

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 213

(Senator Jacobs, *et al.*)

Judicial Proceedings

Judiciary

Vehicle Laws - Administrative Hearings - Rights of a Victim's Representative

This bill authorizes a victim's representative to make or submit statements at administrative hearings resulting from a moving violation where the victim was killed.

Fiscal Summary

State Effect: Potential increase in Transportation Trust Fund (TTF) expenditures in FY 2007 only for computer reprogramming costs. Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: A victim is a person who dies as the result of a moving violation committed by another person. A victim's representative is a member of a victim's family, a personal representative of a victim, or the guardian of a victim.

During the investigation of a moving violation that resulted in a death, a law enforcement official must inform the victim's representative of the right to file a request with the Motor Vehicle Administration (MVA) to be notified of any administrative hearings related to the moving violation. The MVA must provide notice containing specified information of any such hearings at least 10 days before the hearing. The victim's representative must be allowed to make a statement at the administrative hearing if he/she has informed the MVA of his/her intent to make a statement at least five days prior to the

hearing. Written statements must be filed with the MVA at least five days prior to the hearing.

Current Law: The MVA may delegate to the Office of Administrative Hearings (OAH) the power and authority to conduct hearings under the Transportation Article and render proposed findings of fact and proposed conclusions of laws. The MVA may delegate to OAH the authority to render final decisions in the majority of administrative appeals, including hearings regarding license suspensions and revocations, misuse of disability tags and placards, improper use of emergency lights, and driving on a revoked or suspended license.

The MVA has the authority to subpoena any person or documents and take testimony in any matter subject to its jurisdiction. If the Maryland Vehicle Law or an MVA rule or regulation provides that a license or privilege may be suspended or revoked only after a hearing, the MVA must give the licensee written notice of any charge made and an opportunity to be heard in person. After a hearing, the MVA may refuse, suspend, or revoke the license or privilege of an applicant or licensee; rescind, continue, or modify any previous action; or take any other action permitted by the Maryland Vehicle Law.

On first contact with a victim or victim's representative, a law enforcement officer, District Court commissioner, or juvenile intake officer must give that individual a pamphlet notifying victims of the rights, services, and procedures relevant to their situation.

Background: All 50 states allow some kind of victim impact statement at the sentencing of an individual convicted of a crime. Most states allow victim impact statements at parole hearings, and some even allow victim impact statements at bail hearings. A search by the Department of Legislative Services (DLS) and the National Council of State Legislatures was unable to turn up any state that allows an individual to make a victim impact statement at an administrative hearing.

The MVA does not track how many of its administrative hearings involve cases of bodily injury or death; however, the MVA conducts approximately 30,000 hearings annually. The State Police advises there were 643 fatalities resulting from motor vehicle accidents in 2004. As some hearings would involve multiple fatalities, while other fatalities would not involve an administrative hearing by the MVA (*i.e.*, fatalities where the driver was killed or where the State Police found no fault on the part of the driver), the number of hearings in which a victim's representative would be offered the opportunity to make or submit a statement would be lower.

State Expenditures: Based on the small number of hearings that would involve a fatality, the MVA advises that it could handle notification of victim's representatives of hearings and processing of responses to notification with existing resources.

The MVA estimates that computer reprogramming costs associated with this bill would total \$180,000. DLS advises that, if other legislation is passed requiring computer reprogramming changes, economies of scale could be realized. This would reduce the costs associated with this bill and other legislation affecting the MVA system.

Additional Information

Prior Introductions: A similar bill, SB 431 of 2005 as amended, passed the Senate and was heard by the House Judiciary Committee, but no further action was taken.

Cross File: None.

Information Source(s): National Conference of State Legislators, Office of Administrative Hearings, Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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