

HOUSE BILL 561

E2

9lr0518
CF SB 620

By: **Delegates Kramer, Kelly, McComas, Shank, and Smigiel**

Introduced and read first time: February 6, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes of Violence – Voided Revised Sentences**

3 FOR the purpose of requiring a court to notify each victim of the crime for which the
4 defendant was convicted before revising, modifying, or reducing the sentence
5 imposed on the defendant for a certain crime of violence; providing the
6 requirements for service of a certain notice to a victim; requiring a court to
7 schedule a certain hearing under certain circumstances; providing that any
8 revision, modification, or reduction of the sentence is void on a finding that the
9 court failed to notify the victim; requiring a court to schedule a subsequent
10 hearing under certain circumstances; defining a term; providing for the
11 application of this Act; and generally relating to the revisory power of a court in
12 criminal sentencing.

13 BY repealing and reenacting, without amendments,
14 Article – Criminal Law
15 Section 14–101(a)
16 Annotated Code of Maryland
17 (2002 Volume and 2008 Supplement)

18 BY adding to
19 Article – Criminal Procedure
20 Section 6–233
21 Annotated Code of Maryland
22 (2008 Replacement Volume)

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

25 **Article – Criminal Law**

26 14–101.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (a) In this section, “crime of violence” means:
- 2 (1) abduction;
- 3 (2) arson in the first degree;
- 4 (3) kidnapping;
- 5 (4) manslaughter, except involuntary manslaughter;
- 6 (5) mayhem;
- 7 (6) maiming, as previously proscribed under former Article 27, §§ 385
8 and 386 of the Code;
- 9 (7) murder;
- 10 (8) rape;
- 11 (9) robbery under § 3–402 or § 3–403 of this article;
- 12 (10) carjacking;
- 13 (11) armed carjacking;
- 14 (12) sexual offense in the first degree;
- 15 (13) sexual offense in the second degree;
- 16 (14) use of a handgun in the commission of a felony or other crime of
17 violence;
- 18 (15) child abuse in the first degree under § 3–601 of this article;
- 19 (16) sexual abuse of a minor under § 3–602 of this article if:
- 20 (i) the victim is under the age of 13 years and the offender is an
21 adult at the time of the offense; and
- 22 (ii) the offense involved:
- 23 1. vaginal intercourse, as defined in § 3–301 of this
24 article;
- 25 2. a sexual act, as defined in § 3–301 of this article;

1 3. an act in which a part of the offender's body
2 penetrates, however slightly, into the victim's genital opening or anus; or

3 4. the intentional touching, not through the clothing, of
4 the victim's or the offender's genital, anal, or other intimate area for sexual arousal,
5 gratification, or abuse;

6 (17) an attempt to commit any of the crimes described in items (1)
7 through (16) of this subsection;

8 (18) continuing course of conduct with a child under § 3-315 of this
9 article;

10 (19) assault in the first degree;

11 (20) assault with intent to murder;

12 (21) assault with intent to rape;

13 (22) assault with intent to rob;

14 (23) assault with intent to commit a sexual offense in the first degree;
15 and

16 (24) assault with intent to commit a sexual offense in the second
17 degree.

18 Article - Criminal Procedure

19 **6-233.**

20 (A) **IN THIS SECTION, "VICTIM" MEANS A VICTIM OR A VICTIM'S**
21 **REPRESENTATIVE WHO HAS FILED A CRIME VICTIM NOTIFICATION REQUEST**
22 **FORM IN ACCORDANCE WITH § 11-104 OF THIS ARTICLE OR WHO HAS**
23 **SUBMITTED A WRITTEN REQUEST TO THE STATE'S ATTORNEY TO BE NOTIFIED**
24 **OF SUBSEQUENT PROCEEDINGS IN ACCORDANCE WITH § 11-503 OF THIS**
25 **ARTICLE.**

26 (B) **(1) A COURT SHALL NOTIFY EACH VICTIM OF THE CRIME FOR**
27 **WHICH THE DEFENDANT WAS CONVICTED BEFORE REVISING, MODIFYING, OR**
28 **REDUCING THE SENTENCE IMPOSED ON THE DEFENDANT FOR A CRIME OF**
29 **VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE.**

30 (2) **NOTICE PROVIDED TO A VICTIM UNDER PARAGRAPH (1) OF**
31 **THIS SUBSECTION SHALL BE:**

1 (I) GIVEN IN WRITING; AND

2 (II) SENT BY CERTIFIED U.S. MAIL, RETURN RECEIPT
3 REQUESTED, POSTAGE PREPAID TO THE MOST RECENT ADDRESS PROVIDED BY
4 THE VICTIM ON THE CRIME VICTIM NOTIFICATION REQUEST FORM.

5 (3) A NOTICE PROVIDED TO A VICTIM UNDER PARAGRAPH (2) OF
6 THIS SUBSECTION SHALL BE:

7 (I) SENT AT LEAST 14 BUSINESS DAYS BEFORE THE
8 HEARING TO CONSIDER A MOTION TO REVISE, MODIFY, OR REDUCE THE
9 SENTENCE IMPOSED ON THE DEFENDANT; AND

10 (II) CONSIDERED SERVED ON THE DATE THE NOTICE IS
11 DEPOSITED IN THE U.S. POST OFFICE.

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

17 (2) ON A COURT FINDING THAT THE VICTIM WAS NOT NOTIFIED
18 AS REQUIRED BY THIS SECTION, ANY REVISION, MODIFICATION, OR REDUCTION
19 OF THE SENTENCE IS VOID.

20 (D) IF THE COURT VOIDS A REVISED, MODIFIED, OR REDUCED
21 SENTENCE BECAUSE A VICTIM WAS NOT NOTIFIED AS REQUIRED UNDER THIS
22 SECTION, THE COURT SHALL SCHEDULE A NEW HEARING AT WHICH THE COURT
23 MAY REVISE, MODIFY, OR REDUCE THE SENTENCE AFTER THE VICTIM HAS HAD
24 AN OPPORTUNITY TO BE HEARD.

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

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2009.