

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL 561
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “Sentencing” in line 3 down through “Representative” in line 4 and substitute “Violation of Crime Victim Rights – Subsequent Proceedings”; in line 5, strike “requiring a”; and strike beginning with “prosecuting” in line 14 down through “hearings” in line 20 and substitute “providing that, if the victim or the victim’s representative notifies certain offices that the victim or the victim’s representative was not notified, the court shall schedule a hearing to make a certain determination; requiring the court, if a certain finding is made, to allow the victim or the victim’s representative to address the court or submit a certain impact statement or recommendation; requiring the court to consider certain information presented by the State, defendant, child respondent, victim, or victim’s representative; authorizing a court to reaffirm, modify, or vacate a prior sentence or disposition of a certain defendant or child respondent under certain circumstances; requiring a court to set forth certain information in the record explaining why a certain modification is appropriate under certain circumstances; providing for the application of this Act; and generally relating to the revisory power of a court in criminal sentencing”.

On page 2, in line 4, strike “11-403” and substitute “11-503”.

AMENDMENT NO. 2

On pages 5 and 6, strike in their entirety the lines beginning with line 5 on page 5 through line 13 on page 6, inclusive, and substitute:

“11-503.

(a) In this section, “subsequent proceeding” includes:

(Over)

- (1) a sentence review under § 8–102 of this article;
- (2) a hearing on a request to have a sentence modified or vacated under the Maryland Rules;
- (3) in a juvenile delinquency proceeding, a review of a commitment order or other disposition under the Maryland Rules;
- (4) an appeal to the Court of Special Appeals;
- (5) an appeal to the Court of Appeals; and
- (6) any other postsentencing court proceeding.

(b) Following conviction or adjudication and sentencing or disposition of a defendant or child respondent, the State’s Attorney shall notify the victim or victim’s representative of a subsequent proceeding in accordance with § 11–104(e) of this title if:

(1) before the State’s Attorney distributes notification request forms under § 11–104(c) of this title, the victim or victim’s representative submitted to the State’s Attorney a written request to be notified of subsequent proceedings; or

(2) after the State’s Attorney distributes notification request forms under § 11–104(c) of this title, the victim or victim’s representative submits a notification request form in accordance with § 11–104(d) of this title.

(c) (1) The State’s Attorney’s office shall:

(i) notify the victim or victim’s representative of all appeals to the Court of Special Appeals and the Court of Appeals; and

(ii) send an information copy of the notification to the office of the Attorney General.

(2) After the initial notification to the victim or victim's representative or receipt of a notification request form, as defined in § 11-104 of this title, the office of the Attorney General shall:

(i) notify the victim or victim's representative of each subsequent date pertinent to the appeal, including dates of hearings, postponements, and decisions of the appellate courts; and

(ii) send an information copy of the notification to the State's Attorney's office.

(d) A notice sent under this section shall include the date, the time, the location, and a brief description of the subsequent proceeding.

(E) (1) IF A VICTIM OR VICTIM'S REPRESENTATIVE NOTIFIES THE STATE'S ATTORNEY'S OFFICE, THE OFFICE OF THE ATTORNEY GENERAL, OR THE COURT THAT THE VICTIM OR THE VICTIM'S REPRESENTATIVE WAS NOT NOTIFIED, AS REQUIRED BY THIS SECTION, WITHIN 1 YEAR OF THE COURT DATE THAT REVISED, MODIFIED, OR REDUCED THE SENTENCE, THE COURT SHALL SCHEDULE A HEARING TO DETERMINE IF PROPER NOTICE WAS GIVEN TO THE VICTIM OR THE VICTIM'S REPRESENTATIVE.

(2) ON A FINDING OF THE COURT THAT THE VICTIM OR THE VICTIM'S REPRESENTATIVE WAS NOT NOTIFIED AS REQUIRED BY THIS SECTION, THE COURT SHALL ALLOW THE VICTIM OR THE VICTIM'S REPRESENTATIVE TO ADDRESS THE COURT OR SUBMIT A WRITTEN UPDATED VICTIM IMPACT STATEMENT OR RECOMMENDATION.

(3) AFTER HEARING FROM THE VICTIM OR THE VICTIM'S REPRESENTATIVE OR CONSIDERING A WRITTEN UPDATED VICTIM IMPACT STATEMENT OR RECOMMENDATION, THE COURT SHALL CONSIDER INFORMATION PRESENTED BY THE STATE, DEFENDANT, CHILD RESPONDENT, VICTIM, OR VICTIM'S REPRESENTATIVE, INCLUDING WHETHER THE DEFENDANT OR CHILD RESPONDENT HAS BEEN RELEASED AND HOW THE DEFENDANT OR CHILD RESPONDENT HAS CONFORMED BEHAVIOR TO THE CONDITIONS OF RELEASE, IF ANY.

(4) AFTER CONSIDERING THE INFORMATION PROVIDED TO THE COURT UNDER THIS SUBSECTION AND THE CONSTITUTIONAL AND STATUTORY RIGHTS OF THE DEFENDANT, CHILD RESPONDENT, VICTIM, OR VICTIM'S REPRESENTATIVE, THE COURT MAY REAFFIRM, MODIFY, OR VACATE A PRIOR SENTENCE OR DISPOSITION IMPOSED IN A SUBSEQUENT PROCEEDING IN THE INTERESTS OF JUSTICE.

(5) IF THE COURT MODIFIES A PRIOR SENTENCE OR DISPOSITION UNDER THIS SUBSECTION AND THE MODIFICATION RESULTS IN AN INCREASED SENTENCE, THE COURT SHALL SET FORTH THE FACTS IN THE RECORD EXPLAINING WHY THE MODIFICATION IS APPROPRIATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any sentence imposed before the effective date of this Act."

AMENDMENT NO. 3

On page 6, in line 14, strike "2." and substitute "3.".