

SENATE BILL 422

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2000 Regular Session
0lr1093
CF 0lr1092

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

Introduced and read first time: February 4, 2000

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Victim's Rights - Incompetency and Not Criminally Responsible Procedures**

3 FOR the purpose of eliminating a requirement that a victim notify the Department of
4 Health and Mental Hygiene every 2 years in writing in order that a victim be
5 notified of certain proceedings concerning incompetency and not criminally
6 responsible cases under certain circumstances; requiring the Department to
7 notify certain victims and victim's representatives of any court orders to
8 examine or commit defendants, of any scheduled hearings, of any
9 recommendations by the Department or an Administrative Law Judge
10 concerning release, or of court orders for release or discharge in cases involving
11 incompetency and not criminally responsible; eliminating a requirement that
12 there be a certain notification before a victim may submit certain statements;
13 allowing a victim to submit certain oral statements; allowing a victim to submit
14 certain information to a court or Administrative Law Judge under certain
15 circumstances; requiring a court or Administrative Law Judge to consider and
16 take certain actions regarding certain information; requiring a facility of the
17 Department to notify certain victims of certain events; requiring the notification
18 of certain victims and victim's representatives of certain court hearings;
19 providing for the right of certain victims and representatives to attend certain
20 hearings under certain circumstances; and generally relating to the rights of
21 victims and victim's representatives in incompetency and not criminally
22 responsible cases.

23 BY repealing and reenacting, with amendments,
24 Article - Health - General
25 Section 12-122
26 Annotated Code of Maryland
27 (1994 Replacement Volume and 1999 Supplement)

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

1 **Article - Health - General**

2 12-122.

3 (a) (1) In this section, "victim" means a victim of a crime of violence, as
4 defined in Article 27, § 643B of the Code or a victim who has filed a notification
5 request form under Article 27, § 770 of the Code.

6 (2) "Victim" includes a designated family member of a victim who is
7 deceased, disabled, or a minor.

8 (b) A State's Attorney shall notify a victim of all rights provided under this
9 section.

10 (c) (1) A victim may request notification under this section by:

11 (i) Notifying the State's Attorney and the Department [once every
12 2 years in writing] of the victim's request for notification; or

13 (ii) Filing a notification request form under Article 27, § 770 of the
14 Code.

15 (2) A victim's request for notification under paragraph (1)(i) of this
16 subsection shall designate:

17 (i) The address and telephone number of the victim; or

18 (ii) The name, address, and telephone number of a representative
19 to receive notice on behalf of the victim.

20 (3) A victim may, at any time, withdraw a request for notification.

21 (d) If a victim has requested notification in the manner provided under
22 subsection (c) of this section, the Department shall promptly notify the victim or the
23 victim's representative in writing when:

24 (1) The Department receives a court order to examine a defendant under
25 [§ 12-110 of] this subtitle;

26 (2) The Department receives a court order committing a defendant to the
27 Department under [§ 12-111 of] this subtitle;

28 (3) A hearing is scheduled under [§ 12-114 of] this subtitle;

29 (4) The Department receives notice that a committed individual has
30 applied for a hearing under [§ 12-118 of] this subtitle;

31 (5) An administrative law judge recommends that a committed
32 individual be released [after a hearing under § 12-114 of] UNDER this subtitle;

1 (6) The Department submits a recommendation to the court for a
2 committed individual's conditional release under [§ 12-119 of] this subtitle;

3 (7) The facility of the Department that has charge of a committed
4 individual has notified the State's Attorney that a committed individual is absent
5 without authorization; or

6 (8) The Department receives a court order for the conditional release or
7 discharge from commitment of a committed individual under [§ 12-117, § 12-118, or
8 § 12-119 of] this subtitle.

9 (e) (1) [Upon notification by the Department under subsection (d) of this
10 section, a] A victim may submit, in writing OR ORALLY, to the State's Attorney and to
11 the facility of the Department that has charge of a committed individual:

12 [(1)] (I) Any information that the victim considers relevant; and

13 [(2)] (II) A request that the committed individual be prohibited from
14 having any contact with the victim, as a condition of release.

15 (2) EXCEPT FOR A COURT HEARING TO DETERMINE IF A PERSON IS NOT
16 COMPETENT OR NOT CRIMINALLY RESPONSIBLE, A VICTIM MAY SUBMIT A WRITTEN
17 OR ORAL STATEMENT TO THE COURT OR ADMINISTRATIVE LAW JUDGE CONDUCTING
18 A HEARING OR REVIEW UNDER THIS SUBTITLE CONTAINING:

19 (I) ANY INFORMATION THAT THE VICTIM CONSIDERS RELEVANT;
20 AND

21 (II) A REQUEST THAT THE COMMITTED INDIVIDUAL BE
22 PROHIBITED FROM HAVING ANY CONTACT WITH THE VICTIM AS A CONDITION OF
23 RELEASE.

24 (f) If a victim submits WRITTEN OR ORAL information [to the Department]
25 under this section, the Department, COURT, OR ADMINISTRATIVE LAW JUDGE shall:

26 (1) Consider the information;

27 (2) Maintain at the facility that has charge of the committed individual,
28 separate from the medical record of the committed individual, the written statement
29 of the victim; and

30 (3) Delete the victim's or the victim's representative's address and
31 telephone number before any document is examined by the committed individual or
32 the committed individual's representative.

33 (g) This section may not be construed to authorize the release to the victim of
34 any medical, psychological, or psychiatric information on a committed individual.

1 (h) The facility of the Department that has charge of an individual under [§
2 12-110 of] this subtitle shall promptly notify the State's Attorney and a victim or a
3 victim's representative who has requested notification under this section if:

4 (1) [the] THE individual is absent without authorization;

5 (2) A HOSPITAL WARRANT IS ISSUED FOR THE INDIVIDUAL; OR

6 (3) REQUIRED UNDER ARTICLE 27, § 789 OF THE CODE.

7 (i) An agent or employee of the Department who acts in compliance with the
8 provisions of this section shall have the immunity from liability described under §
9 5-522 of the Courts Article.

10 (J) BEFORE A COURT HEARING UNDER THIS SUBTITLE, THE VICTIM OR
11 VICTIM'S REPRESENTATIVE SHALL BE NOTIFIED OF THE PROCEEDING AS PROVIDED
12 UNDER ARTICLE 27, § 770 OR § 784 OF THE CODE.

13 (K) A VICTIM OR VICTIM'S REPRESENTATIVE SHALL HAVE THE RIGHT TO
14 ATTEND A HEARING UNDER THIS SUBTITLE AS PROVIDED UNDER ARTICLE 27, § 857
15 OF THE CODE.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2000.