

HOUSE BILL 456

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2002 Regular Session
2lr1309
CF 2lr1308

By: **Delegate Vallario (Task Force to Examine Maryland's Crime Victims' Rights Laws) and Delegates Barkley, Boschert, Bronrott, Brown, Cadden, Conroy, Conway, Cryor, DeCarlo, Dembrow, Dewberry, Doory, Dypski, Edwards, Finifter, Frush, Fulton, Giannetti, Glassman, Goldwater, Greenip, Griffith, Grosfeld, Hammen, Harrison, Healey, Hecht, Heller, Hixson, Howard, Hubbard, Hubers, Hutchins, V. Jones, Kach, Kelly, Klausmeier, Klima, La Vay, Love, Malone, Mandel, McHale, Menes, Moe, Mohorovic, Morhaim, O'Donnell, Owings, Parrott, Patterson, Petzold, Pielke, Pitkin, Proctor, Rawlings, Redmer, Riley, Rosso, Rudolph, Shank, Shriver, Snodgrass, Sophocleus, Taylor, Valderrama, and Wood**

Introduced and read first time: January 30, 2002

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Victims' Rights - Correctional Programs - Victim Notification**

3 FOR the purpose of defining the term "notification request" to mean a certain request
4 filed by a victim or a victim's representative; requiring that notice given to a
5 victim or victim's representative regarding a predetermined parole release
6 agreement be directed to a certain address; expanding the classification of
7 victims or victims' representatives that are entitled to notification of certain
8 events if the victim has filed a notification request; expanding the classification
9 of victims that are allowed to submit a victim impact statement; requiring the
10 Maryland Parole Commission to take certain actions to consider whether a
11 certain right was violated if a victim or a victim's representative is not informed
12 or allowed to be present or to be heard regarding a certain determination or a
13 certain agreement; authorizing the Commission to take certain actions if a
14 certain right of a victim or victim's representative was violated; establishing
15 that notice given by mail to a certain address is sufficient for a certain purpose;
16 providing a certain exception to the Commission's right to revoke an inmate's
17 parole under certain circumstances; making certain conforming changes; and
18 generally relating to notification to victims and victims' representatives.

19 BY repealing and reenacting, without amendments,
20 Article - Correctional Services
21 Section 7-801(a)
22 Annotated Code of Maryland
23 (1999 Volume and 2001 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Correctional Services
3 Section 7-101, 7-304(a), 7-505(b), 7-801(b), 7-803, 7-804, and 7-805
4 Annotated Code of Maryland
5 (1999 Volume and 2001 Supplement)

6 BY adding to
7 Article - Correctional Services
8 Section 7-806
9 Annotated Code of Maryland
10 (1999 Volume and 2001 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Criminal Procedure
13 Section 11-505 and 11-507
14 Annotated Code of Maryland
15 (2001 Volume)

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

18 **Article - Correctional Services**

19 7-101.

- 20 (a) In this title the following words have the meanings indicated.
- 21 (b) "Commission" means the Maryland Parole Commission.
- 22 (c) "Commissioner" means a member of the Maryland Parole Commission.
- 23 (d) "Commutation of sentence" means an act of clemency in which the
24 Governor, by order, substitutes a lesser penalty for the grantee's offense for the
25 penalty imposed by the court in which the grantee was convicted.
- 26 (e) "Conditional commutation of sentence" means a commutation of sentence
27 that is dependent on compliance with conditions precedent or subsequent that the
28 Governor specifies in the written order granting the commutation.
- 29 (f) "Conditional pardon" means a pardon that is dependent on compliance
30 with conditions precedent or subsequent that the Governor specifies in the written
31 order granting the pardon.
- 32 (g) (1) "Mandatory supervision" means a conditional release from
33 confinement that is granted to an inmate under § 7-501 of this title.

1 (2) "Mandatory supervision" includes a conditional release granted
2 before July 1, 1989 that was referred to as "mandatory release".

3 (h) (1) "NOTIFICATION REQUEST" MEANS A WRITTEN REQUEST BY A VICTIM
4 OR A VICTIM'S REPRESENTATIVE TO THE DEPARTMENT REQUESTING THE
5 NOTIFICATION TO WHICH A VICTIM OR A VICTIM'S REPRESENTATIVE IS ENTITLED
6 THAT PROVIDES A CURRENT ADDRESS ON FILE FOR THE VICTIM OR VICTIM'S
7 REPRESENTATIVE.

8 (2) "NOTIFICATION REQUEST" INCLUDES:

9 (I) THE FILING OF A NOTIFICATION REQUEST FORM UNDER §
10 11-104 OF THE CRIMINAL PROCEDURE ARTICLE; AND

11 (II) ANY OTHER FORM OF WRITTEN REQUEST.

12 (I) "Pardon" means an act of clemency in which the Governor, by order,
13 absolves the grantee from the guilt of the grantee's criminal acts and exempts the
14 grantee from any penalties imposed by law for those criminal acts.

15 [(i)] (J) "Parole" means a conditional release from confinement granted by
16 the Commission to an inmate.

17 [(j)] (K) "Parolee" means an inmate who has been released on parole.

18 [(k)] (L) "Partial pardon" means a pardon that has been limited by the terms
19 of the order granting the pardon to be of less effect than a full pardon.

20 [(l)] (M) "Predetermined parole release agreement" means an agreement
21 among the Commissioner of Correction, the Commission, and an inmate for the parole
22 of the inmate at a predetermined time if, during the inmate's term of confinement, the
23 inmate fulfills the conditions specified in the agreement.

24 [(m)] (N) "Violent crime" means:

25 (1) a crime of violence as defined in Article 27, § 643B of the Code; or

26 (2) burglary in the first, second, or third degree.

27 7-304.

28 (a) A parole hearing before the Commission or a hearing examiner shall be
29 open to the public if:

30 (1) [(i)] a victim, as defined in § 7-801 of this title, [makes a written
31 request for notification under § 7-801(b)(1)(ii) of this title] OR A VICTIM'S
32 REPRESENTATIVE MADE A NOTIFICATION REQUEST; or

33 (ii) a victim or a victim's representative files a notification request
34 form under § 11-104 of the Criminal Procedure Article; and

1 (2) within a reasonable amount of time before a scheduled hearing, the
2 victim [makes] MADE a written request that the hearing be open to the public.

3 7-505.

4 (b) If an inmate who was convicted of a violent crime is released on mandatory
5 supervision and the victim OR VICTIM'S REPRESENTATIVE made a [written request
6 for notification under § 7-801(b)(1)(ii) of this title or if the victim or the victim's
7 representative filed a notification request form under § 11-104 of the Criminal
8 Procedure Article] NOTIFICATION REQUEST, the Department shall notify the victim
9 or victim's representative:

10 (1) if a warrant or subpoena is issued by the Commission for an alleged
11 violation of a condition of mandatory supervision;

12 (2) if the individual has been found guilty or not guilty of violating a
13 condition of mandatory supervision; and

14 (3) of any punishment imposed for the individual's violation of a
15 condition of mandatory supervision.

16 7-801.

17 (a) In this section, "victim" means:

18 (1) an individual who suffers personal physical injury or death as a
19 direct result of a crime;

20 (2) a victim of child abuse under Article 27, § 35C of the Code;

21 (3) a victim of a violent crime; or

22 (4) if the victim is deceased, disabled, or a minor, a designated family
23 member or other representative of the victim.

24 (b) (1) At least 90 days before an inmate's parole release hearing, the
25 Department shall notify the victim or the victim's designated representative in
26 writing, directed to the most current address on file, that the parole release hearing
27 has been scheduled if:

28 (i) the victim or the victim's representative filed a notification
29 request form under § 11-104 of the Criminal Procedure Article; or

30 (ii) the victim makes a written request to the Department for
31 notification and maintains a current address on file with the Department] THE
32 VICTIM OR THE VICTIM'S REPRESENTATIVE MADE A NOTIFICATION REQUEST.

33 (2) The victim may designate in writing to the Department the name and
34 address of a representative who is a resident of the State to receive notice for the
35 victim.

1 7-803.

2 (a) If a victim or a victim's representative [has filed] HAS MADE a notification
3 request [form under § 11-104 of the Criminal Procedure Article], the Commission, if
4 practicable, shall notify the victim in writing, DIRECTED TO THE MOST CURRENT
5 ADDRESS ON FILE, at least 90 days before entering into or signing a predetermined
6 parole release agreement with an inmate.

7 (b) The Commission may not enter into a predetermined parole release
8 agreement unless the Commission has notified the victim under subsection (a) of this
9 section.

10 7-804.

11 If [an individual was convicted of a violent crime and the] A victim OR VICTIM'S
12 REPRESENTATIVE made a [written request for notification under § 7-801(b)(1)(ii) of
13 this subtitle or if the victim or the victim's representative filed a notification request
14 form under § 11-104 of the Criminal Procedure Article] NOTIFICATION REQUEST, the
15 Department shall notify the victim or the victim's representative:

16 (1) that a warrant or subpoena was issued by the Commission for the
17 individual's alleged violation of a condition of parole;

18 (2) that the individual has been found guilty or not guilty of violating a
19 condition of parole; and

20 (3) of the punishment imposed on the individual for violating a condition
21 of parole.

22 7-805.

23 (a) In this section, "victim" means an individual who suffers personal physical
24 injury or death as a direct result of a crime or, if the victim is deceased, a designated
25 family member of the victim.

26 (b) If the victim OR VICTIM'S REPRESENTATIVE made a [written request to the
27 Department for notification and maintains a current address on file with the
28 Department or the victim or the victim's representative filed a notification request
29 form under § 11-104 of the Criminal Procedure Article] NOTIFICATION REQUEST, the
30 Department shall notify the victim or the victim's designated representative in
31 writing that an inmate sentenced to the Division of Correction is being considered for
32 a:

33 (1) commutation of sentence;

34 (2) pardon; or

35 (3) remission of sentence.

1 (c) (1) [If the inmate was convicted of a violent crime, the] A victim may
2 submit to the Commission a victim impact statement and recommendation.

3 (2) The Commission shall make the victim impact statement and
4 recommendation available for review by the inmate or the inmate's representative
5 subject to § 7-303(b) of this title.

6 (d) If a victim impact statement or recommendation is submitted under this
7 section, the Commission shall consider the victim impact statement or
8 recommendation.

9 (e) A victim may request a meeting with a commissioner.

10 (f) The Department shall notify promptly the victim or the victim's designated
11 representative of the Commission's decision.

12 (g) The victim may designate in writing to the Department the name and
13 address of a representative to receive notice for the victim.

14 7-806.

15 (A) IF A VICTIM OR A VICTIM'S REPRESENTATIVE MADE A NOTIFICATION
16 REQUEST AND WAS NOT INFORMED OR ALLOWED TO BE PRESENT OR TO BE HEARD
17 UNDER THE PROVISIONS OF THIS TITLE OR UNDER ARTICLE 47 OF THE
18 DECLARATION OF RIGHTS REGARDING A PAROLE RELEASE DETERMINATION OR A
19 PREDETERMINED PAROLE RELEASE AGREEMENT, THE COMMISSION SHALL:

20 (1) SCHEDULE A HEARING;

21 (2) INFORM THE INMATE AND THE VICTIM OR VICTIM'S
22 REPRESENTATIVE REGARDING:

23 (I) THE DATE AND TIME OF THE HEARING; AND

24 (II) THE RIGHT TO BE PRESENT AND REPRESENTED AT THE
25 HEARING;

26 (3) INFORM THE INMATE THAT THE HEARING MAY RESULT IN A
27 DECISION TO REVOKE OR MODIFY A PAROLE RELEASE DETERMINATION OR A
28 PREDETERMINED PAROLE RELEASE AGREEMENT; AND

29 (4) AT THE HEARING, CONSIDER WHETHER A VICTIM OR VICTIM'S
30 REPRESENTATIVE'S RIGHT WAS VIOLATED.

31 (B) SUBJECT TO SUBSECTION (D) OF THIS SECTION, IF THE COMMISSION
32 DETERMINES THAT A VICTIM OR VICTIM'S REPRESENTATIVE'S RIGHT WAS VIOLATED,
33 THE COMMISSION MAY REVOKE OR MODIFY ANY ORDER OR DECISION MADE OR TAKE
34 ANY OTHER ACTION THAT COULD OTHERWISE HAVE ORIGINALLY BEEN MADE IN
35 THE INTEREST OF JUSTICE.

1 (C) FOR PURPOSES OF THIS SECTION, NOTICE SHALL BE CONSIDERED TO
2 HAVE BEEN GIVEN IF MAILED TO THE MOST CURRENT ADDRESS ON FILE FOR THE
3 VICTIM OR VICTIM'S REPRESENTATIVE.

4 (D) THE COMMISSION MAY NOT REVOKE AN INMATE'S PAROLE IF THE INMATE
5 IS RELEASED FROM CONFINEMENT BEFORE A HEARING HELD UNDER THIS SECTION.

6 **Article - Criminal Procedure**

7 11-505.

8 (a) This section applies to a victim or victim's representative who:

9 (1) has made a written request to the Department for notification; or

10 (2) has filed a notification request form under § 11-104 of this title.

11 (b) (1) If a parole release hearing is scheduled for an inmate who has been
12 convicted of and sentenced for a crime, the victim or victim's representative has the
13 rights provided under § 7-801 of the Correctional Services Article.

14 (2) At a parole release hearing, a victim or victim's representative has
15 the rights provided under § 7-304 of the Correctional Services Article.

16 (c) (1) Whenever a person who was convicted of a violent crime as defined in
17 § 7-101 of the Correctional Services Article is found guilty of violating a condition of
18 parole, the Department shall notify the victim or victim's representative as provided
19 under § 7-804 of the Correctional Services Article.

20 (2) Whenever a warrant or subpoena is issued for a person who was
21 convicted of a violent crime as defined in § 7-101 of the Correctional Services Article
22 for an alleged violation of a condition of parole, the Department shall notify the victim
23 or victim's representative as provided under § 7-804 of the Correctional Services
24 Article.

25 (d) [(1)] Whenever a person who is sentenced is considered for a commutation,
26 pardon, or remission of [sentence,] SENTENCE:

27 (1) the Department shall notify the victim or victim's representative as
28 provided under § 7-805(b) and (f) of the Correctional Services [Article.] ARTICLE;
29 AND

30 (2) [If the person described in paragraph (1) of this subsection was
31 convicted of a violent crime as defined in § 7-101 of the Correctional Services Article,
32 a] THE victim or victim's representative has the additional rights [regarding
33 submission and consideration of a victim impact statement] provided under [§
34 7-805(c) and (d)] § 7-805 of the Correctional Services Article.

35 (e) (1) Whenever a person convicted of a crime of violence is found guilty of
36 violating a condition of mandatory supervision, the Department shall notify the

1 victim or victim's representative as provided under § 7-505(b) of the Correctional
2 Services Article.

3 (2) Whenever a warrant or subpoena is issued for a person convicted of a
4 violent crime as defined in § 7-101 of the Correctional Services Article for an alleged
5 violation of a condition of mandatory supervision, the Department shall notify the
6 victim or victim's representative as provided under § 7-804 of the Correctional
7 Services Article.

8 (f) Before entering into a predetermined parole release agreement with an
9 inmate, the Maryland Parole Commission shall notify the victim or victim's
10 representative as provided under § 7-803 of the Correctional Services Article.

11 11-507.

12 The Department or the Department of Juvenile Justice shall notify the victim or
13 victim's representative of an alleged violation of a condition of probation whenever:

14 (1) a warrant, subpoena, or writ of attachment is issued for the alleged
15 violation for a person who was convicted of a [violent] crime or who was adjudged to
16 have committed a delinquent act that would be a [violent] crime if committed by an
17 adult; and

18 (2) a victim of the crime or delinquent act or a victim's representative
19 has submitted a written request to the Department for notification or has submitted
20 a notification request form under § 11-104 of this title.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2002.