

SENATE BILL 279

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2002 Regular Session
2r1308
CF 2r1309

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

Introduced and read first time: January 23, 2002

Assigned to: Judicial Proceedings

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)

24 BY repealing and reenacting, with amendments,
25 Article - Correctional Services
26 Section 7-101, 7-304(a), 7-505(b), 7-801(b), 7-803, 7-804, and 7-805
27 Annotated Code of Maryland
28 (1999 Volume and 2001 Supplement)

29 BY adding to
30 Article - Correctional Services

1 Section 7-806
2 Annotated Code of Maryland
3 (1999 Volume and 2001 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article - Criminal Procedure
6 Section 11-505 and 11-507
7 Annotated Code of Maryland
8 (2001 Volume)

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

11 **Article - Correctional Services**

12 7-101.

13 (a) In this title the following words have the meanings indicated.

14 (b) "Commission" means the Maryland Parole Commission.

15 (c) "Commissioner" means a member of the Maryland Parole Commission.

16 (d) "Commutation of sentence" means an act of clemency in which the
17 Governor, by order, substitutes a lesser penalty for the grantee's offense for the
18 penalty imposed by the court in which the grantee was convicted.

19 (e) "Conditional commutation of sentence" means a commutation of sentence
20 that is dependent on compliance with conditions precedent or subsequent that the
21 Governor specifies in the written order granting the commutation.

22 (f) "Conditional pardon" means a pardon that is dependent on compliance
23 with conditions precedent or subsequent that the Governor specifies in the written
24 order granting the pardon.

25 (g) (1) "Mandatory supervision" means a conditional release from
26 confinement that is granted to an inmate under § 7-501 of this title.

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

29 (h) (1) "NOTIFICATION REQUEST" MEANS A WRITTEN REQUEST BY A VICTIM
30 OR A VICTIM'S REPRESENTATIVE TO THE DEPARTMENT REQUESTING THE
31 NOTIFICATION TO WHICH A VICTIM OR A VICTIM'S REPRESENTATIVE IS ENTITLED
32 THAT PROVIDES A CURRENT ADDRESS ON FILE FOR THE VICTIM OR VICTIM'S
33 REPRESENTATIVE.

34 (2) "NOTIFICATION REQUEST" INCLUDES:

1 (I) THE FILING OF A NOTIFICATION REQUEST FORM UNDER §
2 11-104 OF THE CRIMINAL PROCEDURE ARTICLE; AND

3 (II) ANY OTHER FORM OF WRITTEN REQUEST.

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

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

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

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

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

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

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

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

19 7-304.

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

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

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

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

29 7-505.

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

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

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

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

7 7-801.

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

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

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

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

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

15 (b) (1) At least 90 days before an inmate's parole release hearing, the
16 Department shall notify the victim or the victim's designated representative in
17 writing, directed to the most current address on file, that the parole release hearing
18 has been scheduled if[

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

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

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

27 7-803.

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

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

1 7-804.

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

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

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

11 (3) of the punishment imposed on the individual for violating a condition
12 of parole.

13 7-805.

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

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

24 (1) commutation of sentence;

25 (2) pardon; or

26 (3) remission of sentence.

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

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

32 (d) If a victim impact statement or recommendation is submitted under this
33 section, the Commission shall consider the victim impact statement or
34 recommendation.

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

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

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

5 7-806.

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

11 (1) SCHEDULE A HEARING;

12 (2) INFORM THE INMATE AND THE VICTIM OR VICTIM'S
13 REPRESENTATIVE REGARDING:

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

15 (II) THE RIGHT TO BE PRESENT AND REPRESENTED AT THE
16 HEARING;

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

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

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

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

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

32 **Article - Criminal Procedure**

33 11-505.

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

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

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

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

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

8 (c) (1) Whenever a person who was convicted of a violent crime as defined in
9 § 7-101 of the Correctional Services Article is found guilty of violating a condition of
10 parole, the Department shall notify the victim or victim's representative as provided
11 under § 7-804 of the Correctional Services Article.

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

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

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

22 (2) [If the person described in paragraph (1) of this subsection was
23 convicted of a violent crime as defined in § 7-101 of the Correctional Services Article,
24 a] THE victim or victim's representative has the additional rights [regarding
25 submission and consideration of a victim impact statement] provided under [§
26 7-805(c) and (d)] § 7-805 of the Correctional Services Article.

27 (e) (1) Whenever a person convicted of a crime of violence is found guilty of
28 violating a condition of mandatory supervision, the Department shall notify the
29 victim or victim's representative as provided under § 7-505(b) of the Correctional
30 Services Article.

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

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

1 11-507.

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

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

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

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