

# HOUSE BILL 1245

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CF SB 922

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By: **Delegates Valentino-Smith and Vallario**

Introduced and read first time: February 7, 2014

Assigned to: Judiciary

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Committee Report: Favorable

House action: Adopted

Read second time: March 10, 2014

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Crime Victim and Crime Victim's Representative – Electronic Notification**

3 FOR the purpose of authorizing a victim or a victim's representative to follow a certain  
4 protocol in order to request certain notices in a certain electronic form;  
5 authorizing the prosecuting attorney and the clerk of certain courts to provide  
6 certain notices in a certain electronic form under certain circumstances;  
7 authorizing a certain victim or victim's representative to discontinue certain  
8 notices under certain circumstances; requiring the State Board of Victim  
9 Services to include information regarding a certain process in a certain  
10 pamphlet; requiring the Board to provide certain information to certain persons;  
11 requiring the Board to develop a certain protocol in consultation with the  
12 Administrative Office of the Courts; defining a certain term; altering a certain  
13 definition; and generally relating to crime victims and crime victims'  
14 representatives and electronic notifications.

15 BY repealing and reenacting, with amendments,  
16 Article – Criminal Procedure  
17 Section 11-101, 11-104, and 11-914  
18 Annotated Code of Maryland  
19 (2008 Replacement Volume and 2013 Supplement)

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

22 **Article – Criminal Procedure**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 11-101.

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

3 (b) “Child respondent” means a person who:

4 (1) in a petition filed in juvenile court, is alleged to have committed a  
5 delinquent act; or

6 (2) has committed a delinquent act.

7 (c) “Delinquent act” has the meaning stated in § 3-8A-01 of the Courts  
8 Article.

9 (D) **“MDEC SYSTEM” MEANS THE SYSTEM OF ELECTRONIC FILING AND**  
10 **CASE MANAGEMENT ESTABLISHED BY THE MARYLAND COURT OF APPEALS.**

11 **[(d)] (E)** “Prosecuting attorney” means:

12 (1) the State’s Attorney;

13 (2) the State’s Attorney’s designee; **[or]**

14 (3) when performing a prosecutorial function at the trial level, the  
15 Attorney General or the Attorney General’s designee; **OR**

16 (4) **THE STATE PROSECUTOR OR THE STATE PROSECUTOR’S**  
17 **DESIGNEE.**

18 11-104.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Victim” means a person who suffers actual or threatened physical,  
21 emotional, or financial harm as a direct result of a crime or delinquent act.

22 (3) “Victim’s representative” includes a family member or guardian of  
23 a victim who is:

24 (i) a minor;

25 (ii) deceased; or

26 (iii) disabled.

1 (b) On first contact with a victim or victim's representative, a law  
2 enforcement officer, District Court commissioner, or juvenile intake officer shall give  
3 the victim or the victim's representative the pamphlet described in § 11-914(9)(i) of  
4 this title.

5 (c) (1) Within 10 days after the filing or the unsealing of an indictment or  
6 information in circuit court, whichever is later, the prosecuting attorney shall:

7 (i) mail or deliver to the victim or victim's representative the  
8 pamphlet described in § 11-914(9)(ii) of this title and the notification request form  
9 described in § 11-914(10) of this title; and

10 (ii) certify to the clerk of the court that the prosecuting attorney  
11 has complied with this paragraph or is unable to identify the victim or victim's  
12 representative.

13 (2) If the prosecuting attorney files a petition alleging that a child is  
14 delinquent for committing an act that could only be tried in the circuit court if  
15 committed by an adult, the prosecuting attorney shall:

16 (i) inform the victim or victim's representative of the right to  
17 request restitution under § 11-606 of this title;

18 (ii) mail or deliver to the victim or victim's representative the  
19 notification request form described in § 11-914(10) of this title; and

20 (iii) certify to the clerk of the juvenile court that the prosecuting  
21 attorney has complied with this paragraph or is unable to identify the victim or  
22 victim's representative.

23 (3) For cases described under this subsection, the prosecuting attorney  
24 may provide a State's witness in the case with the guidelines for victims, victims'  
25 representatives, and witnesses available under §§ 11-1001 through 11-1004 of this  
26 title.

27 (d) (1) A victim or victim's representative may:

28 (I) file a completed notification request form with the  
29 prosecuting attorney; OR

30 (II) FOLLOW THE MDEC SYSTEM PROTOCOL TO REQUEST  
31 NOTICE.

32 (2) (I) [The] IF THE JURISDICTION HAS NOT IMPLEMENTED  
33 THE MDEC SYSTEM, THE prosecuting attorney shall send a copy of the completed  
34 notification request form to the clerk of the circuit court or juvenile court.

1                   **(II) IF THE JURISDICTION HAS IMPLEMENTED THE MDEC**  
2 **SYSTEM AND THE VICTIM OR VICTIM’S REPRESENTATIVE HAS FILED A**  
3 **COMPLETED NOTIFICATION REQUEST FORM, THE PROSECUTING ATTORNEY**  
4 **SHALL ELECTRONICALLY FILE THE FORM WITH THE CLERK OF THE CIRCUIT**  
5 **COURT OR JUVENILE COURT IN THE MDEC SYSTEM.**

6                   (3) By filing a completed notification request form **OR COMPLETING**  
7 **THE MDEC SYSTEM PROTOCOL**, a victim or victim’s representative complies with  
8 Article 47 of the Maryland Declaration of Rights and each provision of the Code that  
9 requires a victim or victim’s representative to request notice.

10                   (4) To keep the address **AND ELECTRONIC MAIL ADDRESS** of a  
11 victim or victim’s representative confidential, the victim or victim’s representative  
12 shall:

13                   **(I)** designate in the notification request form a person who has  
14 agreed to receive notice for the victim or victim’s representative; **OR**

15                   **(II) REQUEST AS PART OF THE MDEC SYSTEM PROTOCOL,**  
16 **WITHOUT FILING A MOTION TO SEAL, THAT THE ADDRESS AND ELECTRONIC**  
17 **MAIL ADDRESS REMAIN CONFIDENTIAL AND AVAILABLE, AS NECESSARY TO**  
18 **ONLY:**

- 19                                   **1. THE COURT;**
- 20                                   **2. THE PROSECUTING ATTORNEY;**
- 21                                   **3. THE DEPARTMENT OF PUBLIC SAFETY AND**  
22 **CORRECTIONAL SERVICES;**
- 23                                   **4. THE DEPARTMENT OF JUVENILE SERVICES;**
- 24                                   **5. THE ATTORNEY OF THE VICTIM OR VICTIM’S**  
25 **REPRESENTATIVE;**
- 26                                   **6. THE STATE’S VICTIM INFORMATION AND**  
27 **NOTIFICATION EVERYDAY VENDOR; AND**
- 28                                   **7. A COMMITMENT UNIT THAT A COURT ORDERS TO**  
29 **RETAIN CUSTODY OF AN INDIVIDUAL.**

30                   (e) (1) **[The] UNLESS PROVIDED BY THE MDEC SYSTEM, THE**  
31 prosecuting attorney shall send a victim or victim’s representative prior notice of each

1 court proceeding in the case, of the terms of any plea agreement, and of the right of the  
2 victim or victim's representative to submit a victim impact statement to the court  
3 under § 11-402 of this title if:

4 (i) prior notice is practicable; and

5 (ii) the victim or victim's representative has filed a notification  
6 request form **OR FOLLOWED THE MDEC SYSTEM PROTOCOL** under subsection (d)  
7 of this section.

8 (2) (I) If the case is in a jurisdiction in which the office of the clerk  
9 of the circuit court or juvenile court has an automated filing system, the prosecuting  
10 attorney may ask the clerk to send the notice required by paragraph (1) of this  
11 subsection.

12 (II) **IF THE CASE IS IN A JURISDICTION THAT HAS**  
13 **IMPLEMENTED THE MDEC SYSTEM, THE VICTIM MAY FOLLOW THE MDEC**  
14 **SYSTEM PROTOCOL TO RECEIVE NOTICE BY ELECTRONIC MAIL, TO NOTIFY THE**  
15 **PROSECUTING ATTORNEY, AND TO REQUEST ADDITIONAL NOTICE AVAILABLE**  
16 **THROUGH THE STATE'S VICTIM INFORMATION AND NOTIFICATION EVERYDAY**  
17 **VENDOR.**

18 (3) As soon after a proceeding as practicable, the prosecuting attorney  
19 shall tell the victim or victim's representative of the terms of any plea agreement,  
20 judicial action, and proceeding that affects the interests of the victim or victim's  
21 representative, including a bail hearing, change in the defendant's pretrial release  
22 order, dismissal, nolle prosequi, setting of charges, trial, disposition, and  
23 postsentencing court proceeding if:

24 (i) the victim or victim's representative has filed a notification  
25 request form **OR FOLLOWED THE MDEC SYSTEM PROTOCOL** under subsection (d)  
26 of this section and prior notice to the victim or victim's representative is not  
27 practicable; or

28 (ii) the victim or victim's representative is not present at the  
29 proceeding.

30 (4) Whether or not the victim or victim's representative has filed a  
31 notification request form **OR FOLLOWED THE MDEC SYSTEM PROTOCOL** under  
32 subsection (d) of this section, the prosecuting attorney may give the victim or victim's  
33 representative information about the status of the case if the victim or victim's  
34 representative asks for the information.

35 (f) If a victim or victim's representative has filed a notification request form  
36 **OR FOLLOWED THE MDEC SYSTEM PROTOCOL** under subsection (d) of this section,  
37 the clerk of the circuit court or juvenile court:

1 (1) shall include a copy of the form with any commitment order or  
2 probation order that is passed **OR ELECTRONICALLY TRANSMIT THE FORM OR THE**  
3 **REGISTRATION INFORMATION FOR THE VICTIM OR THE VICTIM'S**  
4 **REPRESENTATIVE THROUGH THE MDEC SYSTEM;** and

5 (2) if an appeal is filed, shall send a copy of the form **OR**  
6 **ELECTRONICALLY TRANSMIT THE FORM OR THE REGISTRATION INFORMATION**  
7 **FOR THE VICTIM OR THE VICTIM'S REPRESENTATIVE THROUGH THE MDEC**  
8 **SYSTEM** to the Attorney General and the court to which the case has been appealed.

9 (g) This section does not prohibit a victim or victim's representative from  
10 filing a notification request form with a unit to which a defendant or child respondent  
11 has been committed.

12 (h) **(1)** After filing a notification request form under subsection (d) of this  
13 section, a victim or victim's representative may discontinue further notices by filing a  
14 written request with:

15 **[(1)] (I)** the prosecuting attorney, if the case is still in a circuit court  
16 or juvenile court; or

17 **[(2)] (II)** the unit to which the defendant or child respondent has been  
18 committed, if a commitment order has been issued in the case.

19 **(2) AFTER FOLLOWING THE MDEC SYSTEM PROTOCOL FOR**  
20 **ELECTRONIC NOTICES, A VICTIM OR VICTIM'S REPRESENTATIVE MAY**  
21 **DISCONTINUE FURTHER NOTICES BY FOLLOWING THE MDEC SYSTEM**  
22 **PROTOCOL TO TERMINATE NOTICE.**

23 11-914.

24 Subject to the authority of the Executive Director, the Board shall:

25 (1) submit to the Governor an annual written report of its activities,  
26 including its administration of the Fund;

27 (2) monitor the service needs of victims;

28 (3) advise the Governor on the needs of victims;

29 (4) recommend the appointment of the Victim Services Coordinator to  
30 the Executive Director;

1 (5) review and approve the Victim Services Coordinator's plans and  
2 annual reports, and the Victim Services Coordinator's implementation, operation, and  
3 revision of programs;

4 (6) approve or disapprove each grant application submitted by the  
5 Governor's Office of Crime Control and Prevention;

6 (7) advise the State's Attorneys' Coordination Council on the adoption  
7 of regulations governing the administration of the Victim and Witness Protection and  
8 Relocation Program established under § 11-902 of this subtitle;

9 (8) advise the State's Attorneys' Coordinator on the administration of  
10 the Victim and Witness Protection and Relocation Program;

11 (9) develop pamphlets to notify victims **AND VICTIM'S**  
12 **REPRESENTATIVES** of the rights, services, and procedures provided under Article 47  
13 of the Maryland Declaration of Rights or State law, including:

14 (i) one pamphlet relating to **THE MDEC SYSTEM PROTOCOL**  
15 **REGISTRATION PROCESS AND** the time before and after the filing of a charging  
16 document other than an indictment or information in circuit court; and

17 (ii) a second pamphlet relating to the time after the filing of an  
18 indictment or information in circuit court; and

19 (10) develop a notification request form **AND AN MDEC SYSTEM**  
20 **PROTOCOL** in consultation with the Administrative Office of the Courts, through  
21 which a victim **OR VICTIM'S REPRESENTATIVE** may request to be notified under §  
22 11-104 of this title.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 July 1, 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.