

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 561

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Smigiel” and substitute “Smigiel, Waldstreicher, and Vallario”; strike line 2 in its entirety and substitute “Criminal Procedure – Sentencing or Disposition Hearing – Appearance of Victim or Victim’s Representative”; strike beginning with “court” in line 3 down through “sentencing” in line 12 and substitute “prosecuting attorney, at a certain sentencing or disposition hearing at which a certain victim or victim’s representative fails to appear, to make a certain statement that proceeding without the appearance of the victim or the victim’s representative is justified; requiring a court to postpone a certain sentencing or disposition hearing under certain circumstances; and generally relating to the appearance of victims or victims’ representatives at sentencing or disposition hearings”; strike in their entirety lines 13 through 17, inclusive; in line 18, strike “adding to” and substitute “repealing and reenacting, with amendments,”; in line 20, strike “6-233” and substitute “11-403”; and in line 25, strike “Law” and substitute “Procedure”.

AMENDMENT NO. 2

On pages 1 through 4, strike in their entirety the lines beginning with line 26 on page 1 through line 28 on page 4, inclusive, and substitute:

“11-403.

(a) In this section, “sentencing or disposition hearing” means a hearing at which the imposition of a sentence, disposition in a juvenile court proceeding, or alteration of a sentence or disposition in a juvenile court proceeding is considered.

(b) In the sentencing or disposition hearing the court:

(Over)

(1) if practicable, shall allow the victim or the victim's representative to address the court under oath before the imposition of sentence or other disposition:

(i) at the request of the prosecuting attorney; or

(ii) if the victim has filed a notification request form under § 11-104 of this title; and

(2) may allow the victim or the victim's representative to address the court under oath before the imposition of sentence or other disposition at the request of the victim or the victim's representative.

(c) (1) If the victim or the victim's representative is allowed to address the court, the defendant or child respondent may cross-examine the victim or the victim's representative.

(2) The cross-examination is limited to the factual statements made to the court.

(d) (1) A victim or the victim's representative has the right not to address the court at the sentencing or disposition hearing.

(2) A person may not attempt to coerce a victim or the victim's representative to address the court at the sentencing or disposition hearing.

(E) (1) IF THE VICTIM OR THE VICTIM'S REPRESENTATIVE FAILS TO APPEAR AT THE SENTENCING OR DISPOSITION HEARING, THE PROSECUTING ATTORNEY SHALL STATE ON THE RECORD THAT PROCEEDING WITHOUT THE APPEARANCE OF THE VICTIM OR THE VICTIM'S REPRESENTATIVE IS JUSTIFIED BECAUSE:

(I) THE VICTIM OR VICTIM'S REPRESENTATIVE WAS CONTACTED BY THE PROSECUTING ATTORNEY AND WAIVED THE RIGHT TO ATTEND THE HEARING;

(II) EFFORTS WERE MADE TO CONTACT THE VICTIM OR THE VICTIM'S REPRESENTATIVE AND, TO THE BEST KNOWLEDGE AND BELIEF OF THE PROSECUTING ATTORNEY, THE VICTIM OR VICTIM'S REPRESENTATIVE CANNOT BE LOCATED; OR

(III) THE VICTIM OR VICTIM'S REPRESENTATIVE HAS NOT FILED A NOTIFICATION REQUEST FORM UNDER § 11-104 OF THIS TITLE.

(2) IF THE COURT IS NOT SATISFIED BY THE STATEMENT THAT PROCEEDING WITHOUT THE APPEARANCE OF THE VICTIM OR THE VICTIM'S REPRESENTATIVE IS JUSTIFIED, OR, IF NO STATEMENT IS MADE, THE COURT SHALL POSTPONE THE SENTENCING OR DISPOSITION HEARING.

[(e)](F) A victim or victim's representative who has been denied a right provided under this section may file an application for leave to appeal in the manner provided under § 11-103 of this title."

On page 4, in line 29, strike "3." and substitute "2.".