

SENATE BILL 242

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1998 Regular Session
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CF 8r1139

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
Senate action: Adopted
Read second time: February 25, 1998

CHAPTER _____

1 AN ACT concerning

2 **Victims' Rights - Plea Agreement Notification**

3 FOR the purpose of requiring the notification of certain victims about the terms and
4 conditions of any plea agreement under certain circumstances; defining certain
5 terms; altering a certain definition; and generally relating to victims'
6 notification procedures.

7 BY repealing and reenacting, with amendments,
8 Article 27 - Crimes and Punishments
9 Section 770
10 Annotated Code of Maryland
11 (1996 Replacement Volume and 1997 Supplement)

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

14 **Article 27 - Crimes and Punishments**

15 770.

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

17 (2) "Victim" means an individual who suffers direct or threatened
18 physical, emotional, or financial harm as a direct result of a crime or delinquent act,
19 including a family member or guardian of a minor, incompetent, or homicide victim.

1 (3) "Clerk" means the clerk of a circuit court or the clerk of a court sitting
2 as the juvenile court, as the context requires.

3 (4) "DEFENDANT" MEANS:

4 (I) A PERSON WHO IS CHARGED WITH A CRIME; OR

5 (II) A CHILD WHO IS ALLEGED TO HAVE COMMITTED A
6 DELINQUENT ACT.

7 (5) "PLEA AGREEMENT" MEANS:

8 (I) AN AGREEMENT BETWEEN THE DEFENDANT OR THE
9 DEFENDANT'S ATTORNEY AND THE STATE'S ATTORNEY THAT THE DEFENDANT WILL
10 ADMIT OR PLEAD GUILTY, NOT GUILTY ON STIPULATED FACTS, OR NOLO
11 CONTENDERE ON ANY PROPER CONDITIONS; OR

12 (II) THE COURT AGREEING TO IMPOSE A CERTAIN SENTENCE,
13 DISPOSITION, OR OTHER JUDICIAL ACTION AS A CONSEQUENCE OF A PLEA.

14 [(4)] (6) "State's Attorney" includes:

15 (i) The State's Attorney's designee; and

16 (ii) [At the appellate level,] WHEN PERFORMING A
17 PROSECUTORIAL FUNCTION AT THE TRIAL LEVEL, the Attorney General or the
18 Attorney General's designee.

19 (b) On first contact with a victim, a law enforcement officer, District Court
20 commissioner, or juvenile intake officer shall give the victim a copy of the pamphlet
21 described in § 841(8)(i) of this article.

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

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

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

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

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

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

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

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

6 (d) (1) On completion of a notification request form obtained from the
7 State's Attorney under subsection (c) of this section, the victim may file the form with
8 the State's Attorney.

9 (2) On receipt of a completed notification request form by the State's
10 Attorney, the State's Attorney shall send a copy of the form to the clerk.

11 (3) The filing of a notification request form by a victim constitutes
12 compliance with Article 47 of the Declaration of Rights or any other provision of the
13 Code that requires a victim to request notification.

14 (4) A victim who files a notification request form and does not want his
15 or her address to be made public shall designate in a notification request form a
16 person or organization who has consented to receive notice for the victim.

17 (e) (1) If a victim has filed a notification request form under subsection (d)
18 of this section, the State's Attorney shall send to the victim prior notice, if practicable,
19 of all court proceedings in the case, INCLUDING THE TERMS AND CONDITIONS OF A
20 PLEA AGREEMENT, IF ANY.

21 (2) If the case is in a jurisdiction in which the office of the clerk is
22 equipped with an automated filing system, nothing in this subsection precludes the
23 State's Attorney from requesting the clerk to send the notice required under
24 paragraph (1) of this subsection.

25 (3) After a victim has filed a notification request form under subsection
26 (d) of this section and if prior notice to the victim is not practicable, or if the victim is
27 not present at the proceeding, the State's Attorney shall, as soon after the proceeding
28 as practicable, advise the victim of [all] THE TERMS AND CONDITIONS OF ANY PLEA
29 AGREEMENT AND ALL OTHER proceedings that affect the victim's interests, including
30 a bail hearing or change in the defendant's pretrial release order, dismissal, nolle
31 prosequi or setting of charges, trial, disposition, or post-sentencing court proceeding.

32 (4) Whether or not the victim has filed a notification request form under
33 subsection (d) of this section, if the victim requests such information, nothing may
34 preclude the State's Attorney from giving the victim information concerning the
35 current status of the case.

36 (f) (1) If a commitment order is issued after a victim has filed a notification
37 request form under subsection (d) of this section, the clerk shall include a copy of the
38 notification request form with the commitment order.

1 (2) If a probation order is issued after a victim has filed a notification
2 request form under subsection (d) of this section, the clerk shall include a copy of the
3 notification request form with the probation order.

4 (g) If an appeal is filed in a case in which a victim has filed a notification
5 request form under subsection (d) of this section, the clerk shall send a copy of the
6 notification request form to the Attorney General and the court to which the case has
7 been appealed.

8 (h) At any time after filing a notification request form under subsection (d) of
9 this section, a victim may elect not to receive any further notices by filing a written
10 request with:

11 (1) If the case is still in the circuit court or the juvenile court, the State's
12 Attorney; or

13 (2) If a commitment order has been issued in the case, the department or
14 facility specified in the commitment order to which the defendant has been
15 committed.

16 (i) This section does not prohibit a victim from filing a notification request
17 form with a department or facility to which a defendant has been committed.

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