

SENATE BILL 922

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4lr3101
CF 4lr1509

By: **Senator Stone**

Introduced and read first time: January 31, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

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**

23 11–101.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (2) has committed a delinquent act.

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

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

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

9 (1) the State’s Attorney;

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

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

13 **(4) THE STATE PROSECUTOR OR THE STATE PROSECUTOR’S**
14 **DESIGNEE.**

15 11–104.

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

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

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

21 (i) a minor;

22 (ii) deceased; or

23 (iii) disabled.

24 (b) On first contact with a victim or victim’s representative, a law
25 enforcement officer, District Court commissioner, or juvenile intake officer shall give
26 the victim or the victim’s representative the pamphlet described in § 11–914(9)(i) of
27 this title.

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

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

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

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

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

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

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

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

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

24 (I) file a completed notification request form with the
25 prosecuting attorney; OR

26 (II) FOLLOW THE MDEC SYSTEM PROTOCOL TO REQUEST
27 NOTICE.

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

31 (II) IF THE JURISDICTION HAS IMPLEMENTED THE MDEC
32 SYSTEM AND THE VICTIM OR VICTIM'S REPRESENTATIVE HAS FILED A
33 COMPLETED NOTIFICATION REQUEST FORM, THE PROSECUTING ATTORNEY

1 **SHALL ELECTRONICALLY FILE THE FORM WITH THE CLERK OF THE CIRCUIT**
 2 **COURT OR JUVENILE COURT IN THE MDEC SYSTEM.**

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

7 (4) To keep the address **AND ELECTRONIC MAIL ADDRESS** of a
 8 victim or victim's representative confidential, the victim or victim's representative
 9 shall:

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

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

16 1. **THE COURT;**

17 2. **THE PROSECUTING ATTORNEY;**

18 3. **THE DEPARTMENT OF PUBLIC SAFETY AND**
 19 **CORRECTIONAL SERVICES;**

20 4. **THE DEPARTMENT OF JUVENILE SERVICES;**

21 5. **THE ATTORNEY OF THE VICTIM OR VICTIM'S**
 22 **REPRESENTATIVE; AND**

23 6. **THE STATE'S VICTIM INFORMATION AND**
 24 **NOTIFICATION EVERYDAY VENDOR.**

25 (e) (1) [The] **UNLESS PROVIDED BY THE MDEC SYSTEM, THE**
 26 prosecuting attorney shall send a victim or victim's representative prior notice of each
 27 court proceeding in the case, of the terms of any plea agreement, and of the right of the
 28 victim or victim's representative to submit a victim impact statement to the court
 29 under § 11-402 of this title if:

30 (i) prior notice is practicable; and

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

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

8 (II) **IF THE CASE IS IN A JURISDICTION THAT HAS**
9 **IMPLEMENTED THE MDEC SYSTEM, THE VICTIM MAY FOLLOW THE MDEC**
10 **SYSTEM PROTOCOL TO RECEIVE NOTICE BY ELECTRONIC MAIL AND TO REQUEST**
11 **ADDITIONAL NOTICE AVAILABLE THROUGH THE STATE'S VICTIM INFORMATION**
12 **AND NOTIFICATION EVERYDAY VENDOR.**

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

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

23 (ii) the victim or victim's representative is not present at the
24 proceeding.

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

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

33 (1) shall include a copy of the form with any commitment order or
34 probation order that is passed **OR ELECTRONICALLY TRANSMIT THE FORM**
35 **THROUGH THE MDEC SYSTEM;** and

1 (2) if an appeal is filed, shall send a copy of the form **OR**
2 **ELECTRONICALLY TRANSMIT THE FORM THROUGH THE MDEC SYSTEM** to the
3 Attorney General and the court to which the case has been appealed.

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

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

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

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

14 **(2) AFTER FOLLOWING THE MDEC SYSTEM PROTOCOL FOR**
15 **ELECTRONIC NOTICES, A VICTIM OR VICTIM'S REPRESENTATIVE MAY**
16 **DISCONTINUE FURTHER NOTICES BY FOLLOWING THE MDEC SYSTEM**
17 **PROTOCOL TO TERMINATE NOTICE.**

18 11-914.

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

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

22 (2) monitor the service needs of victims;

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

24 (4) recommend the appointment of the Victim Services Coordinator to
25 the Executive Director;

26 (5) review and approve the Victim Services Coordinator's plans and
27 annual reports, and the Victim Services Coordinator's implementation, operation, and
28 revision of programs;

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

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

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

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

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

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

14 (10) develop a notification request form **AND AN MDEC SYSTEM**
15 **PROTOCOL** in consultation with the Administrative Office of the Courts, through
16 which a victim **OR VICTIM'S REPRESENTATIVE** may request to be notified under §
17 11-104 of this title.

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