the
9 Parole Commission to have certain parole release hearings open to the public;
10 altering a certain definition; providing for a delayed effective date; and
11 generally relating to parole release hearings.

12 BY repealing and reenacting, without amendments,
13 Article 27 - Crimes and Punishments
14 Section 786(a)
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1997 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article 27 - Crimes and Punishments
19 Section 643C and 786(b) and (d)
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 1997 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article 41 - Governor - Executive and Administrative Departments

1 Section 4-504(d) and 4-507
2 Annotated Code of Maryland
3 (1997 Replacement Volume and 1997 Supplement)

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

6 **Article 27 - Crimes and Punishments**

7 643C.

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

10 (b) However, the guidelines may not:

11 (1) Prescribe a sentence exceeding the maximum sentence provided by
12 law; or

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

15 (C) IF A COMMITMENT ORDER IS ISSUED BY A COURT, THE CLERK OF THE
16 COURT SHALL INCLUDE A COPY OF THE MARYLAND SENTENCING GUIDELINES
17 WORKSHEET WITH THE COMMITMENT ORDER.

18 786.

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

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

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

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

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

Article 41 - Governor - Executive and Administrative Departments

2 4-504.

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

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

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

8 (III) IF the victim is deceased ~~OR, DISABLED, OR A MINOR~~, a
9 designated family member OR DESIGNATED REPRESENTATIVE of the victim; OR

10 (IV) ANY OTHER PERSON SPECIFIED IN REGULATIONS ADOPTED BY
11 THE COMMISSION.

12 (2) (i) ~~In cases where a defendant is sentenced to the Division of~~
13 ~~Correction, if~~ IF the victim filed a notification request form under Article 27, § 770 of
14 the Code or if the victim makes a written request to the Department for notification
15 and maintains a current address on file with the Department, the Department, at
16 least 90 days before the parole release hearing, shall notify the victim or designated
17 representative in writing, directed to the most current address on file, that a parole
18 release hearing has been scheduled for the inmate convicted of the commission of the
19 violent crime.

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

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

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

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

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

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

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

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

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

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

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

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

17 (5) The Department shall promptly notify the victim or the victim's
18 designated representative of the decision of the Commission regarding parole for the
19 inmate convicted of the violent crime.

20 4-507.

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

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

27 (c) (1) If a victim [of a violent crime] makes a written request for
28 notification under § 4-504 of this subtitle OR ARTICLE 27, § 770 OF THE CODE and also
29 makes a written request within a reasonable amount of time before a scheduled
30 hearing for the inmate convicted of the [violent] crime that the hearing before the
31 Commission or the hearing examiners be open to the public, the hearing shall be open
32 to the public.

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

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

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

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

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

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

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

12 (ii) Threatens or presents a danger to other attendees or
13 participants; or

14 (iii) Disrupts the hearing;

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

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

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